

Overview of Special Immigrant Juvenile (SIJ) Classification for Washington State Courts

Congress designed Special Immigrant Juvenile (SIJ) visa classification to protect certain vulnerable youth who cannot reunify with one or both parents because of abuse, abandonment, neglect, or similar maltreatment. This federal humanitarian protection enables SIJ-classified youth to apply for Lawful Permanent Residence (LPR) in the United States, a critical step toward securing their safety, permanency, long-term stability, and well-being. To be eligible, a youth must have been under the jurisdiction of a qualifying state court and been the subject of several required state court findings. The SIJ petition and application for LPR status are then adjudicated separately by immigration authorities.

SIJ Eligibility Requirements & Role of State Court

In creating SIJ, Congress intentionally deferred to state courts to make certain findings, including those relating to the youth's custody or care, parental relationship, and best interests. For purposes of entering SIJ findings, federal law defines a "Juvenile Court" as any state court that has authority under state law to make determinations about a child's dependency and/or custody and care. See 8 C.F.R. § 204.11(a).

To file a petition for SIJ with immigration authorities, a youth must be:

- Physically present in the U.S., under 21, and unmarried;
- The subject of a juvenile court order with the following findings:
 - The youth has been either declared dependent, OR legally committed to or placed under the custody of an agency, department of a State, or individual or entity;
 - Reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
 - It is not in the youth's best interest to be returned to the youth's or parent's country of nationality or country of last habitual residence.

See INA § 101(a)(27)(J), 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c)

SIJ Process

STEP 1: Obtain State Court Order

Examples of proceedings in which SIJ findings may be entered in Washington:

- **Dependency or Dependency Guardianship** (13.34 RCW; 13.36 RCW)
- **Vulnerable Youth Guardianship (VYG)** (13.90 RCW)
- **Becca matters, including:**
 - **At Risk Youth (ARY)** (RCW 13.32A.191-270)
 - **Child in Need of Services (CHINS)** (RCW 13.32A.140-190)
 - **Truancy** (28A.225 RCW)
- **Offender matters** (13.40 RCW)
- **Adoption** (26.33 RCW)
- **Dissolution, Legal Separation, & Parenting Plans** (26.09 RCW)
- **Paternity/Parentage determinations** (26.26A RCW; 26.26B RCW)
- **De Facto Parentage** (RCW 26.26A.440)
- **Minor Guardianship** (RCW 11.130.185-260)
- **Civil Protection Orders** (7.105 RCW)

STEP 2: Petition for SIJ

A youth files a petition for SIJ classification with U.S. Citizenship and Immigration Services (USCIS), together with evidence of age, identity, and a copy of the state court order reflecting the required findings.

STEP 3: Apply for LPR status

A youth files an application for Lawful Permanent Residence with USCIS or the Immigration Court.

**Many SIJ recipients must wait for several years before they can apply for LPR status. The U.S. government places a yearly limit on how many individuals may be granted LPR status, based on country and category. SIJ-classification is grouped with employment categories, where the demand for LPR status exceeds the limit. This predicament causes what is known as the "visa backlog" and long delays.

Quick Reference On Required SIJ Findings Washington Court Pattern Form JU 11.0500

#1 Under 21 and Unmarried

- Youth is both under 21 and unmarried
- Eligibility is not limited to youth under 18 where state law provides for jurisdiction to enter required findings for youth ages 18-21
- Must be unmarried at the time of filing the SIJ petition through approval of SIJ

Examples in WA (SIJ findings for 18+ youth):

- Dependent youth 18+ in EFC, RCW 13.34.267
- Youth 18+ who are subject to Vulnerable Youth Guardianship, 13.90 RCW
- Youth 18+ under extended jurisdiction via diversion agreement, RCW 13.40.080(5)(a)

#2 Custody or Dependency

- One of the following is required: (1) a dependency determination; (2) custody or placement with an individual or entity; OR (3) legal commitment to a state agency or department
- Custody may encompass legal OR physical custody
- Custody or placement may be with a parent (where SIJ-required findings are made as to the other parent)
- Cite to the state law or authority governing the determination
- Name the individual, entity, or state agency with whom custody or placement is ordered

Examples in WA:

- Dependency findings, 13.34 RCW
- Appointment of a Vulnerable Youth Guardian, 13.90 RCW
- Custodial placement with an individual in adoption, dissolution, parenting plan, civil protection order, or Becca proceedings, etc.
- Custodial placement with a state agency (e.g., DCYF Child Welfare or Juv. Rehabilitation) in dependency or juvenile offender proceedings.
- Establishment of minor guardianship, 11.130 RCW

#3 Abuse, Abandonment, Neglect, or Similar Basis Under State Law

- Abuse, abandonment, or neglect as defined in State law
- Finding needed only as to one parent
- If “similar basis,” court should make explicit determination that basis is legally similar to abuse, neglect, or abandonment, under WA law
- Court order should include summary of factual basis for the finding
- State court order should include a summary of the factual basis for the finding

Examples in WA (“similar basis”):

- A dependency finding under RCW 13.34.030(6)(c)
- Restrictions on the parental relationship in minor guardianship or family law proceedings, RCW 26.09.191 or RCW 11.130.215(4)
- No parent is willing or able to exercise parenting functions in minor guardianship proceedings, RCW 13.34.030(6)(c)
- The youth risks physical or psychological harm if returned home in vulnerable youth guardianship proceedings, RCW 13.90.901(2) and RCW 13.90.010(6)

#4 Non-viability of Reunification with One or Both Parent(s)

- Termination of parental rights not required
- Finding only needed as to one parent
- Court order should include summary of factual basis
- Non-viability of reunification must be connected to the abandonment, abuse, neglect, or similar basis

Examples in WA:

- A court orders a child into protective custody and placement, RCW 13.34.050, .060, or .130
- A court restricts access to or placement with a parent in minor guardianship or family law proceedings, RCW 26.09.191 or RCW 11.130.215(4)

#5 Not in Child’s Best Interest to Return to Country of Nationality

- No federal statutory definition
- Requires individualized assessment
- State courts should analyze best interests using the factors they typically consider when making these determinations
- The state court order should include a summary of the factual basis for the determination

See, e.g., best interests as contemplated under WA law:

- Family law proceedings, RCW 26.09.002; Minor Guardianships, RCW 11.130.185, .190; and Dependency proceedings, RCW 13.34.020
- *In re Dependency of J.B.S.*, 123 Wn. 2d 1, 9 (1993); *Matter of Custody of A.N.D.M.*, 26 Wn. App. 2d 360, 376 (2023)
- Etc.