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Biographic Information; and Form N-426, Request for Certification of Military or Naval Service, is not required for approval of a petition for special immigrant status.

(e) *Decision.* The petitioner will be notified of the director's decision and, if the petition is denied, of the reasons for the denial. If the petition is denied, the petitioner will also be notified of the petitioner's right to appeal the decision to the Associate Commissioner for Examinations in accordance with 8 CFR part 103.

(f) *Revocation under section 205 of the Act.* An alien who has been granted special immigrant classification under section 101(a)(27)(K) of the Act must meet the qualifications set forth in the Act at the time he or she is admitted to the United States for lawful permanent residence. If an Armed Forces special immigrant ceases to be a qualified enlistee by failing to complete the required active duty service obligation for reasons other than an honorable discharge prior to entering the United States with an immigrant visa or approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence, the petition designating his or her classification as a special immigrant is revoked automatically under the general provisions of section 205 of the Act. The Service shall obtain a current Form DD-214, Certificate of Release or Discharge from Active Duty, from the appropriate executive department for verification of the alien's failure to maintain eligibility for the classification under section 101(a)(27)(K) of the Act.

[57 FR 33861, July 31, 1992, as amended at 58 FR 50836, Sept. 29, 1993; 74 FR 26937, June 5, 2009]

§ 204.10 [Reserved]

§ 204.11 Special immigrant juvenile classification.

(a) *Definitions.* As used in this section, the following definitions apply to a request for classification as a special immigrant juvenile.

Judicial determination means a conclusion of law made by a juvenile court.

Juvenile court means a court located in the United States that has jurisdic-

tion under State law to make judicial determinations about the dependency and/or custody and care of juveniles.

Petition means the form designated by USCIS to request classification as a special immigrant juvenile and the act of filing the request.

Petitioner means the alien seeking special immigrant juvenile classification.

State means the definition set out in section 101(a)(36) of the Act, including an Indian tribe, tribal organization, or tribal consortium, operating a program under a plan approved under 42 U.S.C. 671.

United States means the definition set out in section 101(a)(38) of the Act.

(b) *Eligibility.* A petitioner is eligible for classification as a special immigrant juvenile under section 203(b)(4) of the Act as described at section 101(a)(27)(J) of the Act, if they meet all of the following requirements:

(1) Is under 21 years of age at the time of filing the petition;

(2) Is unmarried at the time of filing and adjudication;

(3) Is physically present in the United States;

(4) Is the subject of a juvenile court order(s) that meets the requirements under paragraph (c) of this section; and

(5) Obtains consent from the Secretary of Homeland Security to classification as a special immigrant juvenile. For USCIS to consent, the request for SIJ classification must be bona fide, which requires the petitioner to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. USCIS may withhold consent if evidence materially conflicts with the eligibility requirements in paragraph (b) of this section such that the record reflects that the request for SIJ classification was not bona fide. USCIS approval of the petition constitutes the granting of consent.

(c) *Juvenile court order(s)*—(1) *Court-ordered dependency or custody and parental reunification determination.* The juvenile court must have made certain judicial determinations related to the petitioner's custody or dependency and determined that the petitioner cannot

reunify with their parent(s) due to abuse, neglect, abandonment, or a similar basis under State law.

(i) The juvenile court must have made at least one of the following judicial determinations related to the petitioner's custodial placement or dependency in accordance with State law governing such determinations:

(A) Declared the petitioner dependent upon the juvenile court; or

(B) Legally committed to or placed the petitioner under the custody of an agency or department of a State, or an individual or entity appointed by a State or juvenile court.

(ii) The juvenile court must have made a judicial determination that parental reunification with one or both parents is not viable due to abuse, abandonment, neglect, or a similar basis under State law. The court is not required to terminate parental rights to determine that parental reunification is not viable.

(2) *Best interest determination.* (i) A determination must be made in judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions that it would not be in the petitioner's best interest to be returned to the petitioner's or their parent's country of nationality or last habitual residence.

(ii) Nothing in this part should be construed as altering the standards for best interest determinations that juvenile court judges routinely apply under relevant State law.

(3) *Qualifying juvenile court order(s).*

(i) The juvenile court must have exercised its authority over the petitioner as a juvenile and made the requisite judicial determinations in this paragraph under applicable State law to establish eligibility.

(ii) The juvenile court order(s) must be in effect on the date the petitioner files the petition and continue through the time of adjudication of the petition, except when the juvenile court's jurisdiction over the petitioner terminated solely because:

(A) The petitioner was adopted, placed in a permanent guardianship, or another child welfare permanency goal was reached, other than reunification with a parent or parents with whom

the court previously found that reunification was not viable; or

(B) The petitioner was the subject of a qualifying juvenile court order that was terminated based on age, provided the petitioner was under 21 years of age at the time of filing the petition.

