Multi-Issue EOIR Case Strategy for Unaccompanied Minors: Administrative Closure, Change of Status, Voluntary Departure, SIJS, and Integrated Relief Applications

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FINDINGS

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Executive Summary

This report addresses five interconnected immigration law remedies available to unaccompanied minors in Executive Office for Immigration Review (EOIR) removal proceedings: administrative closure, adjustment of status (change of status), voluntary departure, Special Immigrant Juvenile Status (SIJS), and the procedural protections afforded to minors under the Trafficking Victims Protection Reauthorization Act (TVPRA). The central legal question animating this research concerns the current viability of administrative closure following Policy Memorandum 25-29 (April 18, 2025), which rescinded Director's Memorandum 22-03 and characterized administrative closure as "an amnesty program" that represented "an unmitigated disaster from a policy standpoint."[1] Despite this rhetoric, the May 29, 2024 regulatory framework codifying administrative closure authority at 8 CFR §§ 1003.18(c) and 1003.1(l) remains in force and cannot be rescinded by policy memorandum alone without notice-and-comment rulemaking.[2] This creates a critical distinction between the Trump administration's rhetorical position and the actual legal authority available to immigration judges and the Board of Immigration Appeals. For unaccompanied minors, administrative closure remains a viable docket management tool when conditions warrant, particularly when the minor is pursuing relief through parallel state court proceedings (such as obtaining SIJS predicate orders) or awaiting visa availability after SIJS approval.

Key Findings:

The May 2024 regulations fundamentally altered the power dynamics of administrative closure by eliminating OPLA's (Office of the Principal Legal Advisor) traditional veto authority-OPLA opposition is now merely one factor in a totality-of-circumstances analysis, not the "primary consideration."[2] Immigration judges retain discretionary authority to grant administrative closure over OPLA objection when appropriate factors weigh in favor of closure. For unaccompanied minors specifically, administrative closure may be warranted when a minor is actively pursuing SIJS state court findings, when an approved I-360 petition is pending visa availability, or when a change of status application is pending before USCIS or the immigration court. SIJS remains distinct from EOIR proceedings-it is a federal immigration benefit that requires a predicate state court order making three specific findings (dependency/custody, non-viability of reunification, and best interests determination), which an unaccompanied minor may pursue even while in removal proceedings. Voluntary departure is available to minors but rarely strategically advisable if other relief options exist, given its harsh consequences (bars to reentry and establishing unlawful presence). Change of status may be pursued defensively within removal proceedings if an underlying family petition is approved and the minor meets 8 CFR § 245.2 requirements. The TVPRA mandates specialized procedural protections for unaccompanied minors, including information about potential relief, access to counsel (at the minor's expense unless pro bono is available), and special consideration of the child's age and vulnerability. Recent 2025 developments, including USCIS's June 2025 rescission of SIJS-based deferred action and subsequent federal court reinstatement in November 2025, have complicated the pathway for minors with approved SIJS pending visa availability.

Client Risk Assessment: Medium to High, depending on case-specific factors. Risk levels vary significantly

based on whether the minor is actively pursuing alternative relief (lower risk for administrative closure), whether OPLA is exercising enforcement discretion (currently eliminated as a formal matter after rescission of prosecutorial discretion guidance), whether the minor faces expedited removal risk, and whether the minor has already exhausted or is barred from certain relief categories.

Primary Strategic Options:

Option A involves pursuing administrative closure while simultaneously pursuing SIJS state court findings or awaiting SIJS visa availability. This approach maintains removal proceedings in abeyance, reduces administrative burden, and preserves the minor's ability to seek relief without incurring a removal order if proceedings are ultimately dismissed. Qualitative risk level: Low to Medium, with the primary risk being OPLA opposition and potential judicial denial based on perceived lack of compelling docket management rationale. Option B involves seeking termination of removal proceedings to allow the minor to adjust status before USCIS if an underlying family petition is approved and the minor is otherwise eligible. This approach eliminates EOIR jurisdiction entirely and allows adjustment in a non-adversarial USCIS context, but carries the risk that if USCIS denies adjustment, a new Notice to Appear may be issued. Qualitative risk level: Medium, principally because it removes the immigration judge's ability to exercise discretion and places the minor's fate in USCIS hands. Option C involves pursuing voluntary departure only if other relief options are genuinely unavailable or if the minor affirmatively prefers departure to removal. This approach avoids a removal order in the record but requires the minor to depart within a specified timeframe (up to 120 days pre-conclusion or 60 days post-conclusion) and exposes the minor to substantial bars and penalties if departure is not timely completed. Qualitative risk level: High, because voluntary departure should be pursued only as a last resort given its collateral consequences.

Timeline and Deadline Considerations:

For unaccompanied minors, the TVPRA creates several critical timeline constraints. Under 8 U.S.C. § 1101(a)(27)(J), SIJS petitions must be filed with USCIS before the minor's 21st birthday; the predicate state court order must likewise be obtained before age-out occurs under applicable state law (which varies by jurisdiction but commonly ranges from 18 to 21).[3] The Visa Bulletin may be the controlling timeline determinant once an I-360 is approved-minors may not file Form I-485 for adjustment until their priority date becomes current, which for minors from Central American countries can entail multi-year backlogs.[4] For administrative closure motions, no statutory deadline applies, but practitioners should consider filing such motions early in proceedings, ideally at the Master Calendar hearing stage, to avoid the appearance of delay and to benefit from any leniency immigration judges may show toward docket management tools that reduce litigation burden. Voluntary departure requests must be filed before the merits hearing for pre-conclusion voluntary departure (up to 120 days), or after final adjudication for post-conclusion voluntary departure (up to 60 days), with more stringent evidentiary requirements for the post-conclusion variant.[5]

Qualitative Assessment of Likelihood of Success:

For administrative closure in cases where a minor is actively pursuing SIJS or awaiting visa availability: Medium to High likelihood of success, assuming the immigration judge views the closure as a legitimate docket management tool and the factual predicate (state court proceeding or pending USCIS adjudication) is clearly established. Success depends heavily on the specific immigration judge's judicial philosophy and willingness to utilize the May 2024 regulatory framework despite PM 25-29's rhetorical opposition. For termination of removal proceedings to allow adjustment before USCIS: Low to Medium likelihood, because termination discretion is narrower than administrative closure discretion, and judges may be hesitant to terminate if DHS objects, even though [Matter of Coronado Acevedo][26] and the May 2024 regulations

permit discretionary termination in certain circumstances. For voluntary departure: High likelihood of grant if the minor meets statutory and regulatory requirements and files at the correct procedural stage, assuming no significant criminal history or deportability based on security grounds. However, this assessment assumes the minor actually wants to depart, which is rarely true for vulnerable youth; accordingly, the practical likelihood of voluntary departure being a preferred outcome is very low.

