

Part II: Filing the I-360 & I-485

Comprehensive Overview of SIJS

Presenters



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About NIJC

The National Immigrant Justice Center (NIJC) is dedicated to ensuring human rights protections and access to justice for all immigrants, refugees and asylum seekers.

With offices in Chicago, Indiana, San Diego, and Washington, D.C., NIJC provides direct legal services to and advocates for these populations through policy reform, impact litigation, and public education. Since its founding three decades ago, NIJC has been unique in blending individual client advocacy with broad-based systemic change.

Agenda

- 1. SIJS Refresher
- 2. Filing Form I-360
- 3. Filing Form I-485 with USCIS
- 4. Q&A

Attendance





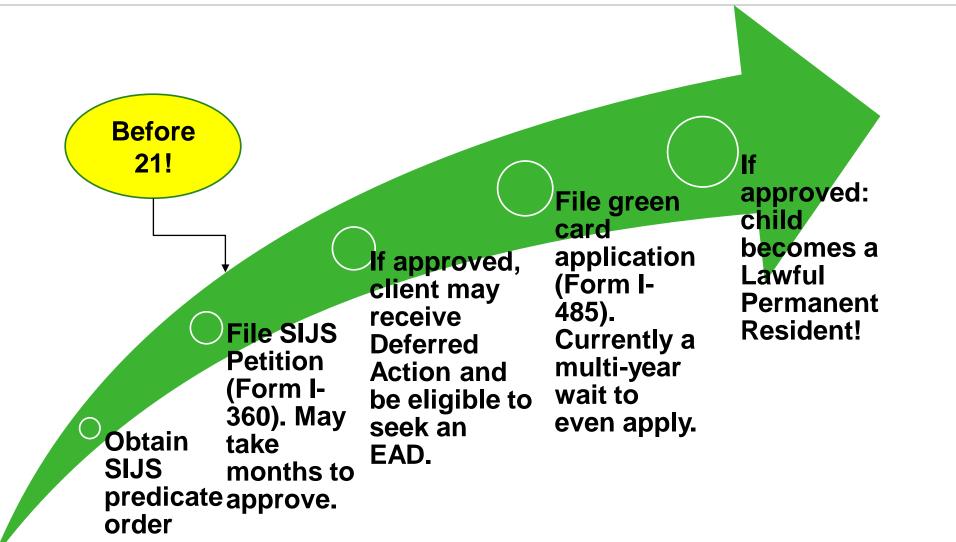
1. SIJS Refresher

Special Immigrant Juvenile Status (SIJS)

INA § 101(a)(27)(J)

- Under 21 years of age;
- Unmarried;
- Present in the United States;
- ☐ A "juvenile court" has:
 - Declared the child dependent on the court or placed them under the custody of a state agency, department, individual or entity;
 - Determined that child's reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law;
 - Determined that it would not be in the child's best interest to return to her home country; and
- ☐ The Secretary of Homeland Security consents to the grant of SIJ status

Immigration Timeline



Visa Bulletin

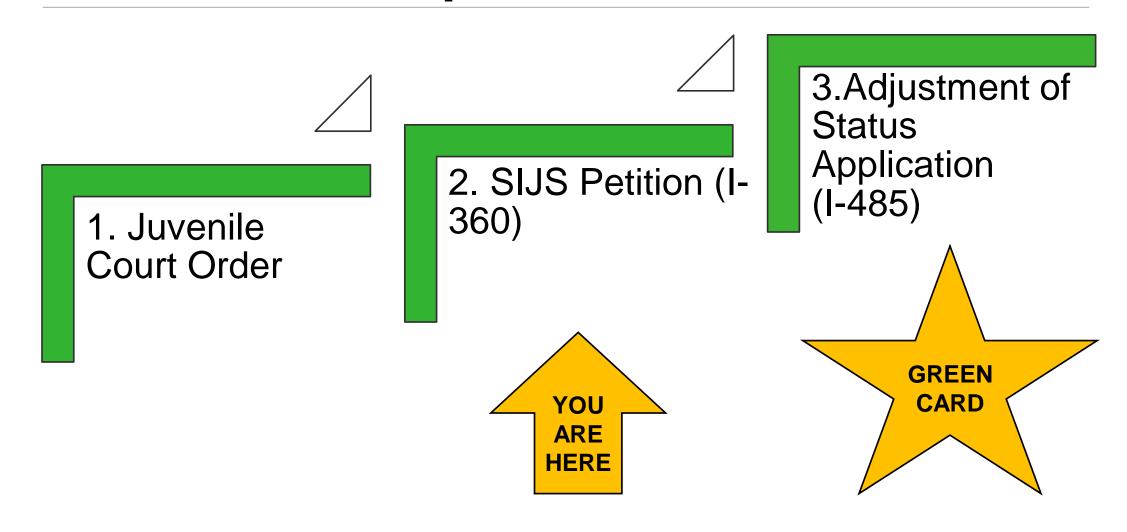
Youth who are successful in obtaining SIJS may apply for a green card. There is a limit, however, on the number of people per country who can get a green card through SIJS in a given fiscal year.

