



NATIONAL OFFICE

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May 18, 2018

U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010

Via e-mail to: uscis.foia@uscis.dhs.gov

Re: Request under the Freedom of Information Act (FOIA) for records regarding Special Immigrant Juvenile Status policy guidance

Dear FOIA Officer:

The Catholic Legal Immigration Network, Inc. (CLINIC) submits this letter to request information under the Freedom of Information Act (FOIA), 5 USC § 552, *et seq.* CLINIC also asks that any fees associated with this request be waived.

I. Background on This Information Request

CLINIC requests U.S. Citizenship and Immigration Services' (USCIS) records¹ concerning the procedures followed in adjudicating Special Immigrant Juvenile Status (SIJS) petitions (Form I-360) and SIJS-based adjustment of status applications (Form I-485).

In 2008, Congress enacted significant amendments to the SIJS provisions found in the Immigration and Nationality Act through the William Wilberforce Trafficking Victims Protection Reauthorization Act, Pub. L. No. 110-457, 122 Stat. 5044 (Dec. 23, 2008). In the fall of 2016 USCIS published Policy Manual provisions interpreting the SIJS statute.² Around the same time, USCIS altered the process for SIJS adjudications by shifting from a field office-based system to a centralized system, under which SIJS petitions are now adjudicated at the National Benefits Center.

Recently, other changes in USCIS adjudications practices have been reported. For example, on April 18, 2018 [the New York Times reported](#) a “policy reversal by the Trump administration” by which applicants who obtained a New York guardianship order after they had reached the age of 18 were no longer viewed as eligible for SIJS protections. The article indicated that some youth

¹ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies.

² The relevant portions of the USCIS Policy Manual are found at Volume 6, Part J and Volume 7, Part F, Chapter 7.



had received notices that their previously approved SIJS petitions would be revoked. In another article from April 2018, [Politico Pro reported](#) a statement from USCIS spokesperson Jonathan Withington, who reportedly stated that in February 2018, USCIS's Office of Chief Counsel provided legal guidance on the statutory SIJS requirement (found at 8 USC § 1101(a)(27)(J)(i)) that the SIJS petitioner's reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar state law basis, apparently as it related to state court orders issued after a child's 18th birthday, and that in light of that guidance, the National Benefits Center began reviewing a number of pending cases and issuing denials and notices of intent to deny.

This February guidance has not been made publicly available. Clarification on the current policies and practices followed by USCIS in its adjudication of SIJS petitions and SIJS-based adjustment applications would greatly assist the nonprofit immigration attorneys and representatives that CLINIC serves in providing effective representation to child clients. CLINIC's network includes approximately 1,200 attorneys and accredited representatives and assists some 600,000 clients, parishioners, and community members with immigration matters annually.

II. Request for Information

We request any and all records in the custody or control of USCIS, which refer or relate to the categories listed below.

CLINIC seeks the following information:

1. A copy of the legal guidance issued by USCIS' Office of Chief Counsel in February 2018 (referenced above) regarding the agency's interpretation of the statutory reunification requirement³ for SIJS eligibility
2. A copy of all other USCIS guidance, policies, memoranda, training materials, or other directives (including via e-mail correspondence) issued from December 2008 to the present regarding the adjudication of SIJS petitions in cases where the state "juvenile" court predicate order (required in all SIJS cases) is issued after the child's 18th birthday
3. A copy of any document pertaining to research or information about specific state laws that USCIS has created or provided to assist adjudicators handling SIJS petitions, including but not limited to research or information pertaining to juvenile court jurisdiction and authority, issued from December 2008 to the present

³ This refers to the requirement found at 8 USC § 1101(a)(27)(J)(i) that "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."



4. A copy of all USCIS guidance, policies, memoranda, training materials, or other directives (including via e-mail correspondence) issued from December 2008 to the present regarding the adjudication of SIJS petitions
5. A copy of all USCIS guidance, policies, memoranda, training materials, or other directives (including via e-mail correspondence) issued from December 2008 to the present regarding the adjudication of SIJS-based adjustment of status applications (including regarding protocols for conducting interviews of SIJS petitioners or SIJS-based adjustment of status applicants)

Note that CLINIC does not seek any personally identifiable information about any third party including any petitioner or applicant. If responsive records contain personally identifiable information, please redact such information and produce such redacted records in response to this request.

If USCIS has this information in electronic/computerized format, please provide it in that format, preferably in a publicly accessible format such as Microsoft Word or Adobe Acrobat.

III. Fee Waiver Request

CLINIC asks that all fees associated with this FOIA request be waived, because disclosure of the requested information will contribute significantly to public understanding of the governmental activities identified above and because the disclosure is not in CLINIC's commercial interest. 5 USC § 552(a)(4)(A)(iii); *see also* 6 CFR § 5.11(k) (records may be furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of the requester).

A. Disclosure of the Information Is in the Public Interest

Disclosure of the requested information will contribute significantly to public understanding of government operations and activities related to adjudication of SIJS petitions and SIJS-based adjustment of status applications filed by abused, neglected, and/or abandoned children. CLINIC has the capacity and intent to disseminate widely the requested information to the public. CLINIC provides technical support to the members of its network on a broad range of immigration law topics. The network includes approximately 1,200 attorneys and accredited representatives and assists some 600,000 clients, parishioners, and community members with immigration matters annually. CLINIC publishes books, produces a monthly newsletter, and provides in-person training, online courses, and webinars on a variety of immigration law issues including those affecting SIJS-eligible children. In addition, CLINIC's materials are disseminated to the public through its website, www.cliniclegal.org, which for the past couple of months has received approximately 100,000 unique views per month.



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Information obtained through this FOIA request will contribute to CLINIC's public education materials on the immigration system, and will assist CLINIC in providing technical assistance to nonprofit legal services providers and pro bono attorneys who represent children seeking SIJS protections. Finally, CLINIC has regular contact with national print and news media and may share information gleaned from FOIA disclosures with interested media.

B. Disclosure of the Information Is Not in CLINIC's Commercial Interest

CLINIC is a not-for-profit organization. CLINIC seeks the requested information for the purpose of educating the public through our website, and not for the purpose of commercial gain. CLINIC will also use the information obtained to inform our organization's technical assistance and training programs, which provide free consultation and resources to immigrants and their attorneys across the United States.

Thank you for your prompt attention to this request. Please reply to this request within 20 working days, as required by statute. 5 USC § 552(a)(6)(A)(i).

If portions of the requested materials are claimed to be exempt, please indicate the specific bases for the alleged exemptions, the number of pages of withheld records, and the dates of the records withheld, and provide the remaining non-exempt portions. 5 USC § 552(b).

If you have any questions, please do not hesitate to contact us by telephone or email.

Sincerely,

Michelle N. Mendez
Training and Legal Support Senior Attorney
Defending Vulnerable Populations Project Manager

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