Administrative Closure Under the May 2024 Regulatory Framework: Post-PM 25-29 Status and Practical Viability

The Regulatory Foundation: 8 CFR 1003.18(c) and Its Statutory Authority

To understand the current legal status of administrative closure for unaccompanied minors, one must distinguish between policy memoranda (which are executive guidance documents without independent legal force) and regulations (which are binding rules promulgated under the Administrative Procedure Act). The May 29, 2024 Department of Justice regulation titled "Efficient Case and Docket Management in Immigration Proceedings" established, for the first time in EOIR's history, explicit statutory authority for administrative closure at 8 CFR §§ 1003.18(c) and 1003.1(l).[2] These regulations, which took effect on July 29, 2024, define administrative closure as "the temporary suspension of a case" that "removes a case from the immigration court's active calendar until the case is recalendared," and provide that "[a]n immigration judge may, in the exercise of discretion, administratively close a case upon the motion of a party, after applying the standard set forth at paragraph (c)(3) of this section."[15]

The critical standard for administrative closure under 8 CFR 1003.18(c)(3) is a totality-of-circumstances test that considers multiple factors: the reason administrative closure is sought; the basis for any opposition to administrative closure; any requirement that a case be administratively closed in order for a petition, application, or other action to be filed with, or granted by, DHS; whether such a petition, application, or other action is pending outside of proceedings; the anticipated duration of the administrative closure; whether the respondent is a minor; and the immigration judge's observation that the case is appropriate for administrative closure based on all relevant circumstances.[15] Notably, the regulation does not require that an external application be pending as a precondition to administrative closure-the presence of a pending application is merely one factor among eight. This represents a significant expansion from prior practice under [Matter of Avetisyan], where EOIR had adopted administrative closure as a docket management practice without explicit statutory basis.

Policy Memorandum 25-29, issued April 18, 2025, rescinded Director's Memorandum 22-03 (which had encouraged administrative closure during the Biden administration) and characterized administrative closure as an "amnesty program" that was "an unmitigated disaster from a policy standpoint" and "strongly appears to have also been unlawful."[1] The memo asserted that the May 29, 2024 regulation "superseded" DM 22-03 and "rendered it unnecessary," then argued that because "no statute authorizes administrative closure by EOIR adjudicators," the entire practice lacks legal foundation.[1] However, this reasoning contains a critical flaw: while the regulation itself does not cite a specific statutory basis (and indeed, the regulation's legitimacy has been debated), the regulation itself is the legal instrument that now governs administrative closure, and regulations carry the force of law once properly promulgated and published in the Federal Register.[2]

The Legal Conflict: PM 25-29's Challenge to the May 2024 Regulatory Framework

The Trump administration's rhetorical attack on administrative closure raises a genuine legal question: can PM

25-29's stance override the May 2024 regulation? The answer, based on administrative law principles, is no. Policy memoranda are internal guidance documents that interpret or apply existing law; they do not have the force of law and cannot rescind or override regulations unless the regulation explicitly delegates that authority to the policy maker (which the May 2024 rule does not).[2] To rescind or materially alter the May 2024 regulation would require notice-and-comment rulemaking under the Administrative Procedure Act, a process that takes months and is subject to judicial review for arbitrariness. The ILRC February 2025 practice advisory explicitly addresses this legal reality: "To rescind the New Rule, EOIR would have to promulgate a new rulemaking that would be subject to the notice and comment procedures required under the Administrative Procedures Act, a process which typically takes many months and would likely be subject to litigation."[2] The memo further emphasizes: "Under the rule, the IJ and BIA have authority to grant administrative closure and termination over the opposition of OPLA."[2]

This creates a critical asymmetry: while PM 25-29 expresses the Trump administration's policy preference against administrative closure and presumably directs OPLA attorneys to oppose all administrative closure motions, it does not eliminate the immigration judge's legal authority to grant administrative closure under 8 CFR 1003.18(c). Immigration judges remain bound by the regulations, not by policy memoranda, unless those memoranda purport to implement regulations (which PM 25-29 does not do). Accordingly, practitioners in February 2026 should treat 8 CFR 1003.18(c) as the controlling legal standard, while anticipating vigorous OPLA opposition to administrative closure motions. The key insight from the May 2024 regulations is that OPLA opposition is no longer dispositive-it is merely one factor in the totality-of-circumstances analysis.

Practical Application for Unaccompanied Minors: When Administrative Closure Remains Viable

For unaccompanied minors specifically, administrative closure may be appropriate in several scenarios. First, when a minor is actively pursuing SIJS predicate findings in state court, administrative closure allows the removal proceedings to remain suspended while the state court process unfolds, preserving the minor's opportunity to seek SIJS relief without incurring a removal order in the interim. The regulatory language at 8 CFR 1003.18(c)(3)(i)(C) specifically authorges consideration of whether "any requirement that a case be administratively closed in order for a petition, application, or other action to be filed with, or granted by, DHS," which plainly encompasses SIJS petitions (Form I-360), which must be filed with USCIS's Immigrant Services Division.[2] Second, once a minor's SIJS petition is approved by USCIS but the minor cannot yet adjust status due to visa unavailability, administrative closure may be warranted to preserve the minor's legal status (or to avoid accrual of unlawful presence) during the wait period. This application has become more important following the November 2025 federal court order reinstating SIJS-based deferred action-minors with approved I-360s should now be eligible for deferred action and employment authorization, which administrative closure can facilitate by keeping the removal case off the active docket.[33]

Third, when a minor is pursuing change of status (adjustment) before the immigration court because an underlying family petition is approved, administrative closure may allow the case to be suspended while adjustment is being adjudicated. Fourth, when a minor has filed an asylum application with USCIS pursuant to TVPRA § 235(d)(7)(B) (which grants USCIS initial jurisdiction over asylum applications filed by unaccompanied children, even if the child is in removal proceedings), administrative closure pending USCIS adjudication may be appropriate.[17] The [J.O.P. v. DHS] litigation established that immigration judges must continue removal proceedings while USCIS processes the child's asylum claim, but administrative closure accomplishes the same docket management goal while satisfying the J.O.P. settlement requirement.[17]

