



The Children's Law

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School of Law
University of South Carolina

Guide for Special Immigrant Juvenile Status

The Children's Law Center, University of South Carolina School of Law, has prepared this information to provide information to family court judges, attorneys representing the South Carolina Department of Social Services (DSS), DSS caseworkers, guardians ad litem (GALs), attorneys who are subject to appointment in abuse and neglect proceedings pursuant to SCACR 608 and foster parents. It describes Special Immigrant Juvenile (SIJ) status, eligibility criteria and the components of the application for SIJS. **This publication is provided for general information and not legal advice. Immigration law is constantly changing and an immigration attorney should be consulted when considering immigrations issues for a child in foster care.**

Introduction

One in five children in the U.S. is an immigrant or comes from an immigrant family, and 75% of the children in immigrant families are U.S. Citizens. A preliminary analysis by the National Survey of Child and Adolescent Well-Being (NSCAW) found that 9.6% of all children involved with the child welfare system are children of immigrant parents and 2.3% of all children within the child welfare system are immigrants themselves. Immigrant children and families are often considered at increased risk for maltreatment due to the stress and pressure resulting from migration, acculturation and, in recent years, increased deportation of undocumented parents of citizen children by Immigration and Citizenship Enforcement (ICE) officials.

Child welfare professionals may not be familiar with federal and state policies that affect immigrant children. Many undocumented children involved with the child welfare system may be eligible for special forms of immigration relief, and some may be eligible for citizenship. Caseworkers must understand the resources and programs available to immigrant children so that they can educate their clients and make appropriate referrals.

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Immigration Law Background

Federal immigration law determines whether a person is an alien; the rights, duties and obligations associated with being an alien; and how aliens gain residence or citizenship within the United States. Congress' first attempt to set immigration policy was the Naturalization Act of 1790. After several changes and additions, Congress passed the Emergency Immigration Act in 1921. This act created national immigration quotas and ultimately led to the Immigration Act of 1924 which created race based quotas. The enactment of the Immigration and Nationality Act of 1952 (INA), also known as the McCarran-Walter Act, eliminated all race based quotas and replaced them with purely nationality-based quotas. Most federal immigration laws are contained in this act, which is codified in title 8 ("Aliens & Nationality") of the U.S. Code. The federal regulations implementing the INA are in title 8 (also entitled "Aliens and Nationality") of the Code of Federal Regulations. Various agency publications, including but not limited to, the United States Citizen & Immigration Service (USCIS) Field Guidance, the Board of Immigration Appeals (BIA) precedent decisions, and policy memoranda supplement the INA and corresponding regulations.

The Department of Justice (DOJ), Immigration and Naturalization Service (INS) division, was created to administer immigration benefits and enforce the quotas set forth by the INA. The DOJ Executive Office for Immigration Review (EOIR) houses the administrative courts that adjudicate immigration matters. On November 25, 2002, President Bush signed the Homeland Security Act into law. The Homeland Security Act created the Department of Homeland Security (DHS). DHS replaced the INS division of

the Department of Justice. DHS is responsible for handling most immigration matters through three of its agencies: U.S. Customs and Border Enforcement (CBE), U.S. Citizenship and Immigration Services (USCIS), and U.S. Immigration and Customs Enforcement (ICE).ⁱ These agencies handle immigration matters formerly handled by INS. CBE handles border patrol duties including inspections at ports of entry and monitoring of U.S. borders for illegal entry of persons and contraband. USCIS administers immigration benefits including naturalization, asylum, and permanent residence functions. ICE enforces immigration laws including deportation, intelligence, and investigatory functions.

If a child is not born in the United States, but currently lives in the U.S., the child is considered an immigrant. Immigration status is determined by the type of permission that is granted by the U.S. government, or the lack of it. An immigrant may have arrived in the U.S. with or without permission from the U.S. government. Permission to enter the U.S. determines the immigrant's legal status. If a child is born in the United States, Puerto Rico or certain U.S. territories the child is a U.S. Citizen, even if the child was raised in another country. Citizenship is also inherited when a child is born abroad to a U.S. citizen mother or father. A U.S. citizen has the right to live, work and vote in the U.S. and is eligible for many federal benefits, such as educational loans and social services.