Employment- based	All Chargeability Areas Except Those Listed	CHINA- mainland born	INDIA	MEXICO	PHILIPPINES
1st	С	01NOV22	01FEB22	С	С
2nd	15MAR23	01MAR20	15JUN12	15MAR23	15MAR23
3rd	01DEC21	01SEP20	22SEP12	01DEC21	01DEC21
Other Workers	01JAN21	01JAN17	22SEP12	01JAN21	01MAY20
4th	01JAN21	01JAN21	01JAN21	01JAN21	01JAN21



2. Filing Form I-360

SIJS: Three Step Process



Form I-360

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant is used to apply for Special Immigrant Juvenile Status (SIJS):

- Currently 19 pages, but not all portions of the application pertain to SIJS
- □ Skip over sections that do not apply to SIJS [multiple pages in some sections]
- MUST be filed before the child turns 21

Ensure the client is unmarried and living with their court-ordered placement at the time you submit Form I-360, <u>UNLESS</u> the client has turned 18 and custody has terminated on that basis

Form **I-360**



Petition for Amerasian, Widow(er), or Special Immigrant

Department of Homeland Security

U.S. Citizenship and Immigration Services

USCIS Form I-360 OMB No. 1615-0020 Expires 02/28/2026

For USCIS Use Only		Fee Stamp			Action Block			
Returned								
Resubmit	ted							
Relocated	Received							
Relocated	Sent							
Remarks:		Inter	ioner/Applicant viewed viewed Beneficiary viewed		Classification Consulate			
		1	5 Filed Concurrently e "A" File Reviewed			Pri	ority Date	
Attorney or Accredited Fo		lect this box if rm G-28 or 28I is attached.	Attorney State Bar Number (if applicable)		er	Attorney or Accredited Representative USCIS Online Account Number (if any)		
► START HERE - Type or print in black ink.								
Part 1.	Information A	bout P	erson or Organ	niza	tion Filing This Pet	itio	n	
NOTE: You must complete Part 1. as the petitioner if you are filing this petition on behalf of another person. If you are a Violence Against Women Act (VAWA) self-petitioner or special immigrant juvenile, skip to Part 1., Item Number 7. 1. Your Full Name								
Fam	Family Name (Last Name) Given Name (First Name) Middle Name							
2. USCIS Online Account Number (if any) 3. U.S. Social Security Number (if any)								
4. Alien	n Registration Num	ber (A-Ni	umber) (if any) 5.	Inc	dividual IRS Tax Numbe	er (if	any)	

Filling Out Form I-360

- ☐ For "Current Non-Immigrant Status," say "SIJS Petitioner" [pg. 3, Part 3, Q.14]
- □ For client's last address in home country, the information provided does NOT need to be exact → totally fine to just put the neighborhood, city, and country
- □ Do NOT need to answer the question about working without work authorization [pg. 4, Part 4, Q.6]
- ☐ The form only allows for one box to be selected as to the basis for why reunification is not viable, but if the predicate order states there was more than one, cross of the checkboxes when you print the form [pg. 9, Part 8, Q. 4A]
- ☐ The Office of Refugee Resettlement is under the U.S. Dept. of Health & Human Services, so if the child was ever designated as an Unaccompanied Immigrant Child (UIC), mark yes on pg. 9, Part 8, Q.6