The factors enumerated at 8 CFR 1003.18(c)(3)(i) that weigh in favor of administrative closure for

unaccompanied minors include: the minor's age and vulnerability; the presence of a pending petition, application, or action outside EOIR; the anticipated duration of the closure (which should be specific, such as "until the USCIS priority date becomes current" or "until the state court issues the predicate order"); and the immigration judge's discretionary judgment that administrative closure serves the interests of efficiency without prejudicing either party. The factors that might weigh against administrative closure, from OPLA's perspective, would likely include: concern that administrative closure constitutes an indefinite reprieve from removal; assertion that the minor should be required to pursue relief through the removal proceedings rather than through parallel proceedings; and claims that docket management concerns are insufficiently compelling. However, the regulation makes clear that immigration judges, not OPLA, make the ultimate determination, and the judge may weigh these competing factors differently depending on the circumstances.

Practical Strategic Considerations: Filing for Administrative Closure

For practitioners representing unaccompanied minors, the strategic decision to file for administrative closure should be informed by several considerations. First, administrative closure is most defensible when there is a clear, time-limited reason for closure-a state court hearing scheduled in three months, a pending USCIS adjudication with a stated decision date, or a known date when the Visa Bulletin will make the minor's priority date current. Vague statements like "administrative closure is appropriate pending further developments" are unlikely to persuade a judge, and OPLA will certainly oppose them. Second, the motion for administrative closure should comprehensively address each factor in 8 CFR 1003.18(c)(3)(i), demonstrating how the minor's specific circumstances weigh in favor of closure. Third, practitioners should consider filing the motion early in proceedings-at the Master Calendar hearing stage if possible-before OPLA has expended resources on the case and before the judge has formed preliminary views about the merits. Fourth, practitioners should be prepared for OPLA opposition and should draft the motion with that opposition in mind, preemptively addressing likely arguments and distinguishing cases where administrative closure was denied.

One critical word of caution: while administrative closure is legally viable post-PM 25-29, it remains politically disfavored by the current administration. The current EOIR Acting Director has characterized administrative closure rhetoric is strongly negative, and this may influence some judges (particularly those appointed or influenced by the Trump administration) to view administrative closure skeptically despite its regulatory authorization. In Northern California, where the San Francisco Immigration Court has historically been more favorable to applicant-side motions than many courts nationally, administrative closure may be more readily granted. However, in other jurisdictions, judges may be reluctant to defy the clear policy directive of the EOIR Acting Director, even if they believe the regulation permits closure. This represents a genuine tension between regulatory law and policy implementation.

Special Immigrant Juvenile Status (SIJS): Requirements, State Court Coordination, and Integration with Removal Proceedings

Statutory and Regulatory Framework for SIJS Eligibility

Special Immigrant Juvenile Status is governed by INA § 101(a)(27)(J), 8 U.S.C. § 1101(a)(27)(J), and implementing regulations at 8 CFR § 204.11.[13] The statute establishes that an "immediate relative" (a term used loosely to encompass SIJS beneficiaries) includes an alien who "has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court."[13] To be eligible for SIJS, a minor must satisfy five federal requirements: the minor must be

unmarried; the minor must be under 21 years of age at the time the SIJS petition (Form I-360) is filed with USCIS; the minor must be physically present in the United States; the minor must be the subject of a qualifying state court order making three specific factual determinations; and USCIS must grant consent.[13]

The three state court determinations are foundational to SIJS and must be made by a state court with jurisdiction over child welfare, custody, or dependency matters-typically a juvenile court, but potentially a probate, family, or guardianship court depending on state law. First, the state court must find that "the juvenile has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court."[13] This finding establishes the court's jurisdiction to make SIJS-related determinations and requires that the minor be under the court's custody, placement, or guardianship authority. Second, the state court must find that "it is not in the juvenile's best interest to be returned to the juvenile's country of nationality or last habitual residence" based on the abuse, abandonment, neglect, or similar mistreatment the minor suffered.[13] This best-interests determination is fact-intensive and requires consideration of the minor's particular circumstances, including the availability of caretakers in the home country, the minor's ties to the United States, the minor's educational and therapeutic progress, and the risks or hardships the minor would face if returned.[43] Third, the state court must determine that "reunification with one or both of the juvenile's parents is not viable due to abuse, abandonment, neglect, or a similar basis under State law."[13] This requirement focuses on parental conduct and the impossibility of family reunification, not on the minor's eligibility or deservingness for relief.

Critically, USCIS is responsible for determining SIJS eligibility-state courts make no grant of SIJS status.[3] Rather, the state court order provides the factual foundation that USCIS uses to adjudicate the Form I-360 petition. USCIS reviews the state court order for sufficiency of factual support and considers whether the minor is otherwise eligible to receive SIJS, including whether the minor is inadmissible on grounds that cannot be waived or subject to certain criminal bars. The USCIS Policy Manual requires that the state court order contain "a reasonable factual basis" for each of the three determinations, and the order should include discussion of the facts supporting the court's conclusions rather than merely reciting legal conclusions.[13]

State Court Predicate Order Requirements and Age-Out Protections

The timing of the state court predicate order is critical because it determines when a minor can file the SIJS petition with USCIS, and state law defines the age at which a minor "ages out" of the juvenile court's jurisdiction. California law, for example, permits state courts to retain jurisdiction over minors for SIJS purposes until age 21 in dependency proceedings under Welfare and Institutions Code § 300, but may limit jurisdiction to age 18 in other contexts depending on the type of proceeding.[6] Texas law, by contrast, limits predicate order authority to minors under 18.[6] Practitioners must research their specific state's age-out rules carefully, because if a predicate order is not obtained before the minor ages out, the minor loses the opportunity to qualify for SIJS indefinitely. However, the 2008 TVPRA included an "age-out" or "transition protection" provision: "An individual may not be denied Special Immigrant Juvenile status solely because the individual turns 21 years of age after the individual's petition for such status was filed."[13] This means that if the I-360 petition is filed before the minor's 21st birthday, the minor will not be denied SIJS solely on the basis of aging out after filing, even if USCIS does not adjudicate the petition until after the minor's 21st birthday.[13]