Citizenship may also be acquired after a person becomes a lawful permanent resident (LPR). Obtaining LPR status (green card) permits the person to live and work in the United States indefinitely, as long as the person abides with all of the laws of this country. An LPR is not eligible for certain benefits, such as voting and some social

services. An LPR may also travel in and out of the country, as long as her/she does not spend more than six months out of the year abroad. An LPR may be deported if he/she is convicted of certain crimes or violates an immigration law.

A temporary visitor is someone who has a visa (permission from the government) to live in the United States for a limited period of time and for a specific purpose. A person can obtain a visa to the United States to study, work, visit family or for tourism. These visas usually have an expiration date. If the visa is not renewed before it expires, then the person will no longer have legal immigration status. Persons present in the United States without legal immigration status are considered to be undocumented or illegal immigrants. An undocumented person is a person who entered the U.S. without permission or who has violated the terms of a visa. He or she does not have permission to live or work in the U.S. and can be subject to removal proceedings at any time. An undocumented person may be eligible to obtain lawful immigration status including asylum, lawful permanent residence through a family member or an employer or through Special Immigrant Juvenile Status.ⁱⁱ

Special Immigrant Juvenile (SIJ) Status

Children who lack legal immigration status cannot qualify for student loans, cannot obtain legal employment, and face the constant threat of deportation or removal to their home countries. In 1990, Congress addressed this problem by creating an immigration classification known as Special Immigrant Juvenile (SIJ) status.ⁱⁱⁱ The SIJ status is an immigration option for children who are dependent on a state juvenile court who cannot be returned to their parents as per the juvenile court's finding. **(The term "juvenile court" is a court located in the United States having jurisdiction under State law**

to make judicial determinations about the custody and care of juveniles. In many states this could be a dependency case, delinquency or probate/guardianship. In South Carolina the term “juvenile court” refers to family court)^{iv} In 1997 Congress amended the requirements for SIJ status to include juvenile court findings that the child must be dependent on the court due to abuse, abandonment and/or neglect.

SIJ status allows undocumented immigrant children to apply for a change of status while remaining in the United States. The children are eligible to receive work authorization^v during the pendency of their application, and, if approved, can obtain lawful permanent residence (green card).

Who is eligible for SIJ status?

In order for a child to be eligible to apply to USCIS for SIJ status, a state “juvenile court” must first make several findings of fact. Under the law, the juvenile court does not make any immigration decisions, but rather, makes factual findings concerning the child. The juvenile court – and not USCIS – makes these findings because it is the court with expertise in juvenile matters.

What are the requirements for SIJ status?

A child was originally eligible for SIJ status under § 101(a)(27)(J) of the Immigration and Nationality Act (INA). On December 23, 2008, the President signed the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008)^{vi}. Section 235(d) of the TVPRA 2008 amended the eligibility requirements for SIJ status at section 101(a)(27)(J) of the INA, and accompanying adjustment of status eligibility requirements at section 245(h) of the INA.^{vii} The INA, codified at 8 USC § 1101(a)(27)(J), has been amended to comport with TVPRA 2008. However, *the Code*

of Federal Regulations at 8 C.F.R. § 204.11 has yet to be amended to comport with TVPRA 2008. As a result, the original SIJ eligibility requirements should be read in conjunction with the newly enacted requirements to ensure compliance with the modified “age-out” requirements until further guidance is provided by USCIS.