Documents to Prepare

- Cover Letter:
 - ☐ Cite to INA § 101(a)(27)(J), as amended by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) which defines the term "special immigrant"
 - Short statement as to client's eligibility
 - ☐ Date predicate order was entered with quotations of the magic language
- □ <u>G-28</u>
- Copy of Predicate Order
- Copy of Client's Birth Certificate
 - With certified English translation
- □ Proof of Physical Presence in the U.S.:
 - ☐ IF the client was a UIC, use a copy of their Office of Refugee Resettlement Verification of Release Form
 - ☐ IF the client was NOT a UIC, physical presence is satisfied if the predicate order explicitly states that the child currently lives with their parent or guardian.

Recent SIJS Regulations

An <u>SIJS Final Rule</u>, published on March 8, 2022, updated citations, provided new definitions, and clarified certain eligibility requirements. <u>Some of the main points are</u>:

- ☐ Confirms that USCIS relies on the expertise of the juvenile court in making child welfare decisions and does NOT reweigh the evidence to determine if the child was subjected to abuse, neglect, abandonment, or a similar basis under state law.
- ☐ Provides that relief from parental maltreatment may include the court-ordered custodial placement, the court-ordered dependency on the court for the provision of child welfare services, and/or other court-ordered or court-recognized protective or remedial relief.

Form 1-360 Approval Notice

FOR UNKNED STATES OF AMERICA

I-797 | NOTICE OF ACTION | DEPARTMENT OF HOMELAND SECURITY U.S. CITIZENSHIP AND IMMIGRATION SERVICE



Receipt Number		Case Type 1360 - PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT					
Received Date Priority Date 10/16/2023 10/16/2023 Notice Date Page 02/04/2024 1 of 1		Petitioner /					
		Beneficiary 4015 012 024					
NATIONAL IMMI c/o DOMINIQUE M 224 S MICHIGAN CHICAGO IL 606	AVE STE 600	Notice Type: Approval Notice Class: SL6 Section: Special Immigrant-Juvenile					

I-797 Approval Notice for Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant with Deferred Action.

USCIS has approved the above petition.

Grant of Deferred Action:

Your Form I-360 petition has been approved, but you do not yet have a visa available to file an application for adjustment of status. USCIS has determined that you warrant a favorable exercise of discretion to receive deferred action. As a result, you have been placed in deferred action and you may be issued an employment authorization document. Deferred action is an act of administrative convenience to the government which gives some cases lower priority for removal from the United States for a specified period of time.

Your grant of deferred action will remain in effect for a period of four years from the date of this notice unless terminated earlier by USCIS.

Pursuant to 8 CFR Sec. 274a.12(c)(14), a noncitizen with approved deferred action is eligible to apply for employment authorization with the appropriate fee. If you would like to apply for employment authorization, you must properly file Form I-765, Application for Employment Authorization, and enter eligibility category (c)(14). You will receive separate correspondence regarding the adjudication of your Form I-765 once it is filed.

If you are represented by an attorney, all further correspondence should be accompanied by Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.

USCIS will notify you separately about any other cases you have filed.

This form is not a visa, nor may you use it in place of a visa.

This form does not constitute employment authorization, nor may you use it in place of an Employment Authorization Document.

Approval of Form I-360

- Approvals are currently taking about 6-8 months, but we've seen timelines all over the place
- ☐ Once the Form I-360 has been approved, the client has Special Immigrant Juvenile Status, BUT they will NOT be able to adjust to Lawful Permanent Resident until their priority date is current.
- ☐ In the meantime, since about August 2022, we've seen most I-360 approvals come with Deferred Action.
 - Eligible for c[14] work authorization → NO Fee
 - Protection from deportation

Deferred Action for Special Immigrant Juveniles

Deferred Action (DA) is an act of prosecutorial discretion that defers proceedings to remove a noncitizen from the US for a certain period. DA does not provide lawful status, but it does allow those with DA to obtain employment authorization.

After being approved for SIJS DA, the child will be able to apply for a **work permit** immediately. This is useful even for younger children, because it is a government-issued photo ID.