For unaccompanied minors in removal proceedings, state court coordination becomes essential. A minor can pursue SIJS state court findings simultaneously with removal proceedings-they are separate proceedings in separate court systems with different standards of proof and different purposes. The minor's state court

attorney, juvenile defender, or guardian ad litem is responsible for pursuing the predicate order in state court, while the immigration attorney handles the removal defense in EOIR proceedings. The TVPRA and EOIR case law recognize this parallel process: immigration judges should inform minors of their potential SIJS eligibility and should grant continuances to allow minors to pursue state court findings if the minor is "actively pursuing" such relief.[31] The [C.J.L.G. v. Barr] decision (Ninth Circuit en banc, 2019) established that immigration judges must advise minors about SIJS eligibility even if the minor has not yet obtained a predicate order, because requiring the minor to already have the predicate order would "eviscerate the utility of advice by the IJ and substantially undermine the core purpose of the IJ's duty to advise."[31]

SIJS Within Removal Proceedings: Termination vs. Administrative Closure

Once a minor obtains an SIJS predicate order from state court and files the I-360 petition with USCIS, the question of how to handle the pending removal proceedings arises. Under [Matter of Coronado Acevedo] (2022), the Board held that immigration judges may terminate removal proceedings when necessary for a respondent with approved SIJS to seek adjustment of status before USCIS.[26] The Attorney General specifically noted that "termination is necessary for the respondent to be eligible to seek immigration relief before USCIS" as one category of appropriate termination. However, the regulatory framework at 8 CFR 1003.18(d)(1)(ii) permits only discretionary termination in this context-the judge is not required to terminate if OPLA opposes termination and no other mandatory termination ground applies.

An alternative to termination is administrative closure, which may be preferable in some circumstances because it preserves the immigration judge's authority to later reopen the case if needed. For a minor with a pending I-360 petition, administrative closure pending USCIS adjudication removes the case from the active docket while maintaining the judge's option to revisit the case. If USCIS denies the I-360 petition, the minor can request recalendaring to reopen removal proceedings. If USCIS approves the I-360 but the minor's priority date is not current (due to visa availability issues), the case can remain closed while the Visa Bulletin advances toward the minor's priority date.

The choice between termination and administrative closure involves strategic trade-offs. Termination is more final and definitively ends EOIR jurisdiction, allowing the minor to adjust before USCIS in a non-adversarial context. However, termination carries the risk that if USCIS later denies the adjustment application, DHS will issue a new Notice to Appear and removal proceedings will recommence from scratch. Administrative closure preserves the existing proceedings but keeps them technically alive, which may be problematic if OPLA views the closure as an improper attempt to evade enforcement. For unaccompanied minors with solid SIJS cases (strong state court findings, clear abuse/neglect/abandonment evidence, good equities), termination is often preferable because the minor should not need to return to removal proceedings. For minors with questionable SIJS cases or significant visa backlog issues, administrative closure may be preferable as a temporary measure.

Visa Availability and the Priority Date Backlog

Once USCIS approves the I-360 petition, USCIS assigns a priority date, which is the date the I-360 was filed.[51] For minors from countries with high volumes of SIJS applications-particularly Guatemala, El Salvador, and Honduras-a substantial backlog may exist, meaning the minor cannot file the I-485 adjustment application until the priority date becomes current according to the Department of State's monthly Visa Bulletin.[54] For example, as of recent Visa Bulletins, the backlog for El Salvador and Guatemala can extend years into the future, meaning a minor from one of these countries who files an I-360 in early 2026 might not be able to adjust status until 2028 or 2029.[54]

During this waiting period, the minor's immigration status remains uncertain. Prior to June 2025, USCIS granted deferred action to most minors with approved I-360s who were unable to adjust due to visa unavailability, providing work authorization and stability.[33] However, on June 6, 2025, USCIS rescinded the SIJS-based deferred action policy, terminating this crucial protection.[33] This prompted litigation, and on November 19, 2025, the federal court in [A.C.R. et al. v. Noem] issued an order staying USCIS's rescission and requiring USCIS to process deferred action and employment authorization pursuant to the 2022 policy alert.[33] As of December 2025, practitioners reported that USCIS was processing SIJS deferred action renewals and adjudications consistent with the court order.[33] Accordingly, minors with approved I-360s pending visa availability should be eligible for deferred action and work authorization, which can be used to manage removal proceedings through administrative closure or termination while the minor awaits visa availability.

Unaccompanied Minor Procedural Protections Under the Trafficking Victims Protection Reauthorization Act

Statutory Definition and TVPRA Procedural Safeguards

An unaccompanied alien child (UAC or unaccompanied child) is defined at 6 USC § 279(g)(2) as "a child who (A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody."[37][40] The definition focuses on the child's immigration status, age, and the unavailability of a parent or guardian in the United States to provide both legal guardianship and physical care. Importantly, a child who has a parent or guardian in the United States but who is unavailable due to incarceration, illness, or other inability to provide physical custody may still qualify as unaccompanied.[19]

The Trafficking Victims Protection Reauthorization Act of 2008, codified primarily at 8 U.S.C. § 1232 and scattered throughout the INA, established comprehensive procedural protections for unaccompanied children.[19][22] These protections include: placement under the care and custody of the Office of Refugee Resettlement (ORR) within 72 hours of apprehension (for children from non-contiguous countries, i.e., countries other than Mexico or Canada); screening for trafficking victimization, credible fear of persecution, and special needs; access to legal counsel (and a federal obligation for ORR to ensure legal representation to the greatest extent practicable, though without a guarantee that counsel will be provided at government expense); and mandatory advisories about rights and potential remedies.[7][19][32]

Within EOIR removal proceedings specifically, unaccompanied children are entitled to specialized procedural protections. Director's Memorandum 24-01 (December 2023) established guidelines for immigration court handling of children's cases and created specialized juvenile dockets at courts with significant children's caseloads.[49] The directive requires that "[a]n immigration judge should always inform a child of any relief from removal for which they may be eligible," including asylum under the TVPRA, Special Immigrant Juvenile Status, and other discretionary relief.[49] Importantly, if a child appears eligible for asylum, the immigration judge must inform the child that the application must be filed with USCIS (pursuant to TVPRA § 235(d)(7)(C)), not with the immigration court, because the TVPRA grants USCIS initial jurisdiction over asylum applications filed by unaccompanied children.[45][49]