Under INA a child was originally eligible for SIJ status if the child:

(1) Was under twenty-one years of age;^{viii}

(2) Was unmarried;^{ix}

(3) Had been declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency, while the alien was in the United States and under the jurisdiction of the court;^x

(4) Had been deemed eligible by the juvenile court for long-term foster care^{xi} because of abuse, neglect or abandonment.^{xii} *Eligible for long-term foster care* meant that reunification was **not an option**, the child was expected to remain in foster care until reaching the age of majority, unless the child was adopted or placed in a guardianship situation. (A child in adoption or guardianship proceedings was also able to have a concurrent application for SIJ status filed with USCIS);

(5) Continued to be dependent upon the juvenile court and eligible for long-term foster care, with such declaration, dependency or eligibility not having been vacated, terminated, or otherwise ended; and^{xiii}

(6) Had been the subject of judicial proceedings or administrative proceedings authorized or recognized by the juvenile court in which it had been determined that it would not be in the alien's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or his or her parent or parents.^{xiv}

Changes to the Special Immigrant Juvenile Status Definition

Under Section 235(d)(1) of the TVPRA the definition of a Special Immigrant Juvenile is now defined as an immigrant who is present in the United States:

- Who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to or placed under the custody of, an agency or department of a *State, or an individual or entity appointed by a State or juvenile court located in the United State; and*

- *Whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law,^{xv} and*
- For whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence.

Eligibility Requirements as amended by TVPRA:

Under the new SIJ requirements a child must be an immigrant present in the United States:

1. Who is under age 21 at the time the SIJ petition is filed;^{xvi}
2. Who is unmarried;
3. Who has been declared dependent upon the court or who has been legally committed to the care of an individual or entity appointed by a state or juvenile court in the United States, including children in dependency or adoption proceedings, delinquency proceedings, and guardianship through a probate court.,^{xvii}
4. Who cannot be reunified with one or both parents^{xviii} as a result of court findings that they were abused, neglected, abandoned or other similar finding under state law,^{xix} AND
5. Who cannot be returned to his or her country of residence, or his or her parent's country of residence^{xx} as a result of a best interests finding.^{xxi}

As a result of TVPRA 2008 several beneficial changes for children have occurred: TVPRA has increased access to federal funds to assist Special Immigrant Juveniles and states providing services to them^{xxii} (these funds will be subject to the availability of appropriations)^{xxiii} ; more children can qualify for the status; there are greater protections from aging out of eligibility; and, USCIS is now required to process cases within 180 days for youth that qualify for SIJS. Prior to TVPRA, children in care would "age out" of eligibility for SIJ if their cases were not adjudicated by USCIS prior to their 21st birthday.

As of December 23, 2008, USCIS cannot deny youth SIJ status regardless of their age at the time of adjudication if their petition is filed prior to their 21st birthday. As long as the applicant is a child at the time that the petition is filed, the applicant's age will be locked in time for purposes of the SIJ petition. **This new rule applies *only* to petitions pending on or filed on or after December 23, 2008.** According to the American Immigration Lawyers Association (AILA) practice advisory, 8 C.F.R. § 204.11(c)(5) still requires that a child remain under the custody of DSS in order for the child to be eligible for SIJ status (it has not been amended to comport with TVPRA 2008). *Therefore, until further guidance is provided, DSS attorneys should ensure that children remain under the jurisdiction of the court until receipt of their green card. All efforts should be made to identify eligible children as early as possible to prevent them from aging out of the foster care system prior to adjudication of the SIJ petition.*

The TVPRA allows a juvenile court to consider family reunification with one **or** both of the child's parents. The juvenile court would only need to find abuse, abandonment, neglect, or a similar basis under state law with one parent, not both, when considering family reunification.^{xxiv} Reunification with only one parent will not bar a child from qualifying for Special Immigrant Juvenile status thereby allowing more vulnerable and mistreated children to qualify for this form of legal relief. **It is important to identify SIJ-eligible children as early as possible to prevent the child from aging out of the foster care system. Early identification is also necessary in order to obtain critical documents, such as: birth certificates and passports; medical examinations; fee waiver letters; and to prevent children from missing out on important educational and work-related opportunities.**