Deferred Action for Special Immigrant Juveniles

A grant of deferred action can be a basis for terminating removal proceedings.

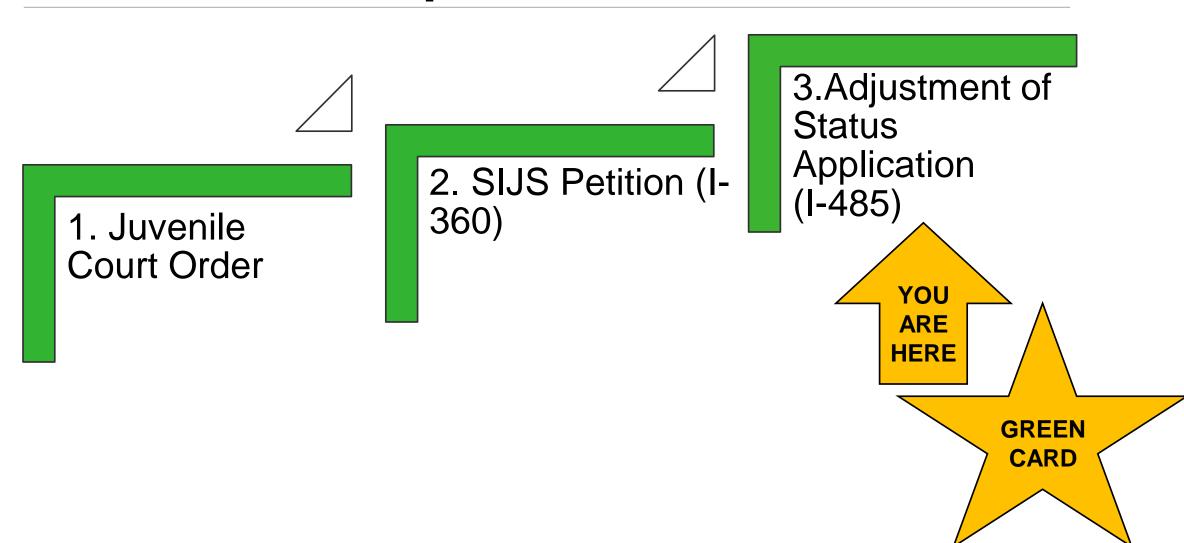
8 C.F.R. 1003.18(d)(1)(ii)(C) now provides that an immigration judge may terminate proceedings when the noncitizen is a beneficiary of Temporary Protected Status, *deferred action*, or Deferred Enforced Departure"

Carefully assess case to confirm termination is appropriate, and obtain client permission prior to any motion.



3. Filing Form I-485 with USCIS

SIJS: Three Step Process



SIJS and Visa Bulletin Backlogs

SIJS applicants for adjustment are subject to **visa backlogs**, meaning they may need to wait several years after SIJS approval before they can apply for adjustment of status.

The U.S. Department of State Visa Bulletin shows which **priority dates** are current. SIJS visas come from the Employment Based 4th Preference category. If your client's priority date is *before* the date listed, they are eligible to apply.

A. FINAL ACTION DATES FOR EMPLOYMENT-BASED PREFERENCE CASES

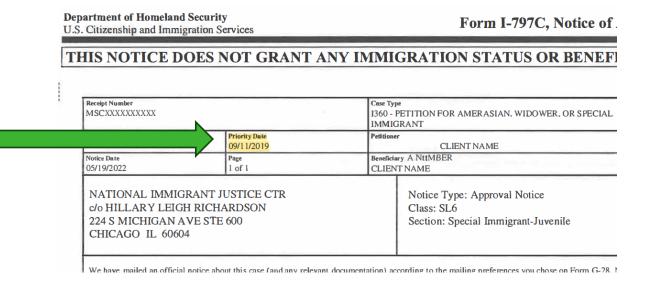
On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are authorized for issuance to all qualified applicants; and "U" means unauthorized, i.e., numbers are not authorized for issuance. (NOTE: Numbers are authorized for issuance only for applicants whose priority date is **earlier** than the final action date listed below.)

