

# **A WALK THROUGH SECURING LEGAL PERMANENT RESIDENCY STATUS (“GREEN CARD”) FOR FOSTER CHILDREN THROUGH SPECIAL IMMIGRANT JUVENILE STATUS**

Departments of Social Services have a duty to take action to fix an undocumented child’s immigration status when:

- that child has been adjudicated abused, neglected and dependent, and
- the court has determined that it is not in the child’s best interests to return to his/her country of origin, and
- the permanent plan for the child is adoption, guardianship, custody or APLLA. (The court has determined that reunification with one or both of the child’s parents is not viable)

There are two main forms of immigration relief that may be available:

- Special Immigrant Juvenile status (SIJS) is an immigrant classification that legalizes status in the United States and allows a child to become a legal permanent residency (aka “green card”); and
- \*Legal Permanent Residency (LPR) status is a more permanent, secure relief that allows a child to remain in the United States and provides the ability to work

\*Most children can simultaneously apply for SIJS and LPR status.

(There are other options that can also be explored, e.g. asylum, Temporary Protected Status, T or U visa, VAWA self-petition or cancellation of removal; however, these are more complicated and may require the assistance of an immigration attorney.)

## **1. INFORMATION**

As part of concurrent planning, the agency should secure information regarding an undocumented child as soon as practicable even if the initial plan is reunification. Examples of information you may wish to obtain:

Full names of both parents

Birthplace of each parent (city/town/village of birth; country of birth)

Child's full name

Copy of child's birth certificate

Place of the child's entry into United States

How the child entered country

Once the permanent plan is changed from reunification, you should initially determine whether the child's case requires special attention:

- Children who are about to turn 18 or who may soon be released from juvenile court jurisdiction.\*
- Children who are currently in deportation (removal) proceedings

\*One cannot achieve permanency for an undocumented child without completing the SIJS and adjustment of status process. The court should retain jurisdiction until USCIS approves the I-360 and I-485.

- Children who are or have been in juvenile delinquency proceedings, have a delinquency or criminal record or have pending criminal charges.
- Children who have been treated for substance abuse
- Children who are or might be HIV positive
- Children who have been previously deported/removed
- Children with mental or emotional problems that pose a threat to self or others, such as suicidal tendencies or sexual predator behavior.

If any of the above situations apply, you may wish to secure expert advice.

## **2. ORDER**

When the permanent plan for a child is changed from reunification to another alternative permanent plan, you must have the trial court make the appropriate findings of fact. The Special Immigrant Juvenile Status application is based upon the district court order, which should include:

- a. The child has been declared dependent on the court or placed with an individual, entity or department of a state, and
- b. The court has determined that reunification with one or both of the child's parents is not viable due to abuse, abandonment or neglect, or another similar basis under State law; and
- c. It is not in the child's best interest to be returned to his/her country of origin, and
- d. As many facts/background information on the case as possible to help establish that the court order is *primarily* for relief from abuse, abandonment or neglect, and not primarily for immigration purposes.

### 3. COMPLETE APPLICATIONS

The following USCIS forms are generally completed:

- A. I-912 or other request for waiver of fees
- B. I-360 for special immigrant juvenile status
- C. I-485 for lawful permanent residency
- D. G-325A (for those 14 and older) for biometric capture
- E. G-1145 E-Notification of Application/Petition Acceptance
- F. I-765 for permission to secure employment (if desired).

(Form I-693 is completed by a civil surgeon who will perform a medical examination of the child.)

You will need the background information in order to complete the forms. If the child is of suitable age, you may be able to secure the information from the child.

There is no fee associated with the application for Special Immigrant Juvenile Status. However, the I-485 fee is currently \$1010.00 (\$930.00 plus \$80.00 biometric fee) You should request that the fees be waived. USCIS recently developed form I-912 for that purpose, or you may request a fee waiver on your own.

**Note:** Generally the I-360 and I-485 can be filed concurrently and there is no wait time for legal permanent residency. However, for children in removal proceedings, USCIS will not have jurisdiction over the I-485 until the court proceedings are terminated.

#### **4. TRANSLATIONS**

You must have the child's birth certificate translated and have the person who translated the document certify that he/she is competent to translate.

You may also have to have the I-485 translated for the child and have the translator sign the petition as well.

#### **5. MEDICAL EXAMINATION BY A CIVIL SURGEON**

The child must be examined by a civil surgeon who will fill out an I-693 and seal it for you to provide to USCIS with your application. You can request a copy of the I-693 from the surgeon, but the original must remain sealed.

Medicaid does not cover the cost for the civil surgeon exam. The assigned social worker has to schedule the appointment, determine the costs involved and secure payment from the county.

Many children have been exposed to TB and may require an additional x-ray to verify his/her chest is clear before the civil surgeon can complete the I-693.

#### **6. PHOTOS**

You must provide current photos of the child that meet USCIS requirements.

The current requirements are two identical color photographs taken within 30 days of the filing of the application. They must be 2" by 2", with a white to off white background, printed on thin paper with a glossy finish, unmounted, unretouched, and a full face frontal view.

#### **7. BIOMETRICS APPOINTMENT**

Upon receipt of your application, an appointment to take the fingerprints and photographs of the child will be scheduled by USCIS. It is very important to keep the appointment or reschedule as soon as you receive the notice. Failure to appear for an appointment can result in denial of the application.

Generally, an applicant must bring a photo identification to the appointment. In some instances, we have had children who did not have any type of photo identification. USCIS has permitted the assigned social worker to identify the child in those cases.

## **8. INTERVIEW**

The child will be scheduled for an interview with a USCIS officer. In Charlotte, you are not permitted to wait in the building if you are early for an appointment. You have to go through security to get in the building, including removing your shoes.

The child will be asked questions about his/her entry into the United States and will be asked the 14 questions that appear in Part 3 of the I-485. It is best to review those questions with the child and explain terms like “Communist,” “totalitarian,” and “espionage.”

## **9. LAWFUL PERMANENT RESIDENCY (LPR) OR “GREEN CARD”**

If the I-360 and the I-485 are approved, you will receive an approval notice, I-797. This will be followed with a “Welcome to the United States” notice and then, the LPR card. The “green” card is white.

For those children who only applied for the I-360 (likely because they are in removal proceedings), if USCIS approves the I-360 you will receive an approval notice, I-797. The immigration attorney may then be able to file the I-485 with the immigration judge, or terminate the removal proceedings and file the I-485 with USCIS.

## **10. EMPLOYMENT AUTHORIZATION (EAD) CARD**

Once the child files the I-360 and I-485, they are eligible for employment authorization. The I-765 needs to be submitted for the child to obtain permission to work, an EAD card. Even for children too young to work, the EAD card can provide official picture identification.