Inadmissibility, Exemptions, Waivers and Criminal Bars

SIJ status beneficiaries are excused from many requirements that other applicants applying for adjustment of immigration status (green card) must meet. SIJ applicants are excused from several grounds of inadmissibility, including provisions prohibiting entry of those likely to become a public charge,^{xxv} those without proper labor certification,^{xxvi} and those without a proper immigrant visa.^{xxvii} TVPRA expands these inadmissibility grounds to include presence without admission (lawful entry into the U.S.) or parole (temporary status which requires parolees to leave when the conditions supporting their parole ceases to exist),^{xxviii} document fraud and misrepresentations (including false claim to U.S. Citizenship),^{xxix} stowaway,^{xxx} and unlawful presence).^{xxxi} There are some inadmissibility grounds that may need a discretionary waiver^{xxxii} such as: “mental or physical disorder” that poses a risk to people or property; prostitution or procurement of prostitutes; drug addiction or abuse; smuggling illegal immigrants in to the U.S.^{xxxiii} In addition, most other grounds of inadmissibility may be waived for humanitarian purposes, family unity, or when it is otherwise in the public interest.^{xxxiv} SIJS applicants may also be inadmissible if they have been convicted of any number of adult offenses, e.g., a crime of moral turpitude and drug-related offenses.

Risks of Applying for Special Immigrant Juvenile Status

There are risks and benefits involved with applying for SIJ status. SIJ applications are not confidential. Applying for SIJ status alerts USCIS that the child is present, illegally, in the United States. If the petition is denied, USCIS may use the information in the application to initiate removal proceedings against the child. Due to the complexity involved in identifying inadmissibility and criminal bar^{xxxv} situations, **it is important to**

have an immigration attorney process the SIJ petition to determine SIJ eligibility and identify the presence of any inadmissibility or criminal bar situations. Failure to identify any of these issues may lead to the deportation or removal of the child.^{xxxvi}

If a child receives SIJ status, the child should be made aware of the fact that he/she will be unable to petition for his or her parent(s) to become lawful permanent residents.^{xxxvii} When a child receives SIJ status, the parent-child relationship is severed and the child is no longer the child of his or her biological parents.

Identifying Eligible Children

Because of the length of time required to prepare and process SIJ applications, DSS case managers should identify eligible youth early to prevent them from aging out of the system prior to the filing of a SIJ petition. Gathering basic information about the child is an integral part of the identification and planning process. One of the first opportunities to assess a child's immigration status is during Title IV-E eligibility determination. Verification of immigration status is a requirement for agencies that provide federal benefits, including foster care and adoption subsidy payments.^{xxxviii} The best way to determine eligibility is through the child's birth certificate. A U.S. birth certificate confirms that the child is a United States citizen and does not require immigration assistance.

If a child does not have a U.S. birth certificate the case manager should inquire about the child's family background, language spoken at home, and length of time in the U.S. This information can be used to determine the child's eligibility for SIJ status as well as any need for language or cultural assistance. The case manager should also request any documentation that the child may have that can be used to identify the child's

immigration status.^{xxxix} For children in care who are not U.S. citizens or permanent lawful residents, the consulate of the youth's home country may be able to provide various types of assistance, including assistance obtaining necessary documents, locating family members in the child's home country, obtaining information from the home country, and/or facilitating communication for children or families who speak uncommon dialects.^{xl} The case manager or GAL should work towards obtaining required documents, such as shot records or translations of documents, as soon as possible.

Efforts should be made by either the DSS or GAL attorney to obtain any records pertaining to the child that will assist the immigration attorney with the filing of the SIJ petition. DSS should request that the parent(s) turn over any documents such as: birth certificate, immunization records, passport, etc. to facilitate the process.

The DSS case manager should remain sensitive to several factors when working with a potential SIJ-eligible child. Many immigrants are reluctant to interact with government officials or employees for fear of being reported to USCIS. Therefore, inquiries about immigration and/or U.S. citizenship should be made upon establishing a rapport with the child. The purpose of the inquiry should also be explained to the child. A child's proficiency in speaking English may also not be reflective of his or her immigration status. The child may have arrived to the United States at the age of 1, may speak perfect English and yet be an undocumented child. Finally, a child may reside with several household members who have different immigration statuses. For example, an undocumented mother and father may have a child who is born in the U.S. and is thus a U.S. citizen; or, an undocumented child may reside with a parent who is a U.S. citizen.

