

Class members filing a motion to reopen under the Settlement Agreement must file the Notice of Appeal or Motion at the Chicago Lockbox.

The field office that denied the underlying SIJ petition has jurisdiction over each Motion to Reopen filed under the Settlement Agreement.²⁸ If the petitioner has moved to the geographical jurisdiction of a different field office, that field office assumes jurisdiction.

3. Results of the Motion to Reopen

The officer may:

- Grant the motion;
- Request additional evidence; or
- Dismiss the motion.

If the Motion to Reopen is granted, the officer will adjudicate the SIJ petition in accordance with the Settlement Agreement as discussed above, and all applicable laws.²⁹ Denials of a Motion to Reopen and of a reopened SIJ petition can be appealed to the Administrative Appeals Office.³⁰

Chapter 5: Data

USCIS must compile, and make available to the public via Internet posting, annual reports disclosing the number of SIJ petitions received, approved, and denied.³¹ The number should include the filing and adjudication of SIJ petitions under the Settlement Agreement, as well as the filing and adjudication of regularly filed SIJ petitions. Therefore, officers must promptly enter all decisions on all petitions and motions related to SIJ into the Interim Case Management System (ICMS).

²⁸ See 8 CFR 103.5(a)(1)(iii).

²⁹ See *Perez-Olano v. Holder*, Case No. CV 05-3604 (C.D. Cal. 2005).

³⁰ See 8 CFR 103.5(a)(6).

³¹ See the USCIS.gov website for SIJ data.

Perez-Olano Litigation Class Member Motion to Reopen Requirements

The petitioner applied for Special Immigrant Juvenile status on or after May 13, 2005

The petitioner filed a completed Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) before his or her 21st birthday

At the time of filing the SIJ petition, the petitioner was the subject of a valid order(s) issued by a state juvenile court within the United States that met all of the following three requirements:

- **Determined that reunification with one or both of the petitioner's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; OR deemed the petitioner eligible for long-term foster care due to abuse, neglect, or abandonment;**
- **Declared the petitioner dependent on the court, OR legally committed the petitioner to or placed the petitioner under the custody of a state agency or department, or an individual or entity appointed by a juvenile court; and**
- **Determined that it would not be in the petitioner's best interest to return to the petitioner's or parent's previous country of nationality or last habitual residence.**

The SIJ petition was denied or revoked solely because of one of the three following reasons:

- **The petitioner, who was under 21 years of age at the time of filing, turned 21 years of age after filing the SIJ petition but before adjudication (age-out); OR**
- **The petitioner's dependency order, which was valid and in effect at the time of filing the SIJ petition, was terminated based on age after filing the SIJ petition but before adjudication (dependency age-out); OR**
- **The petitioner did not receive a grant of specific consent before going before the juvenile court and the court order did not alter the petitioner's custody status or placement.**

2. Jurisdiction

G. Revocation

If the court terminates, vacates or otherwise ends the juvenile court order for cause other than age and/or enters a new order with a finding that does not support SIJ eligibility, there may be grounds to revoke the approved SIJ petition and the juvenile may no longer be eligible for the underlying classification.²³ For example, the juvenile is reunified with the parent that was the perpetrator in the child abuse, neglect or abandonment finding. If this occurs, an officer should issue a Notice of Intent to Revoke the SIJ petition.

Chapter 4: Appeals, Motions to Reopen, and Motions to Reconsider

A. Requirements

A petitioner may file an appeal, a motion to reconsider, or a motion to reopen a USCIS decision^[1] by filing a Notice of Appeal or Motion (Form I-290B) with the appropriate filing fee or a request for a fee waiver. The Form I-290B is used to file:

- An appeal with the Administrative Appeals Office (AAO)
- A motion to reconsider a decision of USCIS (either the AAO, a field office or a service center)
- A motion to reopen a decision of USCIS (either the AAO, or a field office or a service center)

The petitioner must file the motion within 30 days of the denial or dismissal, or 33 days if the denial or dismissal decision was sent by mail.²⁴ If the appeal relates to a revocation of the SIJ petition approval, the appeal must be filed within 15 calendar days after service of the decision, or 18 days if the decision was sent by mail.²⁵ There is no exception to the filing period for appeals and motions to reconsider. For a motion to reopen, USCIS may excuse the petitioner's failure to file before this period where the petitioner demonstrates that the delay was reasonable and beyond the control of the petitioner.²⁶

B. Requirements for Perez-Olano Litigation Class Members²⁷

1. Eligibility

Perez-Olano litigation class members have a unique set of requirements.

