

Special Immigrant Juvenile Status: Immigration Practice

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USCIS Form I-360: Classification as a Special Immigrant Juvenile

- ▶ Predicate Order demonstrating abuse, abandonment, or neglect by one or both parents
- ▶ Must be filed prior to 21st birthday
 - ▶ Can't be married or get married during pendency of adjudication or after to qualify for adjustment of status
- ▶ Date of filing = priority date
- ▶ Adjustment as an SIJS forecloses possibility of applicant later applying for either of their parents
- ▶ I-360 requires:
 - ▶ Predicate order
 - ▶ Birth certificate

USCIS Form I-485: Application for Lawful Permanent Residency

- ▶ Must wait for priority date to be current on visa bulletin
 - ▶ Depending on USCIS, may file according to final action date or an earlier date
 - ▶ <https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin>
 - ▶ The earlier date is the soonest an applicant might be eligible for employment authorization
- ▶ Sometimes, IJ will let you file as soon as 360 approved, but depends on the IJ

I-485 (cont.)

- ▶ I-485 requires
 - ▶ Medical exam by civil surgeon
 - ▶ Expires 6 months after signed; costs ~\$300
 - ▶ I-360 approval notice
 - ▶ Birth certificate/passport
 - ▶ Filing fee/fee waiver (Form I-912)
 - ▶ If filed with EOIR must ask IJ for fee waiver or pay the filing fee
 - ▶ If fee waived by IJ, still must send grant of fee waiver to USCIS
 - ▶ If fee waived by IJ, can also file I-912 to waive form I-765 filing fee for USCIS; no proof of income required for SJS applicants
 - ▶ If filed with USCIS, can file I-912 fee waiver application for I-485 and I-765

USCIS Form I-765: Employment Authorization

- ▶ Eligibility
 - ▶ After notification by USCIS of Deferred Action for Special Immigrant Juveniles (new as of March 2022)
 - ▶ Once Form I-485 filed and fee paid, applicant eligible for employment authorization
- ▶ I-765 requires:
 - ▶ Filing fee/fee waiver
 - ▶ For Deferred Action EAD must include proof of income
 - ▶ For AOS EAD, special instructions waive proof of income requirement

Removal Proceedings with the Immigration Court

- ▶ No right to government-appointed counsel
 - ▶ Limited pro bono availability
- ▶ LONG processing times (2-3 years to merits hearing, if not longer)
 - ▶ Currently: 1.3 million case backlog
- ▶ Failure to appear leads to a removal order (deportation)
 - ▶ MUST keep address updated (Form EOIR-33)
 - ▶ EOIR Hotline – phone and online
- ▶ Denial of application leads to a removal order (deportation)
- ▶ Roadblocks to due process
 - ▶ Policies (i.e. case completion quotas; prioritizing family cases)
 - ▶ Attorney General certification (Matters of A-B-, Castro-Tum, L-A-B-R-)

Removal Proceedings with the Immigration Court (cont.)

- ▶ Avoiding a removal order while waiting for your priority date to be current
 - ▶ IJ Status Dockets
 - ▶ Motion to Continue
 - ▶ Motion to Dismiss or Terminate
 - ▶ Motion to Administratively Close
 - ▶ Other forms of relief for minors:
 - ▶ Asylum w/ USCIS
 - ▶ Asylum w/ EOIR
 - ▶ T visa
 - ▶ U visa
- ▶ If all else fails, appeal to BIA

Resources/Contact

- ▶ Handout includes:
 - ▶ Form Numbers
 - ▶ Links to other resources
 - ▶ Case Names/citations
- ▶ Casey Bryant – casey@airlegal.org