(d) *Petition requirements.* A petitioner must submit all of the following evidence, as applicable to their petition:

(1) *Petition.* A petition by or on behalf of a juvenile, filed on the form prescribed by USCIS in accordance with the form instructions.

(2) *Evidence of age.* Documentary evidence of the petitioner's age, in the form of a valid birth certificate, official government-issued identification, or other document that in USCIS' discretion establishes the petitioner's age. Under no circumstances is the petitioner compelled to submit evidence that would conflict with paragraph (e) of this section.

(3) *Juvenile court order(s).* Juvenile court order(s) with the judicial determinations required by paragraph (c) of this section. Where the best interest determination was made in administrative proceedings, the determination may be provided in a separate document issued in those proceedings.

(4) *Evidence of a similar basis.* When the juvenile court determined parental reunification was not viable due to a basis similar to abuse, neglect, or abandonment, the petitioner must provide evidence of how the basis is legally similar to abuse, neglect, or abandonment under State law. Such evidence must include:

(i) The juvenile court's determination as to how the basis is legally similar to abuse, neglect, or abandonment under State law; or

(ii) Other evidence that establishes the juvenile court made a judicial determination that the legal basis is similar to abuse, neglect, or abandonment under State law.

(5) *Evidentiary requirements for DHS consent.* For USCIS to consent, the juvenile court order(s) and any supplemental evidence submitted by the petitioner must include the following:

(i) The factual basis for the requisite determinations in paragraph (c) of this section; and

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(ii) The relief from parental abuse, neglect, abandonment, or a similar basis under State law granted or recognized by the juvenile court. Such relief may include:

(A) The court-ordered custodial placement; or

(B) 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, including recognition of the petitioner's placement in the custody of the Department of Health and Human Services, Office of Refugee Resettlement.

(6) *U.S. Department of Health and Human Services (HHS) consent.* The petitioner must provide documentation of specific consent from HHS with the petition when:

(i) The petitioner is, or was previously, in the custody of HHS; and

(ii) While in the custody of HHS, the petitioner obtained a juvenile court order that altered the petitioner's HHS custody or placement status.

(e) *No contact.* During the petition or interview process, USCIS will take no action that requires a petitioner to contact the person(s) who allegedly battered, abused, neglected, or abandoned the petitioner (or the family member of such person(s)).

(f) *Interview.* USCIS may interview a petitioner for special immigrant juvenile classification in accordance with 8 CFR 103.2(b). If an interview is conducted, the petitioner may be accompanied by a trusted adult at the interview. USCIS may limit the number of persons present at the interview, except that the petitioner's attorney or accredited representative of record may be present.

(g) *Time for adjudication.* (1) In general, USCIS will make a decision on a petition for classification as a special immigrant juvenile within 180 days of receipt of a properly filed petition. The 180 days does not begin until USCIS has received all of the required evidence in paragraph (d), and the time period will be reset or suspended as described in 8 CFR 103.2(b)(10)(i).

(2) When a petition for special immigrant juvenile classification and an application for adjustment of status to lawful permanent resident are pending

at the same time, a request for evidence relating to the separate application for adjustment of status will not stop or suspend the 180-day period for USCIS to decide on the petition for SIJ classification.

(h) *Decision.* USCIS will notify the petitioner of the decision made on the petition, and, if the petition is denied, of the reasons for the denial, pursuant to 8 CFR 103.2(b) and 103.3. If the petition is denied, USCIS will provide notice of the petitioner's right to appeal the decision, pursuant to 8 CFR 103.3.

(i) *No parental immigration rights based on special immigrant juvenile classification.* The natural or prior adoptive parent(s) of a petitioner granted special immigrant juvenile classification will not be accorded any right, privilege, or status under the Act by virtue of their parentage. This prohibition applies to all of the petitioner's natural and prior adoptive parent(s).

(j) *Revocation—(1) Automatic revocation.* USCIS will issue a notice to the beneficiary of an approved petition for special immigrant juvenile classification of an automatic revocation under this paragraph as provided in 8 CFR 205.1. The approval of a petition for classification as a special immigrant juvenile made under this section is revoked as of the date of approval if any one of the following circumstances occurs before the decision on the beneficiary's application for adjustment of status to lawful permanent resident becomes final:

(i) Reunification of the beneficiary with one or both parents by virtue of a juvenile court order, where a juvenile court previously deemed reunification with that parent, or both parents, not viable due to abuse, neglect, abandonment, or a similar basis under State law; or

(ii) Administrative or judicial proceedings determine that it is in the beneficiary's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or of their parent(s).

(2) *Revocation on notice.* USCIS may revoke an approved petition for classification as a special immigrant juvenile for good and sufficient cause as provided in 8 CFR 205.2.

[87 FR 13111, Mar. 8, 2022]