²³ See 8 CFR 205.1 and 8 CFR 205.2.

^[1] See 8 CFR 103.3 on appeals and 8 CFR 103.5 on motions.

²⁴ 8 CFR 103.3(a)(2)(i) on appeals, 103.5(a)(1)(i) on motions, and 103.8(b) on effect of service by mail.

²⁵ See 8 CFR 205.2(d) on revocation appeals, and 8 CFR 103.8(b) on effect of service by mail.

²⁶ See 8 CFR 103.5(a)(1)(i).

²⁷ See *Perez-Olano v. Holder*, Case No. CV 05-3604 (C.D. Cal. 2005).

District Director, is an acknowledgement that the request for SIJ classification is *bona fide*. This means that the petitioner sought the juvenile court order (and any other administrative best-interest determination) primarily to obtain relief from abuse, neglect or abandonment rather than primarily for obtaining an immigration benefit.

There will almost always be *some* immigration motive for seeking a juvenile court order; it just cannot be the *primary* motive. For example, in some jurisdictions, custody and family reunification viability are determined separately and before SIJ findings are made. A special order issued to address all USCIS requirements would not disqualify a petitioner, provided the order was based on findings of child abuse, neglect and abandonment. Likewise, a juvenile may be in federal custody and seek a juvenile court order to apply for SIJ regarding abuse that occurred prior to his or her arrival to the United States. Again, the juvenile would still be eligible provided the order was based upon child abuse, neglect or abandonment.

If the petitioner sought the juvenile court order primarily for an immigration benefit, USCIS will not grant consent. For example, if the officer determines that the juvenile court order was sought primarily to obtain lawful permanent residence in an attempt to circumvent the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption, USCIS will not issue consent.²²

E. Denials and Requests for Evidence

Due to the particular vulnerability of SIJ petitioners and the complexity and sensitivity of the cases, a Request for Evidence or a Notice of Intent to Deny, is generally most appropriate where the evidence is initially insufficient to approve the petition. Petitioners must have a meaningful opportunity to address concerns before being subject to denial. A denial may have very serious consequences for an SIJ petitioner. If every effort is made to obtain necessary evidence but the petitioner does not comply with the request, the officer may deny the petition after consulting with his or her supervisor. If USCIS denies the SIJ petition, the officer provides the petitioner with a written reason for the denial. An SIJ petitioner may appeal an adverse decision or request that USCIS reopen or reconsider a USCIS decision. The denial notice should include instructions for filing a Notice of Appeal or Motion (Form I-290B).

F. Fraud

There may be cases where an officer suspects or determines that a petitioner has committed fraud in attempting to establish eligibility for special immigrant juvenile status. The officer should consult with his or her supervisor to determine whether to refer such a case to Fraud Detection and National Security (FDNS). If an officer or the local FDNS office determines that the petitioner has committed fraud, the officer must explain the findings of fraud in the denial notice.

²² See Interim Policy Memo Criteria for Determining Habitual Residence in the United States for Children from Hague Convention Countries (December 23, 2013).

the officer should avoid questioning the petitioner about the details of the abuse, abandonment or neglect suffered, because these issues are handled by the juvenile court.

The officer should focus the interview on:

- Is the court order still valid?
 - Is the petitioner still dependent? If not, is that because of his or her age?
 - Is the petitioner still in the custody of the state agency, individual or entity that the court appointed? If not, is that due to age?
 - Has the petitioner relocated to another State?
 - Has the court reunified the petitioner with the parent the court previously determined was not viable for reunification?
- Has the petitioner submitted proof of age?
- Does the court order establish a basis for its findings? If not, does the petitioner have any additional documents or evidence that he or she would like the officer to consider?

The petitioner may bring a trusted adult to the interview in addition to an attorney or representative. The trusted adult may serve as a familiar and trusted source of comfort to the petitioner but should not interfere with the interview process or coach the petitioner during the interview.²¹ The officer may allow the adult to provide clarification, but the officer should ensure that the petitioner is able to speak for himself or herself and is given an opportunity to present the claim in his or her own words. As appropriate and with the consent of the petitioner, the officer should ask the trusted adult to confirm his or her relationship to the petitioner.