Employment- based	All Chargeability Areas Except Those Listed	CHINA- mainland born	INDIA	MEXICO	PHILIPPINES
1st	С	01SEP22	01MAR21	С	С
2nd	15JAN23	01FEB20	15APR12	15JAN23	15JAN23
3rd	22NOV22	01SEP20	15AUG12	22NOV22	22N0V22
Other Workers	080CT20	01JAN17	15AUG12	080CT20	01MAY20
4th	01NOV20	01NOV20	01NOV20	01NOV20	01NOV20
Certain Religious Workers	01NOV20	01NOV20	01NOV20	01NOV20	01NOV20
Cale University					

SIJS-Based Adjustment of Status

An SIJS approval notice with a current **priority date** allows the young person to apply for their green card via Form I-485, Application for Adjustment of Status.

The PRIORITY DATE for this sample is September 11, 2019.



SIJS-Based Adjustment of Status

SIJS Adjustment of Status does not allow derivatives! Spouses and children may <u>not</u> be included in this application.

People who receive their green cards via SIJS may <u>never</u> petition for either parent:

- Even after becoming a U.S. citizen
- Even for the non-abusive or non-abandoning parent

SIJS-Based Adjustment of Status

Adjustment of status requires a **lawful admission** or **parole** into the United States. INA § 245(a)



An approved SIJS petition **acts as parole**, meaning the young person may adjust even if they originally entered unlawfully. INA § 245(h)(1)

Adjustment of status also requires that the person be **admissible** to the U.S. Grounds of inadmissibility are found at INA § 212(a).

Grounds of Inadmissibility

Not applicable to SIJs, or waivable:

- Certain immigration violations: present without admission or parole; not in possession of valid entry permit; unlawful presence
- ➤ Public charge
- ➤ Smuggling
- Certain criminal grounds (juvenile delinquency is not criminal)

Applicable & <u>not</u> waivable:

- ➤ Certain criminal grounds, including drug trafficking
- >Terrorism & security related grounds

SIJS AOS Checklist

- Cover Letter
- ☐ Form G-28, Notice of Entry of Appearance
- ☐ Form I-485, Application for Adjustment of Status
- Two Passport-Style Photos
- ☐ Birth Certificate with translation
- SIJS Approval Notice
- Current Month's Visa Bulletin
- Sealed Medical Exam & Copy for Review (if ready)

SIJS AOS Checklist, ctd

Include the following only if applicable to your case:

- ☐ If the client was previously in removal proceedings, a **copy of** the immigration judge's order terminating proceedings
- If the client has had any police contact*:
 - Copies of any criminal dispositions
 - Affidavit from client explaining rehabilitation and other mitigating factors for discretion

*If ANY police contact, carefully assess the client for eligibility, as they could be in danger of removal if they apply when ineligible

Form G-28, Attorney Appearance

- Mostly self-explanatory
- ☐ Appearance is before USCIS, for "Form I-485," and the client is the "Applicant"
- □ p.3: if your client consents, please have original documents sent to you as attorney to avoid problems with mail

Form I-485

Application to Register Permanent Residence or Adjust Status



Department of Homeland Security U.S. Citizenship and Immigration Services USCIS Form I-485 OMB No. 1615-0023 Expires 03/31/2027

		F	or USC	CIS Use	Only	
Preference Category:			Recei	pt		Action Block
Country Chargeable:						
Priority Date:						
Date Form I-693 Received:						
Applicant Interview Waived Date of Initial Interview: Lawful Permanent Resident as of:		□ INA 209(a) □ INA 209(b) □ INA 245(a) □ INA 245(i) □ INA 245(m)	_	249 13, Act of 9/1 n Adjustment		
	To be c	ompleted by an	attorney	or accred	ited represer	ntative (if any).
Select this box if Form G-28 is attached.	Volag Nu (if any)	Attorney State Bar Number (if applicable)		ar Number	Attorney or Accredited Representative USCIS Online Account Number (if any)	
► START HERE - Typ	e or print i	n black ink.			A-N	lumber ▶ A-
NOTE TO ALL APPLIC Instructions, U.S. Citizensh						ail to submit required documents listed in the
Part 1. Information for lawful permanent			olying		Family Nan (Last Name Given Name)
Your Current Legal Name (do not provide a					(First Name)

Page 1: Information About the Client

- Review your client's immigration documents and family history carefully to obtain all of the relevant information.
- ☐ "Alien number" can be located on SIJS approval notice.
- □ Do not fill out "USCIS Only" box on the top.
- □ Do fill out G-28 section. You may not have a Volag or USCIS online account number; you can leave blank.
- ☐ If <u>any</u> question does not apply, leave blank.