The Application Packet

A SIJ-eligible child must submit a petition packet to USCIS. The packet contains: an I-360 petition to be qualified as a Special Immigrant Juvenile and the I-485 Application for Adjustment of Status to Lawful Permanent Residence. A SIJ petitioner is immediately eligible to adjust status to lawful permanent residence upon approval of the I-360. As a result, USCIS strongly encourages that both documents be filed concurrently in order to avoid delays. During the pendency of both applications, the petitioner is eligible to receive work authorization. Work authorization is usually received within three months of filing the I-765 Application for Employment Authorization. If the child is fourteen years old or older, the I-765 should be filed concurrently with the I-360 and I-485 applications. USCIS will contact the child directly for a fingerprinting appointment (biometrics).

The packet also contains the following: cover letter to USCIS; case summary; certified court order regarding eligibility for special immigrant juveniles status; Notice of Appearance; G-325 form (biographical information); copy of birth certificate and its English translation; four photographs of the child; the I-693 report of medical examination and vaccination in a sealed envelope; and, a money order for \$1,010.00 payable to U.S. Department of Homeland Security *or* a fee waiver request with supporting documentation.^{xli}

Supporting Documentation

Among the items required for the I-360 petition is the court order. The court order regarding eligibility for special immigrant juvenile status should be obtained by the DSS attorney or the child's attorney in dependency/family court. USCIS "strongly encourages juvenile courts to address" why it would not be in the child's best interest to be returned

to his or her country of nationality and “incorporate a finding into the court order.”^{xlii} Evidence of this element includes: the child’s declaration stating there is no one able or willing to care for him or her in his or her country of origin, reports on the status of children in the child’s home country, or letters from doctors or therapists. The case manager or GAL submitting reports to the court should discuss any efforts made to determine the conditions for the child in his or her country of origin, the living conditions for the child in the United States, along with a recommendation and explanation as to why it is not in the child’s best interest to be returned to the country of origin.

An application for adjustment of legal status (green card) requires that the child submit to a medical examination. The medical examination must be completed by a physician who has been designated by USCIS to be a Civil Surgeon.^{xliii} The medical examination of aliens in the United States must be performed according to CDC’s Technical Instructions for the Medical Examination of Aliens in the United States (Technical Instructions or TIs), published by the Centers for Disease Control and Prevention (CDC) in Atlanta, Georgia. The results of the medical examination are generally valid for only 12 months. The case manager should schedule the medical examination for the child as close as possible to the time the application for adjustment of status is to be filed. Efforts should be made to provide for sufficient time for the performance of laboratory testing or additional testing required under CDC’s Technical Instructions. A copy of the form (I-693)^{xliv} must be obtained from the USCIS website and brought to the Civil Surgeon on the day of the appointment. Upon completion of the form, the Civil Surgeon shall provide the completed application in a sealed envelope. The sealed envelope should be included in the application packet.

After the Filing of the Packet

After the filing of the packet, notification of the biometrics appointment will be mailed out. The notification will require the child to appear at an Application Support Center for biometrics collection, which usually involves having his or her picture and signature taken and being fingerprinted. The information is used to conduct required security checks and for eventual creation of a green card and employment authorization (work permit). The child's case manager, GAL or attorney can attend the appointment with the child. The child will be required to appear on the day of the appointment with a state-issued identification card and **all notices** that were issued in relation to the current application for benefits. This includes notices for the Forms I-485 and I-765. **It is very important to bring both notices.** Biometrics requirements are captured under each separate receipt number for each separate Form, and if both notices are not presented, it can delay the issuance of the child's benefit document(s) (i.e. EAD or I-551 Lawful Permanent Resident Card.) These notices also provide instructions to the Application Support Center (ASC) staff to capture the proper types of biometric information for each Form type. The child will receive work authorization within three months after the work authorization form (I-765) is filed.