When conducting an interview of a juvenile in the presence of an adult, the officer should assess whether the juvenile is comfortable speaking freely in front of the adult. If at any point during the course of the interview, the officer determines that the juvenile is uncomfortable or afraid of the adult, the officer should continue the interview without that adult. Given concerns regarding human trafficking, particularly of juveniles, attention to the nature of the relationship between the juvenile and the adult is particularly important.

D. DHS Consent

DHS must consent to the grant of SIJ classification. An approval of the SIJ petition is evidence of the Secretary's consent. The consent determination by the Secretary, through the USCIS

²¹ The trusted adult may be able to provide information where the petitioner's age or competency prevents him or her from fully participating in the interview.

B. Expeditious Adjudication

USCIS must adjudicate SIJ petitions within 180 days.¹⁹ The 180-day timeframe begins on the Notice of Action (Form I-797) receipt date. If USCIS requests additional evidence, the clock stops the day USCIS sends a request for additional evidence and resumes the day USCIS receives the requested evidence from the petitioner.²⁰ The 180-day clock will not be suspended when a request for additional evidence relates only to a concurrently filed Form I-485. The 180-day requirement applies only to initial adjudication of the SIJ petition. The requirement does not extend to the adjudication of any motion or appeal filed after the denial of the SIJ petition.

C. Interview

1. Determining Necessity of Interview

USCIS may interview SIJ petitioners for the purposes of adjudicating the SIJ petition. However, an interview is not required. An officer may waive the interview based upon the following factors:

- The file contains sufficient information and evidence to grant the petition without an interview
- Attending the interview or participating in the interview would cause hardship to the petitioner
- The age of the juvenile (for example, 14 years of age and younger)
- The sensitive nature of issues of abuse, neglect, or abandonment involved in the case
- The need for an expedited decision and conducting an interview will slow down adjudication processing times (for example, an approval of the petition after the applicant's 18th birthday may mean that the petitioner will lose eligibility for federal benefits including housing.)

An officer may determine that an interview is necessary because the officer may need information that only the juvenile or a person acting on the juvenile's behalf can provide, such as missing information on the petition.

2. Conducting the Interview

An officer should establish a child-friendly interview environment. SIJ petitioners are often under pressure and face hardship relating to the loss of parental support. During an interview,

¹⁹ See section 235(d)(2) of the TVPRA 2008, Pub. L. 110-457.

²⁰ See 8 CFR 103.2(b)(10).

An officer must not require or request an SIJ petitioner to contact the individual or family members of the individual who allegedly abused, abandoned or neglected the SIJ petitioner.¹⁴

D. Age-out Protections

A child is an unmarried person under 21 years of age.¹⁵ An officer must consider the petitioner's age at the time of filing the SIJ petition to determine whether the petitioner has met the age requirement.¹⁶ If an SIJ petitioner was under 21 years of age on the date of proper filing, USCIS cannot deny SIJ classification solely because the petitioner is older than 21 years of age at the time of adjudication.

In addition, the age-out protection covers situations where the dependency or custody ended after filing, but prior to adjudication because of an age-related reason. For example, in some jurisdictions the court order may automatically terminate when a juvenile reaches 18 years of age. A juvenile's eligibility for SIJ would not be affected by this age-related reason for subsequent termination of the order.

E. Inadmissibility and Waivers

Inadmissibility provisions do not apply to adjudication of the SIJ petition.¹⁷ Therefore, a petitioner does not need to ensure he or she qualifies for an exemption or waiver in the context of the adjudication of the Form I-360 petition. An officer may not deny an SIJ petition solely because the petitioner might be ineligible for adjustment of status.

Chapter 3: Adjudication

A. Jurisdiction

USCIS has sole jurisdiction over SIJ petitions. Providing the applicant is otherwise eligible, classification as a special immigrant juvenile establishes eligibility to apply immediately for adjustment of status.¹⁸

¹⁴ This provision was added by the Violence Against Women Act of 2005, Pub. L. 109-162, (January 5, 2006) and is incorporated at INA 287(h).

¹⁵ USCIS interprets the use of the term "child" in section 235(d)(6) of the TVPRA 2008, Pub. L. 110-457, to refer to the definition of child in INA 101(b)(1) which states that a child is an unmarried person under 21 years of age.

¹⁶ Section 235(d)(6) of the TVPRA 2008, Pub. L. 110-457, provides age-out protection to SIJ petitioners.