Initial Jurisdiction Over Asylum Applications: TVPRA § 235(d)(7)(C) and the J.O.P. Settlement

The TVPRA's grant of initial asylum jurisdiction to USCIS is critical for unaccompanied children. Section 8 U.S.C. § 1158(b)(3)(C) provides: "An asylum officer . . . shall have initial jurisdiction over any asylum application filed by an unaccompanied alien child . . ."[17][45] This provision creates a statutory exception to the general rule that immigration judges have exclusive jurisdiction over asylum applications in removal proceedings.[17] The rationale is that unaccompanied children benefit from the non-adversarial setting of an asylum officer interview at USCIS, rather than from adversarial litigation in immigration court.[17]

The Board of Immigration Appeals addressed this provision in [Matter of M-A-C-O-] (2018) and [Matter of J-A-B- & I-J-V-A-] (2017), holding that unaccompanied children have a statutory right to initial consideration by USCIS even if they are already in removal proceedings.[45][48] Under the 2013 "Kim Memo," USCIS takes jurisdiction over asylum applications filed by children whom ICE or CBP previously determined to be unaccompanied, even if the child later turned 18 or reunified with a parent/guardian before filing the asylum application.[45] However, in May 2019, USCIS issued a revised policy that narrowed this interpretation, creating jurisdictional confusion.[48] This led to the [J.O.P. v. DHS] litigation, in which the District Court for the District of Maryland issued a preliminary injunction prohibiting USCIS from applying the restrictive 2019 policy and requiring USCIS to take jurisdiction over asylum applications filed by class members.[17][45]

The [J.O.P.] injunction remains in effect (as of February 2026) and establishes that: (1) USCIS must take jurisdiction over asylum applications filed by individuals whom ICE or CBP determined to be unaccompanied children at the time of apprehension, even if the applicant later turned 18; (2) USCIS must not defer to EOIR's jurisdictional determinations; and (3) ICE is prohibited from opposing continuances of removal proceedings while a class member's asylum application is pending with USCIS.[17][45] EOIR guidance recognizes that cases in which a confirmed unaccompanied child has filed an asylum application with USCIS are "status" cases and should not count toward court metrics, and immigration judges should continue such cases while USCIS adjudicates the asylum claim.[17][45]

For practitioners representing unaccompanied minors in removal proceedings, the [J.O.P.] settlement creates a significant strategic opportunity: if the minor is eligible for asylum and meets the definition of unaccompanied child, filing an I-589 asylum application with USCIS immediately creates a basis for continuance (or administrative closure) of removal proceedings. The minor avoids litigating asylum before an immigration judge and instead benefits from a more sympathetic asylum office interview. If USCIS grants asylum, the removal proceedings terminate automatically.[17] If USCIS denies asylum, the minor can request recalendaring to proceed before the immigration judge, but the child will have had the benefit of an initial interview in a non-adversarial setting.

Court-Appointed Counsel and Child Advocates

The TVPRA mandates that ORR "ensure that qualified and independent legal counsel is appointed, in a timely manner, to represent each child's interests."[7][32] However, this provision does not require that counsel be appointed at government expense-rather, it contemplates pro bono counsel arrangements and other non-governmental funding sources. Accordingly, while unaccompanied children have a statutory right to representation, they do not have a guaranteed right to appointed counsel paid for by the government (unlike criminal defendants under the Sixth Amendment).[7] The [Cardozo Law Review] note on appointed counsel for unaccompanied children discusses the Due Process analysis and concludes that absent a specific Sixth Amendment analogue, the existing procedural safeguards in removal proceedings (right to present evidence, right to cross-examine witnesses, requirement of neutral adjudicator) do not mandate government-funded appointed counsel.[7]

That said, the data clearly demonstrates the importance of representation: in cases where children were

represented by counsel, they were allowed to remain in 75% of cases; in cases where children appeared unrepresented, they were removed in 77% of cases.[7] Accordingly, one of the most important steps in representing an unaccompanied minor is ensuring that the minor has legal representation-whether through pro bono programs, legal aid, or retained counsel. Many immigration courts have law school clinics, local legal aid organizations, or groups like the Immigration Law Clinic (at universities) that provide representation.

Additionally, EOIR policy permits immigration judges to appoint child advocates (also called guardians ad litem) to promote the minor's best interests in certain circumstances. Director's Memorandum 24-01 authorizes the appointment of child advocates for "child trafficking victims and other vulnerable unaccompanied alien children" to ensure that the minor's best interests are considered and to facilitate communication between the minor and counsel.[49] The appointment of a child advocate is discretionary but may be particularly valuable for very young children, children with trauma histories, or children with special needs.

Specialized Juvenile Dockets and Child-Sensitive Procedures

Under Director's Memorandum 24-01, EOIR has established specialized juvenile dockets at immigration courts with significant children's caseloads.[49] These dockets consist of cases in which respondents are under 21 years old and are not part of a family unit, and they may include both detained cases (children in ORR custody) and non-detained cases.[49] The directive establishes guidelines for handling children's cases, including: child-friendly courtroom procedures; sensitivity to stress and fatigue; consideration of the child's age and language ability when assessing testimony; caution in proceeding in absentia if a child fails to appear; and special attention to deadlines and time constraints facing children who may be eligible for relief before USCIS or other agencies.[49]

Significantly, Director's Memorandum 24-01 also addresses the obligation to advise minors about relief from removal. The directive states: "An immigration judge should always inform a child of any relief from removal for which they may be eligible. In some cases, such relief will include special immigrant juvenile classification or asylum under the provisions of the Wilbur Wilberforce Trafficking Victims Protection Reauthorization Act of 2008."[49] This directive creates an affirmative obligation for immigration judges to identify and discuss potential relief-not to prosecute the minor's case (which is DHS's role) but to ensure the minor is aware of avenues of relief. This duty to advise about SIJS specifically is reinforced by [C.J.L.G. v. Barr], which held that an immigration judge's failure to advise a minor about SIJS eligibility constitutes reversible error, and that the judge must advise about SIJS even if the minor has not yet obtained a predicate order.[31]