Page 2: Information About the Client

Every page should have the Clients A#

A-Number ▶	A-			

Social Security Number:

- If your client already has a social security card, provide their SSN. If not, leave blank.
- Even if your client already has an SSN, you should still check "yes" to request a new one on the I-485.
- This is because their existing SSN is almost certainly restricted. Check with NIJC if you believe it is not.

			A-Number ► A-
Par	rt 1. Information About You (Person applying	Soc	cial Security Card
	lawful permanent residence) (continued)	14.	,
8.	Country of Birth		officially issued a Social Security card to you?
	See birth certificate		If you answered "Yes," provide the information requests
9.	Country of Citizenship or Nationality		in Item Number 15.
10.	See birth certificate Alien Registration Number (A-Number) (if any) ► A- Clients A#		Provide your U.S. Social Security Number (SSN). Clients \$SN # Do you want the SSA to issue you a Social Security care
	NOTE: If you have EVER used other A-Numbers, include the additional A-Numbers in the space provided in Part 14. Additional Information.		(You must also answer "Yes" to Item Number 17. Consent for Disclosure, to receive a card). Yes Number 17.
	USCIS Online Account Number (if any)	17.	Consent for Disclosure: I authorize disclosure of information from this application to the SSA as required for the purpose of assigning me an SSN and issuing me Social Security Card.
U.S	S. Mailing Address		Yes N
12.a	. In Care Of Name (if any)	Red	cent Immigration History
12.b	s. Street Number and Name		vide the information for Item Numbers 18 24. if you last red the United States using a passport or travel document.
12.c	. Apt. Ste. Flr.	18.	Passport Number Used at Last Arrival
	. City or Town . State 12.f. ZIP Code	19.	Travel Document Number Used at Last Arrival
Alt	(USPS ZIP Code Lookup) ernate and/or Safe Mailing Address	20.	Expiration Date of this Passport or Travel Document (mm/dd/yyyy)
(VA	ou are applying based on the Violence Against Women Act (WA) or as a special immigrant juvenile, human trafficking im (T nonimmigrant), or victim of a qualifying crime (U	21.	Country that Issued this Passport or Travel Document
noni abou	immigrant) and you do not want USCIS to send notices at this application to your home, you may provide an native and/or safe mailing address.	22.	Nonimmigrant Visa Number from this Passport (if any)
13.a	. In Care Of Name (if any)	Plac	e of Last Arrival into the United States
		23.a	. City or Town
13.b	and Name		Look at the NTA
13.c		23.b	o. State
13.d	l. City or Town	24.	Date of Last Arrival (mm/dd/yyyy)

Page 2-3: Information About the Client

Immigration History

- Only fill out passport information if client had passport at the time of entry.
- Most clients entered without admission or parole.
- Most will not have an I-94; leave blank
- Current immigration status is "Special Immigrant Juvenile"

Application Type o 1.c. Special Immigrant Juvenile 1.c. Special Immigrant Religious worker, Form I-360 Special immigrant juvenile, Form I-360 or Form DS-157 Certain Afghan or Iraqi National, Form I-360 Certain international broadcaster, Form I-360 Certain G-4 international organization or family member or NATO-6 employee or family member,

Page 4: Application Type

Highlights:

- We are not applying under section 245(i)
- Receipt number and priority date are found on the SIJS notice in the client file.
- There are no derivatives in SIJS; leave Qs 5a.- 9 blank.
- Check with your client; usually they have not previously applied for a visa and this can be left blank.

Pages 5 - 9: Additional Information About You

Address History and Employment History for the past 5 years.

- If the full/detailed address is not available, list: town / district / province
- olf you need more space, print the addendum on p 20. Client must then sign and date each addendum page.