¹⁷ For discussion on the applicability of inadmissibility provisions to SIJ-based applicants for adjustment of status, see Volume 7, Adjustment of Status.

¹⁸ For information on adjustment of status applications with SIJ as the underlying petition, see Volume 7, Adjustment of Status.

detailed but must reflect that the court made an informed decision. For example, it may be acceptable for an order to indicate that a finding of child abuse was made based upon the testimony of a social worker, psychologist and a police report. An explanation of the nature of the abuse is not required.

The officer should not second-guess the court rulings or reweigh the evidence. Orders that have the necessary rulings and include or are supplemented by specific findings of fact will usually be sufficient to establish eligibility. It is preferred that one order contain all of the findings required for a determination of SIJ status, but it is not necessary. The findings may be found in separate court orders or in alternative sources of evidence as outlined below. The officer may not require that specific pieces of alternative evidence be provided. Alternative evidence that may support the order may include any of the following:

- Separate judicial findings of fact
- Certified records from the judicial proceeding or an affidavit from the court, or the state agency or department summarizing the evidence presented to the court
- Evaluations, treatment plans, opinions, or letters from social workers, victim advocates, medical professionals, others who have worked with the juvenile, or the juvenile's guardian or other individual or entity to whom the court granted custody
- Affidavits or statements of the petitioner or other witnesses¹³

5. Limitations on Additional Evidence

An officer must be mindful of confidentiality rules that may restrict disclosure of records from juvenile-related proceedings. Furthermore, an officer should not seek certain documents or information directly related to SIJ classification such as school or employment records, or confirmation of compliance with the Vienna Convention on Consular Relations.

An officer should generally limit reliance on records containing statements made by juveniles at the time of initial apprehension by immigration or law enforcement. Oftentimes juveniles do not share personal accounts of their family life with an unknown adult until they have had the opportunity to form a trusting relationship with that adult. Additionally, the juvenile court may make child welfare placement, custody and best interest decisions that differ from the juvenile's stated intentions at the time of apprehension.

¹³ The officer may also interview the petitioner about the basis for the order, if the juvenile is of appropriate age. For example, the officer may ask the petitioner about his or her attendance at the court hearings and about who testified. The officer should not ask questions about the substance of the findings or the parental abuse, abandonment, or neglect.

juvenile court establishes or endorses an alternate process for a best interests determination, a finding from that process may satisfy the requirement.

2. Findings

The court order must address all three of the findings outlined in the eligibility section regarding dependency, family reunification, and best interests. To fulfill the USCIS consent requirement that the order was sought primarily to obtain relief from abuse, neglect or abandonment, the court order should also contain or be supported by specific factual findings or provide a reasonable factual basis for the order¹².

The language of the order may also vary based on individual state law. Specific legal definitions of terms such as child abuse, neglect, and abandonment vary from state to state. If a juvenile court order makes the findings based upon a similar state law, the petitioner must establish that the nature and elements of the state law are similar to the nature and elements of abuse, abandonment or neglect. Petitioners are encouraged to include copies of the state laws on equivalent concepts and how they are defined by the state.

3. Validity of Order

The juvenile court order must be valid at the time of filing and adjudication of the SIJ petition. However, this requirement may not apply if the otherwise qualifying juvenile court case ended because the child was adopted, or placed in a permanent guardianship or another permanent living situation (other than reunification with the abusive parent(s), provided that the child's age at the time of filing would not prevent the juvenile court from having jurisdiction. In addition, USCIS will not, based on age or dependency status, deny an SIJ petition if, at the time of filing, the petitioner was under 21 years of age and was the subject of a valid dependency order that was later terminated based on age.

If the petitioner relocates to another state, and the initial juvenile court order becomes invalid because of the change in jurisdiction, the petitioner must obtain a new order. A juvenile court order does not automatically end because of a juvenile's move to another court's jurisdiction. Under the Uniform Child Custody Jurisdiction and Enforcement Act and the Interstate Compact for the Placement of Children, the original court may maintain jurisdiction. If the original order is vacated, terminated, or ended, USCIS considers the dependency or custody to have continued through the time of adjudication of the SIJ petition, even if there is a lapse between court orders.

4. Supporting Evidence

If the court order lacks specific facts to support the required dependency, reunification and best interests findings or the evidence provided does not establish a reasonable factual basis for the order, the officer may request additional evidence. Findings do not need to be overly

¹² If the court order does not contain this information, see information on alternative evidence in the evidence section.