Voluntary Departure: Statutory Requirements, Eligibility Criteria, and Strategic Limitations for Minors

Pre-Conclusion Voluntary Departure Under INA § 240B(a)

Voluntary departure is regulated at INA § 240B and 8 CFR Part 240 and allows a noncitizen to depart the United States at their own expense within a specified timeframe, avoiding a deportation order.[24][21] There are two forms of voluntary departure: pre-conclusion voluntary departure (available before the merits hearing) and post-conclusion voluntary departure (available after final adjudication).[24][21]

Pre-conclusion voluntary departure under 8 CFR § 240.62 requires that the noncitizen request it "on or before the day the case is scheduled for final hearing on the merits," and allows the immigration judge to grant up to 120 days.[21] The eligibility requirements for pre-conclusion voluntary departure are less stringent than

post-conclusion and do not include physical presence or good moral character requirements. To qualify for pre-conclusion voluntary departure, the noncitizen must: demonstrate intention and ability to depart; waive or withdraw all applications for relief; agree to concede removability; and merit a favorable exercise of discretion.[21] The benefits of pre-conclusion voluntary departure include avoiding a removal order in the immigration record and avoiding establishment of a removal ground that may trigger bars to future relief or reentry.

For unaccompanied minors specifically, pre-conclusion voluntary departure is rarely strategically advisable. An unaccompanied minor who is eligible for SIJS, asylum, cancellation of removal, or other relief should pursue those remedies rather than voluntarily departing. The decision to voluntarily depart is essentially irreversible-once the minor leaves, they cannot simply return, and the minor will have forfeited any claims to relief. Pre-conclusion voluntary departure might be appropriate only in rare circumstances where the minor has no viable relief claims, is facing imminent removal, and affirmatively desires to return to the home country (which is uncommon given that most unaccompanied minors have fled abuse, persecution, or gang violence and have no safe place to return to).

Post-Conclusion Voluntary Departure Under INA § 240B(b)

Post-conclusion voluntary departure is available after the immigration judge renders a final decision in the case, and is much more restrictive. Under 8 CFR § 240.62(b), the immigration judge may grant post-conclusion voluntary departure of no more than 60 days.[21] The eligibility requirements are substantially more demanding and include: physical presence in the United States for at least one year before the issuance of the Notice to Appear; being a person of good moral character for the last five years; not having been convicted of an aggravated felony; not being deportable on terrorist or security grounds; possession of a valid passport or travel document; establishment by clear and convincing evidence of the means to depart (either through showing employment, assets, or other financial proof); and merit a favorable exercise of discretion.[21]

Additionally, 8 CFR § 240.62(b)(5) requires the posting of a bond of no less than $500 within five days of the order.[21] This bond requirement can be problematic for unaccompanied minors, who often lack funds, family resources, or ability to post bonds. The minor's sponsor (if the minor was released to a sponsor by ORR) might theoretically post the bond, but the minor and sponsor must jointly consent to that arrangement.

The consequences of failure to depart within the specified period are severe. Under INA § 240B(d), if a noncitizen fails to depart within the time granted, the noncitizen is barred from seeking asylum, withholding of removal, cancellation of removal, voluntary departure, and registry for a ten-year period.[21] Additionally, the noncitizen faces civil penalties ranging from $1,000 to $5,000, plus an additional civil penalty of $3,000, under INA § 275(c).[21]

For unaccompanied minors, post-conclusion voluntary departure is almost never appropriate. The minor has presumably pursued all available relief options in removal proceedings; if the minor has lost, the minor should be preparing for appeal (if grounds for appeal exist) rather than voluntarily departing. The requirement to establish clear and convincing evidence of means to depart by obtaining employment or assets is difficult for a minor to satisfy. The bond requirement is a practical barrier. And most importantly, once a minor departs, they cannot easily return, and they will have forfeited any ability to seek relief for ten years.

Recent Developments: October 2025 DHS Operation and Concerns About Pressure on Minors

A concerning development occurred in October 2025 when the federal government launched an operation

targeting unaccompanied children age 14 and older in ORR shelters, offering $2,500 stipends to children who would agree to seek voluntary departure from the United States.[8] News reports and advocacy organizations noted that children were being approached in shelters and offered money to sign voluntary departure agreements without fully understanding the legal consequences. The Children's Immigration Law Academy (CILA) responded by creating "Know Your Rights" resources in English and Spanish to inform detained youth about the dangers of voluntary departure and instructing them to consult with attorneys before signing any documents.[8]

This development highlights the particular vulnerability of unaccompanied minors and the risk that minors will be pressured to agree to voluntary departure without fully understanding the consequences. Practitioners representing unaccompanied minors should explicitly advise their clients about the dangers of voluntary departure, ensure that any decision by a minor to pursue voluntary departure is informed and voluntary (not coerced), and explore all alternative remedies before recommending that a minor voluntarily depart.

Change of Status (Adjustment of Status) in Removal Proceedings: Statutory Requirements and EOIR Integration

Statutory Framework: INA § 245 and Requirements for Adjustment Before the Immigration Judge

When an unaccompanied minor has an approved family petition (Form I-130, Petition for Alien Relative) or employment-based petition (Form I-140, Immigrant Petition for Alien Worker), and the minor meets certain requirements, the minor may apply for adjustment of status (change of status) to obtain lawful permanent resident status.[9] Adjustment of status before the immigration judge while in removal proceedings is governed by 8 CFR § 1245.2(a) and INA § 245.

The threshold requirement for adjustment under INA § 245(a) is that the noncitizen must have been "inspected and admitted or paroled into the United States."[55] For minors who entered without inspection, this requirement becomes problematic-most unaccompanied children cross the border without inspection and therefore cannot adjust under INA § 245(a). However, there is a critical exception: under INA § 245(i), minors who do not meet the "inspected and admitted or paroled" requirement may nonetheless be eligible to adjust if a qualifying petition was properly filed on or before April 30, 2001.[55] Additionally, for SIJS beneficiaries specifically, the statute deems the minor to have been "paroled" into the United States for purposes of adjustment of status, regardless of the manner of entry.[47] This means that an unaccompanied child who qualifies for SIJS and whose I-360 is approved can apply for adjustment even if they entered without inspection, because they are deemed to have been paroled.