Prior to TVPRA a child was usually interviewed by a USCIS officer within four months to one year after the application packet was submitted. TVPRA 2008 now mandates adjudication of applications within 180 days of receipt of the complete application. For the interview the child will be notified of the date, time and location via U.S. mail. The child is required to bring a state-issued photo identification to the interview appointment. The child's case manager, GAL, interpreter, and/or attorney may attend the interview

with the child. The child will answer questions, under oath or affirmation, asked by the USCIS officer pertaining to the contents of application packet. Questions pertaining to abuse, neglect or abandonment should not be posed by the officer. The child should bring originals of all documentation submitted with the application to the interview appointment.

After all paperwork has been received, interviews conducted, security checks completed, and other eligibility requirements reviewed, USCIS will make a determination on the application. In all cases, notification of the decision will be provided in writing. An approval or denial notice (Form I-797) will be provided to the applicant. If the child's application is approved Form I-797 should be kept until the Permanent Resident Card ("Green Card") is received in the mail.

If the child's application is denied, the child has a right to appeal the decision.

Conclusion

The opportunity to apply for Special Immigrant Juvenile Status can have a significant impact on a child's life. If a petition is approved and the child becomes a lawful permanent resident (LPR), the child will be able to: have access to financial aid for college; attend and pay state school tuition; work legally; and have the option to apply for U.S. Citizenship five years after receiving LPR status. Collaboration between child welfare agencies and immigration attorneys is imperative in order to ensure the timely identification of eligible children.

ⁱ See INA §103, 8 U.S.C.A. §1103

ⁱⁱ Other forms of immigration relief may also include T and U visas, Temporary Protected Status (TPS) and the Violence Against Women Act (VAWA). More information on these other forms of legal relief is available in *Immigration Options for Undocumented Children*, by the Immigrant Legal Resource Center (ILRC). See http://www.ilrc.org/immigration_law/pdf/Factsheets_immigrant_children.pdf (Last accessed: March 24, 2010).

ⁱⁱⁱ The Immigration and Nationality Act at § 101(a)(27)(J), codified at 8 USC § 1101(a)(27)(J), 8 CFR § 204.11

^{iv} 8 CFR § 204.11(a).

^v A child is able to apply for a social security number as a result of their work authorization.

^{vi} Pub. L. 110-457, 122 Stat. 5044 (2008).

^{vii} Pub. L. No. 110-457; “TVpra”, 122 § 5044 (2008).

^{viii} 8 CFR §204.11(c)(1).

^{ix} 8 CFR § 204.11(c)(2).

^x 8 CFR § 204.11(c)(3).

^{xi} 8 CFR § 204.11(c)(4).

^{xii} 8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. § 204.11(d)(2)(ii).

^{xiii} 8 CFR § 204.11(c)(5).

^{xiv} 8 CFR § 204.11(c)(6).

^{xv} TVpra 2008 makes clear that a child need not be in actual state foster care to be SIJ-eligible.

^{xvi} Section 235(d) of TVpra amends the eligibility requirements for SIJ status at section 101(a)(27)(J) of the Immigration and Nationality Act (INA). Previously, a child was required to remain under juvenile court jurisdiction until the entire immigration process was completed. TVpra appears to eliminate this requirement. As long as a child is under 21 when he/she applies for SIJS the application cannot be denied on account of “age.” See *In Matter of* [name redacted], File No.: Not provided, New York, New York (AAO July 20, 2009).

^{xvii} Added by TVpra 2008 (emphasis added).

^{xviii} TVpra 2008 permits a juvenile court to consider family reunification with one or both of the child’s parents.

^{xix} Added by TVpra 2008.

^{xx} See TVpra § 235(d)(1) (amendments to Special Immigrant Juvenile requirements are italicized); see also INA § 101(a)(27)(J).