General Eligibility Requirements for Special Immigrant Juvenile Classification

Has U.S. Department of Health and Human Services (HHS) consent, if a juvenile is currently in the custody of the Secretary of HHS and seeks a juvenile court order that also alters⁷ his or her custody status or placement. HHS consent is not required if the order simply restates the juvenile's current placement.

B. Evidentiary Requirements

A petitioner seeking to qualify as a special immigrant juvenile must submit all of the following documentation:

- Form I-360⁸, Petition for Amerasian, Widow(er), or Special Immigrant⁹
- A copy of the petitioner's birth certificate, other evidence of the petitioner's age, or both¹⁰
- Copies of the juvenile court order or administrative document(s) that establish eligibility

C. Juvenile Court Order

1. Qualified Courts

The title and the type of court issuing the order will vary from state to state. "Juvenile" court¹¹ is defined as a court in the U.S. having jurisdiction under state law to make judicial determinations about the custody and care of children. Examples include: juvenile, family, dependency, orphan's, guardianship, probate, and delinquency.

The juvenile court may make the determination that it is not in a juvenile's best interest to be returned to the juvenile's or parent's country of nationality or last habitual residence. USCIS strongly encourages juvenile courts to address this issue and incorporate a finding into the court order. Nevertheless, the law contemplates that other judicial or administrative bodies authorized or recognized by a juvenile court may make such a determination. If a particular

⁷ See *Perez-Olano v. Holder*, Case No. CV 05-3604 (C.D. Cal. 2005).

⁸ See Instructions for Form I-360 for filing instructions. Note that there is no filing fee for special immigrant juveniles for filing Form I-360.

⁹ The petitioner may file Form I-360 alone or concurrently with his or her Application to Register Permanent Residence or Adjust Status (Form I-485). Given that an order from a juvenile court may terminate for a variety of reasons, it is generally in the juvenile's best interest to file the special immigrant petition and the adjustment application concurrently.

¹⁰ See 8 CFR 204.11(d)(1).

¹¹ See 8 CFR 204.11(a).

Chapter 2: Eligibility Requirements

A. General Eligibility Requirements

A petitioner must satisfy the following requirements to qualify as a special immigrant juvenile.

General Eligibility Requirements for Special Immigrant Juvenile Classification
Physically present in the United States
Unmarried
Under the age of 21 years on the date of filing the Petition for Amerasian, Widow(er), or Special Immigrant (<u>Form I-360</u>)
A juvenile court in the United States has issued an order that addresses all three of the following: <ol style="list-style-type: none"> 1. Dependency: <ul style="list-style-type: none"> ○ Declares the juvenile dependent on the court, or ○ Legally commits or places the juvenile under the custody of either an agency, department of a state, or an individual⁴ or entity appointed by a state or juvenile court; and 2. Reunification: Finds that reunification with one⁵ or both of the juvenile's parents is not viable⁶ due to abuse, neglect, abandonment, or a similar basis under state law; and 3. Best Interests: Finds that it would not be in the juvenile's best interest to be returned to the juvenile's or his or her parent's country of nationality or last habitual residence.

⁴ Section 235(d)(5) of the TVPRA 2008, Pub. L. 110-457 specifies that if a state or an individual appointed by the state is acting *in loco parentis*, such a state or individual is not considered a legal guardian for purposes of SIJ eligibility.

⁵ A qualifying court-appointed placement could be with one parent, if reunification with the other parent is found to be not viable due to that parent's abuse, neglect, or abandonment of the petitioner.

⁶ The temporary unavailability of a juvenile's parent(s) does not meet this requirement. A juvenile is generally eligible when his or her custody determination with an individual or entity becomes permanent, such as in adoption, long term foster care, or permanent guardianship. However, actual termination of parental rights is not required.