Additional requirements for adjustment under INA § 245(a) include: an immigrant visa must be immediately available at the time the application is filed and approved; the noncitizen must not fall within any bars to adjustment enumerated at INA §§ 245(c)-(e); and the noncitizen must be admissible or qualify for a waiver of inadmissibility.[55] For most unaccompanied children from Central America who entered without inspection, the § 245(c) bars would apply, precluding adjustment under § 245(a) unless the minor qualifies for § 245(i) relief or is an SIJS beneficiary. The § 245(c) bars include grounds such as failure to maintain lawful status and unauthorized employment.[55]

Procedural Requirements: Filing Defensively in Removal Proceedings

When an unaccompanied minor in removal proceedings has an approved family petition, the minor must file

the adjustment application with the immigration judge, not with USCIS (in most cases). Under 8 CFR § 245.2(a)(1), the immigration judge is the appropriate venue for adjustment when the noncitizen is in removal proceedings. The minor submits the Form I-485 and supporting documentation to the immigration judge and must provide copies to the DHS attorney (OPLA). The immigration judge, after establishing removability, will determine whether the minor is eligible for adjustment of status; if eligible, the judge informs the minor of the eligibility and allows the minor to proceed with the adjustment application.

Critically, the immigration judge does not make the final adjustment determination; rather, USCIS makes that determination after the judge finds the minor eligible. The process works as follows: the immigration judge finds that removability has been established; the judge then determines whether the minor is eligible for adjustment of status (i.e., whether the minor meets the threshold requirements); if eligible, the judge informs the minor and allows filing of the I-485; the minor then submits supporting documentation to USCIS, which includes medical examination (Form I-693), police clearance letters, financial documents, and evidence of admissibility or waiver eligibility; USCIS adjudicates the I-485 application; if approved, the minor becomes a lawful permanent resident.[9][25] If USCIS denies the I-485, the immigration judge can then issue a removal order based on the established removability.

For minors with approved SIJS I-360s, a simpler path exists: the minor can move for termination of removal proceedings to allow adjustment to proceed affirmatively before USCIS (in a non-adversarial setting) rather than defensively before the immigration judge. Under [Matter of Coronado Acevedo], this is a permissible basis for termination.[26] The advantage of termination is that it removes the case from EOIR entirely and allows USCIS to adjudicate adjustment in the standard, affirmative context. However, termination is discretionary and OPLA may oppose it; if the judge denies termination, the minor remains in removal proceedings and must proceed with adjustment defensively.

Strategic Considerations and Timing

For unaccompanied minors considering change of status, several strategic considerations apply. First, the minor should confirm that an underlying family petition is approved before filing for adjustment-if the petition is denied, the minor has exposed themselves to removal proceedings without a basis for relief. Second, the minor should confirm that a visa is available for the minor's family preference category and country of origin (by consulting the Department of State's Visa Bulletin) before expending effort on adjustment. Third, for minors with SIJS approvals, the minor should strongly consider seeking termination of removal proceedings to adjust affirmatively before USCIS rather than defensively before the immigration judge, assuming the judge is likely to grant termination. Fourth, the minor should gather all required supporting documentation (medical examination, police clearance, financial evidence) before filing with the judge to avoid delays and requests for evidence. Fifth, the minor should be mindful that USCIS will conduct a thorough admissibility review, and any criminal history, immigration violations, or other grounds of inadmissibility must be disclosed and, if necessary, waived.

One critical caveat: if a minor's adjustment application is pending before the immigration judge and the minor has not yet been approved by USCIS, the minor must be careful about any new criminal conduct or violations of immigration law. If the minor commits a crime during the pendency of adjustment, USCIS will review that criminal conduct as part of its admissibility determination, and it may become an insurmountable bar to adjustment. Similarly, if the minor works without authorization during the pendency of adjustment, the minor should ensure that the work authorization application (Form I-765, which may be filed simultaneously with the I-485) is approved before commencing employment, or the minor risks establishing unauthorized employment as grounds for inadmissibility.

Sequencing Multiple Relief Options: Strategic Frameworks for Minors with Overlapping Eligibility

General Principles: Concurrent Pursuit vs. Sequential Pursuit of Relief

Unaccompanied minors with multiple potential remedies face strategic choices about whether to pursue remedies concurrently (simultaneously) or sequentially (one after another). The general principle is that there are no categorical statutory or regulatory barriers to concurrent pursuit of multiple remedies, but practical and strategic considerations often favor focusing on the strongest or fastest remedy first.

For example, an unaccompanied minor who is eligible for both SIJS and asylum might face a choice: pursue SIJS through state court while simultaneously filing for asylum with USCIS (under TVPRA § 235(d)(7)(C)), or pursue one remedy to completion before pursuing the other. The advantage of concurrent pursuit is that it maximizes the minor's chances of obtaining some form of relief-if one remedy fails, another might succeed. The disadvantage is that concurrent pursuit can be administratively burdensome, requires coordination between state court counsel and immigration counsel, and may create confusing signals about the minor's intentions or credibility if the minor's narratives in the two proceedings diverge.

A more strategic approach is often to identify the strongest and fastest remedy and pursue that first, while preserving the right to pursue alternative remedies if the first fails or is delayed. For instance, if a minor is eligible for SIJS and has a state court date scheduled within three months, the minor might prioritize obtaining the predicate order, filing the I-360, and awaiting USCIS approval, while simultaneously requesting administrative closure of the removal proceedings. If USCIS approves the I-360 quickly (which can happen within 6-12 months), the minor can then move for termination to adjust before USCIS. If the predicate order is delayed or the I-360 is pending with USCIS, the administrative closure preserves the removal proceedings without forcing adjudication.

Specific Scenario: SIJS Predicate Order Pending vs. Removal Proceedings

A common scenario involves an unaccompanied minor with a strong SIJS case (clear abuse/neglect/abandonment by parents, best interests in remaining in the U.S., a permanent caring caregiver), but the state court predicate order has not yet been obtained. The minor may have only recently entered ORR custody, only recently been connected with counsel, or may be in a state/jurisdiction where state court dockets are particularly congested. In this scenario, the immigration attorney should consider requesting administrative closure of the removal proceedings pending the state court order, with the motion explicitly stating the anticipated date of the state court hearing and USCIS filing. This strategy accomplishes several objectives: it removes the case from the active docket, reducing administrative burden; it preserves the minor's ability to pursue SIJS without forcing adjudication of removal; and it demonstrates to the immigration judge that the minor is actively pursuing relief through proper channels.

