

The Center on Immigration and Child Welfare

Webinar: Supporting the Legal Needs of Immigrant Children in Foster Care

Q&A

1. **What is the minimum age for SIJs? If the maximum is 21.**
 - a. There is no minimum age for SIJS - babies can qualify.
2. **Do you need to obtain legal records from the other country if the parent there was abusive?**
 - a. That will depend on your state law and how much evidence they require of the abuse. In California, the child's declaration attesting to the abuse, or a declaration from another family member, is typically sufficient and no additional records are needed.
3. **If one parent is not in the US and other is but reunification with either parent is not if child's best interest, can they still apply with a kin sponsor?**
 - a. Yes, a child in that situation can still apply for SIJS if they meet the other SIJS requirements.
4. **We have two kids in DSS custody who are residents of Honduras. They were removed from mom here in NC, but she is not a US citizen. She has 3 other children who are US citizens who were also removed from her. Can we get assistance for these two children? Father is in Honduras, and we can't reunify with him.**
 - a. Based on the information you shared, it sounds like these kids would be eligible for SIJS.
5. **What if the child just doesn't want to go home to the home country. And the parent states they want their child to have a better life and doesn't want the child to return?**
 - a. I would dig deeper with the child on why they don't want to go back to home country to see if there are any arguments that they can't reunify with a parent due to abuse, neglect, abandonment, or a similar basis under your state law. Sometimes over time additional information will come out that might support this. The child must meet all of the legal requirements for SIJS.
6. **I'm in the State of Maine, where our pro bono law clinic is overwhelmed and only takes emergent SIJ cases. We also only have three lawyers that accept our cases at the moment. Can we look for immigration lawyers out of state since SIJS is a federal process?**
 - a. An out of state lawyer may be able to handle the immigration part of the SIJS case if they could adequately represent the young person from afar, but you will need attorneys barred in your state to do the SIJS state court predicate order.
7. **With the 5-year waitlist, does the application just need to be completed prior to the 21st birthday?**



- a. yes, the application for SIJS (I-360) MUST be filed before the age of 21.
- 8. I work in Virginia and have a youth that doesn't want to return to Jamaica where her mother lives. Her father is here, and she was removed from him which in court, went from an abuse case to relief of custody. She has a copy of her resident card, but not the actual one. How do we get her a new resident card and then help her remain in the US once her resident card expires?**
- a. It would be helpful to refer this youth to an immigration attorney. It is possible to replace a green card, through an application called an I-90, but it is best for the youth to consult with an immigration attorney before doing so because in certain circumstances it may not be advisable. Also, depending on how the child received their green card, they will be eligible to naturalize after a certain number of years (often 5 years) and after the age of 18. Again, an immigration attorney can help with the naturalization application.
- 9. Does New Jersey require that a parent (if parental rights not terminated) provide consent for a minor child in DCF care to be referred to the clinic for immigration legal services? For over 18, I assume the youth can consent on their own, but what about youth under 18 who are in care? Could a parent prevent a youth from being referred for legal services?**
- a. No, we do not require parental consent for children under the age of 18. All children are in the custody of the state agency, We do sign retainer agreements with the youth if they are able. If the child clients are too young to sign immigration applicants, we seek the consent from the leadership of DCF.
- 10. Are there any federal or other requirements for child welfare agencies to screen immigrant children for immigration relief? We work in a state that does not have a statute requiring child welfare and some in the agency think that is not part of their legal responsibility and they say they have no money to contract with immigration attorneys.**
- a. I don't believe there are any federal requirements for child welfare agencies to screen immigrant children for immigration relief, but I think there are very strong arguments that it is in the best interest of the child and a key component of a successful transition to adulthood. It may also be helpful to refer your agency colleagues to the Child Information Gateway on immigration and child welfare: https://www.childwelfare.gov/pubs/immigration-caseworkers/?utm_medium=email&utm_source=immigrationpubsCB020223
- b. Another Child Information Gateway resource by the federal HHS is directed at agencies: <https://www.childwelfare.gov/pubs/immigration-agencies/>
- c. That resource and other HHS resources support effectively engaging immigrant families, including screening for relief. A related federal requirement for state agencies is the recent AFCARS change to track the number of youth entering foster care with a parent who was detained or deported by immigration authorities. That can serve as a launching point for developing policies to support immigrant families involved with the agency.