Special Immigrant Juvenile Classification Acts and Amendments	
Acts and Amendments	Key Changes
	<p>of Homeland Security now consents to SIJ status through approving the petition instead of giving “express consent” to the juvenile court order</p> <ul style="list-style-type: none"> • Altered the “specific consent” function for those juveniles in federal custody by vesting this authority with the Secretary of U.S. Health and Human Services (HHS), rather than the Secretary of the Department of Homeland Security • Requires USCIS to adjudicate <u>SIJ petitions</u> within 180 days of filing

C. Legal Authorities

- INA 101(a)(27)(J); 8 CFR 204.11³ – Special Immigrant Juveniles
- INA 203(b)(4) – Certain Special Immigrants
- INA 245(h); 8 CFR 245 – Adjustment of Status to That of Person Admitted for Permanent Residence
- INA 287(h) – Contact with the Alleged Abuser
- 8 CFR 205.1(a)(3)(iv) – Reasons for automatic revocation
- Pub. L. 101-649 – Section 153 of the Immigration Act of 1990
- Pub. L. 102-232 – Miscellaneous and Technical Immigration and Nationality Amendments of 1991
- Pub. L. 105-119 – Section 113 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies, Appropriations Act of 1998
- Pub. L. 110-457 – Section 235(d) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008)

³ The regulations are being updated by headquarters. A proposed regulation was issued in September 2011.

Acts and Amendments	Key Changes
The Immigration Act of 1990	<ul style="list-style-type: none"> Established an SIJ classification for juveniles declared dependent upon a juvenile court in the United States, eligible for long-term foster care, and for whom it would not be in their best interest to return to their country of origin
Miscellaneous and Technical Immigration and Nationality Amendments of 1991	<ul style="list-style-type: none"> Allowed juveniles with SIJ status to apply for adjustment of status to that of a lawful permanent resident Provided that juvenile aliens cannot apply for admission or be admitted to the United States in order to obtain special immigrant juvenile status
The 1998 Appropriations Act	<ul style="list-style-type: none"> Limited eligibility to juveniles declared dependent on the court because of <i>abuse, neglect or abandonment</i> Provided that juveniles are eligible only if the Attorney General (later changed to the Secretary of the Department of Homeland Security) expressly consents to the juvenile court order serving as a precondition to the grant of status Prohibited juvenile courts from determining the custody status or placement of a juvenile who is in the custody of the federal government, unless the Secretary specifically consents to the court's jurisdiction to make the determination
The Trafficking Victims Protection and Reauthorization Act (TVPRA 2008)	<ul style="list-style-type: none"> Removed the need for a juvenile court to deem a juvenile eligible for long-term foster care and replaced it with a requirement that the juvenile court find reunification with one or both parents not viable Expanded eligibility to juveniles placed under the custody of an individual or entity appointed by a state or juvenile court Provided age-out protections so that USCIS cannot deny SIJ status to anyone, based solely on age, who was under 21 years of age on the date that he or she properly filed the SIJ petition, regardless of the petitioner's age at the time of adjudication Eliminated the "express consent" requirement - The Secretary

Chapter 1: Purpose and Background

A. Purpose

Congress initially created special immigrant juvenile (SIJ) status to provide humanitarian protection for abused, abandoned and neglected juvenile immigrants eligible for foster care. This protection has evolved to include juveniles for whom reunification with one or both parents is not viable because of abuse, neglect, abandonment or a similar basis under state law.

An eligible juvenile may:

- Have been abused prior to his or her arrival in the United States, or while in the United States.
- Be in federal custody with the United States Department of Health and Human Services, Office of Refugee Resettlement, Unaccompanied Alien Children Program;¹ or
- Be in the state child welfare system in the custody of a state agency (for example, foster care), or in the custody of an individual or entity appointed by a state or juvenile court.

A juvenile who adjusts status based upon SIJ classification may not confer any immigration benefits to his or her biological parents or prior adoptive parents.

B. Background

SIJ classification is unique in that both State courts and U.S. Citizenship and Immigration Services (USCIS) have a role in determining eligibility. The juvenile court makes factual findings (based on state law) concerning the care and custody and best interests of the juvenile. USCIS determines eligibility for SIJ classification by adjudicating a Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360²). The adjudication of the SIJ petition includes review of the court's factual findings to determine if the child is eligible for SIJ status. Approval of the SIJ petition means that USCIS has consented to the grant of special immigrant juvenile status.

Special Immigrant Juvenile Classification Acts and Amendments

¹ See section 462 of the Homeland Security Act of 2002, Pub. L. 107-296 (November 25, 2002).

² USCIS also adjudicates Form I-485, Application to Register Permanent Residence or Adjust Status, which determines eligibility for lawful permanent residency. See Volume 7, Adjustment of Status, for policy on SIJ-based adjustment of status.

PART H - SPECIAL IMMIGRANT JUVENILES

PART H - SPECIAL IMMIGRANT JUVENILES

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