Information about Parents, Spouse & Children

- oincludes all children, not just those present in the United States.
- •Even though SIJS requires client to be "under 21 & unmarried," these clients have already been granted SIJS! At the adjustment stage it is okay that they're older and/or married.
- •There are NO derivatives with SIJS adjustment, so the answer to "is this person applying with you" is always "no"

Most important questions are those related to crimes or immigration offenses.

You will need to <u>both</u> read the question verbatim <u>and</u> explain it to your client in simple language.

"Some of the questions may sound strange or silly, but I have to ask you each one. Do your best to answer, and let me know if you don't understand."

If you mark "yes" for any question, please consult with NIJC staff about best practices for responding to this section.

Highlights

- **Q. 18.** Many clients were previously in removal proceedings. If so, check Yes, and in the addendum write "I was previously in removal proceedings, but they were terminated on [date of court order]."
- Q. 23. Applications for relief include SIJS. Check Yes.
- Q. 25. Arrests include by immigration! Almost all will check yes.

Anytime you check "Yes," use addendum to provide brief explanation.

Page 13: Public Charge

- Special Immigrant
 Juveniles are not
 subject to the Public
 Charge ground of
 inadmissibility.
- Mark **No** and continue to 69a.

Pui	blic Charge
61.	Are you subject to the public charge ground of inadmissibility under INA section 212(a)(4)?
	Yes No
	u answered "Yes" to Item Number 61., complete Item
	ibers 62, - 68.d. below. If you answered "No" to Item iber 61., go to Item Number 69.a. If you need extra space
	mplete this section, use the space provided in Part 14.
	itional Information.
62.	What is the size of your household?
63.	Indicate your annual household income.
	S0-27,000
	\$27,001-52,000
	\$52,001-85,000
	\$85,001-141,000
	Over \$141,000
64.	Identify the total value of your household assets.
	S0-18,400
	\$18,401-136,000
	\$136,001-321,400
	\$321,401-707,100
	Over \$707.100

Highlights, continued

Q. 77. Many clients have entered without admission or parole. Check their NTAs for this charge. (This is okay, it will not bar their adjustment!)

Pay special attention to the wording of **Questions 78-79.** They address unlawful presence but require a departure or re-entry. Most clients will answer "No."

Other Considerations

Accommodations may be made for applicants with disabilities at the interview stage. If your client is deaf, blind, or otherwise needs an accommodation, please check the relevant box.

Ensure that applicant understands they must file a written change of address with USCIS within ten days of moving. For practical purposes, this means they should let YOU know right away so that you can file Form AR-11 on their behalf.

Male applicants between 18 and 26 should be advised that USCIS may share their information with the Selective Service System.

Pages 17-18: Applicant Signature and Date

Each applicant must sign their own I-485 on p 17.

Parents *may* sign for children under age 14 (Clients over 14 must sign themselves)

Preparer (you) and Interpreter must also sign and date

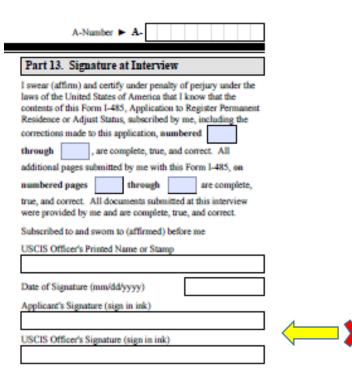
Indicate if client worked with you in English or used an interpreter.



Page 17-19: Signatures and Dates

You are entering a G-28 as Attorney of Record. Mark the second box and that your representation "extends".

Preparet's Contact Information				
4.	Pre	parer's Daytime Telephone Number		
5.	Pre	parer's Mobile Telephone Number (if any)		
6.	Pre	parer's Email Address (if any)		
Preparer's Statement				
7.a.		I am not an attorney or accredited representative		
		but have prepared this application on behalf of the applicant and with the applicant's consent.		
7.b.		I am an attorney or accredited representative and		
		my representation of the applicant in this case		
		extends does not extend beyond the		
		preparation of this application.		
		NOTE: If you are an attorney or accredited		
		representative, you may be obliged to submit a completed Form G-28, Notice of Entry of		
		Appearance as Attorney or Accredited		
		Representative with this application		



Do <u>NOT</u> have the client sign Page 19, Part 13, "Signature at Interview."

