

**APPLICATION FOR GUARDIANSHIP/  
MOTION FOR SPECIAL IMMIGRANT JUVENILE STATUS (“SIJS”)**

***FREQUENTLY ASKED QUESTIONS***

1. How detailed must my offer of proof be in my motion for SIJS?
  - A. *The motion must provide at least a brief reference to facts supporting the finding of abuse, neglect, abandonment or a similar basis in State law.*
  
2. What are some examples of proof that it is not in the child’s best interests to return to his/her country of origin?
  - A. *Best interests not to return to his/her country can be proven through an interview with the child, a home study in the home country, or other evidence showing there is no appropriate family in the home country, i.e., death certificates of birth parents and/or statement of relatives overseas.*
  
3. What is required as proof of a child’s age?
  - A. *Proof of a child’s age can be proven by producing an original or certified copy of the child’s birth certificate, passport or other foreign identity document issued by a foreign government.*
  
4. When should I file my motion for SIJS?
  - A. *The type of proceeding will determine when a motion for SIJS should be filed. For example, in Article 10 cases, such motions are usually filed post-adjudication. In other cases, it is strongly suggested that the motion be filed at the same time as the filing of the petition (i.e., guardianship or custody cases).*
  
5. What type of service will the Court require on the birth parents?
  - A. *Personal service must be attempted first and diligent efforts shown. The Court understands that personal service can be very challenging and may not be possible. In such cases, the Court will grant an application for substitute service pursuant to the CPLR. If the consents of the birth parents is attainable, the court will require that their consents be sworn to before a consular official where an official Apostille can be attached to and authenticate the consent document.*

6. Can I represent the child and prepare the petition on behalf of the proposed guardian?
  - A. *The Court views this as a conflict of interest. Although it may be a practice or service of your organization to assist the guardian in preparing the petition for guardianship, you can not represent both parties. You must make it clear to the Court who you are representing. Therefore, the Court will always assign an attorney for the subject child from the attorneys for children panel. If you choose to act as co-counsel with such attorney, an attorney for the proposed guardian will be assigned.*
  
7. Does the child need to be present in court?
  - A. *Yes. The Court requires the presence of the guardian and the child as the Court usually requires the petitioners' testimony in Court.*
  
8. What happens at the first scheduled court appearance?
  - A. *The first court appearance is a preliminary appearance where the court will determine if service has been made on all required parties, and what, if any attorneys need to be assigned to represent the child, prospective guardian and/or Respondent. A home study by the Westchester County Department of Probation will usually be ordered on this date and the Court will check for receipt of all clearances.*
  
9. Do you grant the SIJS motion on the papers?
  - A. *No. The Court conducts a formal hearing prior to any granting of a petition for guardianship and SIJS.*
  
10. What is the purpose of the home study?
  - A. *In accordance with the FCA and the Uniform Rules of the Court, an investigation by a disinterested person is required by the Court in order to ensure that there are no safety concerns and to make sure that the household is appropriate.*
  
11. Do all members of the household need to be fingerprinted and cleared? Can they be cleared prior to the first court appearance?
  - A. *Yes. Any adult person over the age of 18 and residing in your household must be fingerprinted. While it is possible to be fingerprinted prior to the first court date, if such results are submitted to the Court prior to the filing of the petition, the Court will not have any way of identifying which case such results belong to. Therefore, it is best to wait to be fingerprinted until the filing of your petition.*

12. How do I get fingerprinted if I don't have proper identification?
- A. *In order to be fingerprinted through the LI enrollment service, one must present valid U.S. and/or State identification in the form of a driver's license, social security card, U.S. passport, etc. If you or someone over the age of 18 in your household does not have a valid form of U.S. identification, they may go to your local police precinct to be fingerprinted. Instructions for Obtaining Fingerprints can be obtained from our website or at the Family Court Clerk's Office.*
13. Who submits the state central registry clearance form, the petitioner or the Court?
- A. *The petitioner fills out the form, and it can be submitted by either the petitioner or the Court. However, if submitted for clearance with return directly to the Court, such form should clearly indicate the name and docket/family unit number of the case.*
14. Does the Court have its own forms for submission of the court orders?
- A. *All forms used are the official forms created by the Office of Court Administration located on our website at [www.nycourts.gov](http://www.nycourts.gov).*
15. Will the order for SIJS be signed the same day as it is granted?
- A. *Yes. In most cases, the Court will sign and enter the order for SIJS the same day as it is granted, and will provide copies to counsel and/or the petitioner that same day.*
16. If I am a law student appearing as part of a Law School clinic, can I appear in Court by myself?
- A. *No. All law students must be accompanied by an attorney supervisor, licensed to practice law in the State of New York.*