^{xxi} The court can take into considerate the following factors: family/friend support system; emotional well-being, as well as medical and educational resources.

^{xxii} Prior to TVpra there were no federal funds available to assist SIJS petitioners or the states providing services to them. See “Deborah Lee, Manoj Govindaiah, Angela Morrison and David Thronson Update on Legal Relief Options for Unaccompanied Alien Children Following the Enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008”, American Immigration Lawyers Association (AILA) Practice Advisory (February 19, 2009) at 13.

^{xxiii} *Id.* at 14.

^{xxiv} See TVpra § 235(d)(1).

^{xxv} INA § 212(a)(4)

^{xxv} Citizenship and Immigration Services, William R. Yates, Associate director for Operations, Memorandum #3 – Field guidance on Special Immigrant Juvenile Status Petitions, HQADN 70/23, (May 27, 2004).

^{xxvi} INA § 212(a)(5)(A)

^{xxvii} INA § 212(a)(7)(A)

^{xxviii} INA § 212(a)(6)(A)

^{xxix} INA § 212(a)(6)(C)

^{xxx} INA § 212(a)(6)(D)

^{xxxi} INA § 212(a)(9)(B)

^{xxxii} INA § 245(h)(2)(B); 8 USC § 1255(h)(2)(B).

^{xxxiii} See INA § 212(a) for list of grounds of inadmissibility. As of Jan. 4, 2010 having HIV infection is no longer a ground for inadmissibility. See summary of finale rule at: <http://www.immigrationequality.org/uploadedfiles/E9-26337.pdf>

^{xxxiv} Citizenship and Immigration Services, William R. Yates, Associate director for Operations, Memorandum #3 – Field guidance on Special Immigrant Juvenile Status Petitions, HQADN 70/23, (May 27, 2004).

^{xxxv} Although juvenile delinquency adjudications and youthful offender adjudications are not considered convictions for immigration purposes, some juvenile adjudications, however, may trigger inadmissibility grounds under the conduct grounds (drug offenses especially drug trafficking).

^{xxxvi} Deportation is the formal removal of an alien from the United States when the alien has been found removable for violating the immigration laws. Deportation is ordered by an immigration judge without any punishment being imposed or contemplated. Prior to April 1997 deportation and exclusion were separate removal procedures. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 consolidated these procedures. After April 1, 1997, aliens in and admitted to the United States may be subject to removal based on deportability. Now called Removal, this function is managed by U.S. Immigration and Customs Enforcement. United States Citizenship & Immigration Services at:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=773895c4f635f010VgnVCM1000000ecd190aRCRD&vgnnextchannel=b328194d3e88d010VgnVCM10000048f3d6a1RCRD>.

^{xxxvii} See INA § 101(a)(27)(J)(iii)(II):[No] natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

^{xxxviii} The Personal Responsibility and Work Opportunity Act (PRWORA) of 1996 (P.L. 104-193), §§ 401-03, codified at 8 U.S.C. §§ 1611-13.

^{xxxix} DSS staff does not have an obligation to notify immigration officials of a youth's immigration status. To do so may result in adverse consequences for the youth's immigration status and permanency goals.

^{xl} A listing of the Foreign Consular Offices in the United States can be obtained at the Department of State website: <http://www.state.gov/s/cpr/rls/fco/index.htm>.

^{xli} See USCIS Fee Waiver Guidance at: <http://www.uscis.gov/feewaiver>

^{xlii} U.S. Citizenship and Immigration Services, William R. Yates, Associate Director for Operations, Memorandum #3 – Field Guidance on Special Immigrant Juvenile Status Petitions, HQADN 70/23, (May 27, 2004).

^{xliii} The names and phone numbers of the designated civil surgeons in a particular zip code area may be obtained by calling USCIS' National Customer Service Center at 1-800-375-5283. A civil surgeon may also be located in a specific zip code area by going to: https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=CIV.

^{xliiv} The form should be downloaded from the USCIS website which is found at: <http://www.uscis.gov/i-693>.