Where to File SIJS-Based Form I-485

Connecticut

District of Columbia

Florida

Guam

Hawaii

Illinois

Maine

Massachusetts

Minnesota

New Hampshire

New Jersey

All government filings should be sent via Fedex or other service with delivery confirmation. Keep a scanned copy of your filing and your delivery receipt!

USCIS Chicago Lockbox

U.S. Postal Service (USPS):

USCIS Attn: AOS P.O. Box 805887 Chicago, IL 60680

FedEx, UPS, and DHL deliveries:

USCIS

Attn: AOS (Box 805887) 131 S. Dearborn St., 3rd Floor Chicago, IL 60603-5517 This filing address is subject to change.

Confirm address at https://www.uscis.gov/i-485.

Click on "Direct Filing Addresses for Form I-485" in the far right column.

We have Forms and Fees, What Else?

Two Passport-style Photos:

- client should have these. If not, they can get at Walgreens for \$17
- please do not attempt at home, they have been rejected

Sealed Medical Exam:

- If client does not already have it, you can either wait to file all together, or file now and wait for USCIS to issue an RFE for the medical. DO NOT send the medical separately to USCIS without an RFE; it is likely to get lost.

Supporting Evidence:

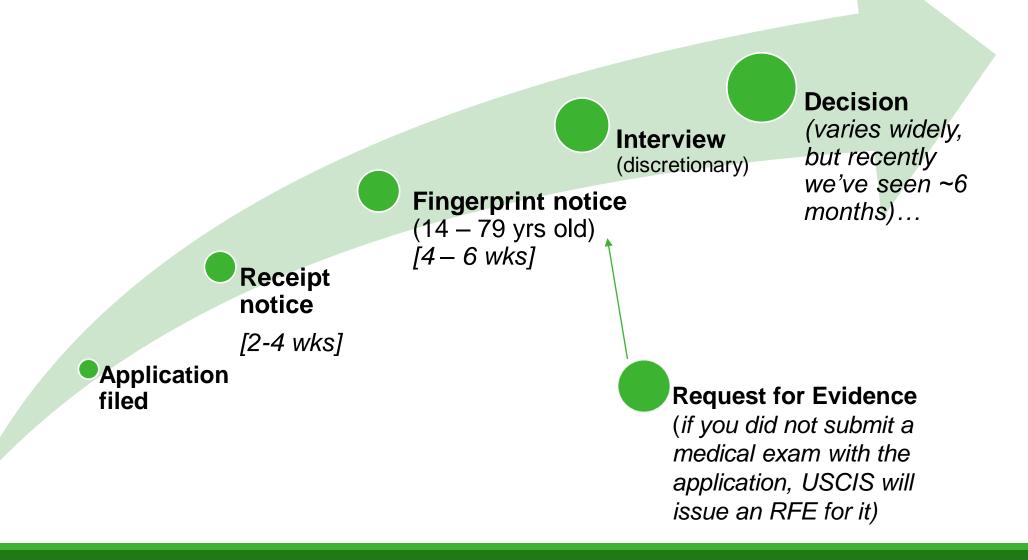
- Government issued photo ID (if available) and BC with translation
- SIJS Approval Notice and current Visa Bulletin (establishing current priority date)
- If client has arrests*: an affidavit describing rehabilitation, and letters of support

***STOP!** If the client has *any* arrests, do a full analysis to ensure they are eligible and determine if they need a waiver. Filing for an ineligible client can place them in danger of removal, and you in danger of malpractice.

Filing Checklist, revisited

- Cover Letter (attorney signs)
- ☐ Form G-28, Notice of Entry of Appearance (attorney & client sign)
- ☐ Form I-485, Application for Adjustment of Status (attorney, client, & interpreter sign)
- Two Passport-Style Photos
- Birth Certificate with translation (translator signs)
- Photo ID (if available)
- SIJS Approval Notice
- Current Month's Visa Bulletin
- ☐ Sealed Medical Exam & Copy for Review (*if ready*)
- Full criminal dispositions and waiver, if necessary

Timeline: I-485 Applications





4. Q & A

For More Information Contact:

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Evaluation



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