The administrative closure motion should cite 8 CFR 1003.18(c)(3)(i)(C) (requirement that a case be administratively closed for a petition or application to be filed) and should detail the state court proceedings and anticipated timeline. If the motion is granted, the minor can proceed with state court adjudication at a measured pace. If the motion is denied, the minor should be prepared with a continuance motion under [L-A-B-R-] standards (which apply in the Ninth Circuit) or other applicable continuance standards in the relevant circuit.

Specific Scenario: Approved SIJS I-360 Pending Visa Availability vs. Removal Proceedings

Another common scenario involves a minor with an approved I-360 SIJS petition but whose priority date is not yet current due to visa backlog. The minor's removal case may still be pending, or the case may have been administratively closed. In this situation, administrative closure or termination becomes particularly important because the minor is in a liminal state-no longer pursuing active relief within EOIR (because the SIJS remedy is being pursued with USCIS), but not yet eligible to adjust. The November 2025 federal court decision requiring USCIS to grant SIJS-based deferred action provides a pathway: the minor can request deferred action from USCIS, which will provide work authorization and temporary status. If the removal proceedings are still pending, the minor might seek administrative closure based on the approved I-360 and the minor's eligibility for deferred action. If the proceedings have already been closed, the minor should ensure that the closure is maintained until the priority date becomes current.

Specific Scenario: Family Petition Approved vs. Removal Proceedings

A third scenario involves a minor with an approved family petition (typically an immediate relative petition filed by a parent, grandparent, or sibling who is a U.S. citizen or lawful permanent resident). The minor is in removal proceedings and has an opportunity to file for adjustment of status defensively before the immigration judge. In this scenario, the minor faces a choice: file for adjustment immediately before the judge, or move to terminate the removal proceedings to allow affirmative adjustment before USCIS. The choice depends on the minor's overall strength as an applicant. If the minor has significant criminal history, fraud history, or other grounds of inadmissibility that are difficult to waive, the minor might prefer to proceed defensively before the judge, where the judge has some discretion. If the minor is otherwise admissible or can easily waive any grounds, the minor might prefer the non-adversarial context of USCIS adjustment.

Specific Scenario: Asylum Eligibility vs. Removal Proceedings

For unaccompanied minors eligible for asylum, TVPRA § 235(d)(7)(C) provides that USCIS has initial jurisdiction, even if the minor is in removal proceedings. The minor should file the I-589 asylum application with USCIS, and the immigration judge should continue the removal proceedings while USCIS adjudicates the asylum claim (per [J.O.P.] settlement). This scenario does not really present a sequencing question because USCIS jurisdiction is mandatory once the minor files-the only question is whether the minor will file before or after removal proceedings are concluded. The strategic advantage of filing early is that it immediately triggers the [J.O.P.] protections (ICE must not oppose continuances). Accordingly, unaccompanied minors with credible asylum claims should file I-589s with USCIS as early as possible in removal proceedings.

Northern California-Specific Implementation and Procedural Considerations

San Francisco Immigration Court: Juvenile Docket and Procedural Tendencies

The San Francisco Immigration Court has established a specialized juvenile docket consisting of cases involving minors under 21 years old who are not part of family units. The juvenile docket includes both detained cases (minors in ORR custody) and non-detained cases and operates at multiple locations: the main courthouse at 100 Montgomery Street, Suite 800; a secondary location at 630 Sansome Street, 4th Floor, Room 475; and a Concord hearing location at 1855 Gateway Blvd., Suite 850, Concord, California 94520. Juvenile docket cases are assigned to specific immigration judges with experience and training in child-sensitive proceedings; judges on the juvenile docket are expected to be familiar with TVPRA protections, SIJS eligibility requirements, and the procedural safeguards discussed in Director's Memorandum 24-01.

The San Francisco court has historically been more favorable to administrative closure and continuance motions than many other courts nationally, reflecting the court's recognition of the realities of complex removal proceedings and the need for docket flexibility. Accordingly, administrative closure motions for minors pursuing SIJS state court findings, awaiting visa availability, or pending USCIS adjudication of parallel applications may be received more favorably in San Francisco than in other jurisdictions. However, the current administration's negative rhetoric about administrative closure (expressed in PM 25-29) may influence some judges' willingness to grant closure, even in Northern California.

San Francisco Immigration Court judges vary in their receptivity to pro-bono representation, specialized legal arguments, and humanitarian equities, but the court's overall environment is generally characterized as applying immigration law with appropriate attention to individual circumstances rather than reflexively enforcing removal in all cases. Practitioners should research the particular judge assigned to a case, as judicial temperament and philosophy vary significantly. Some San Francisco judges are known to be meticulous about advising minors about potential relief (consistent with [C.J.L.G. v. Barr]); others may assume that the minor has counsel and will not provide independent advice without prompting.

San Francisco Asylum Office: UAC Asylum Processing and Interview Procedures

The San Francisco Asylum Office has initial jurisdiction over asylum applications filed by unaccompanied children who are in removal proceedings (pursuant to TVPRA § 235(d)(7)(C)). The office processes these applications in a non-adversarial setting with asylum officers trained in child-sensitive interview procedures. Interview appointment wait times at the San Francisco Asylum Office vary but have historically ranged from 3-8 months from filing, depending on caseload and staffing levels. As of February 2026, practitioners should consult with the local asylum office for current processing times, as interview scheduling has been subject to delays and policy changes during the Trump 2.0 administration.

For unaccompanied children filing asylum applications with the San Francisco office, the interview typically occurs with the minor's counsel or representative present. The asylum officer should have received training on trauma-informed interviewing techniques and recognition of special vulnerabilities of unaccompanied children. However, the quality and consistency of such training varies, and some asylum officers may be less sympathetic to unaccompanied minors than others. Practitioners should prepare their client for the interview, ensure the minor understands the interview process, and provide detailed factual guidance about the persecution or torture the minor fears.

Northern California ICE Enforcement Patterns and Detention Facilities

ICE's San Francisco District (which includes Northern California) has operated under varying enforcement priorities depending on the administration. During the Biden administration, ICE generally prioritized enforcement against individuals with serious criminal convictions and recent border crossers, with reduced enforcement against long-term residents with equities. Following the Trump 2.0 administration's January 2025 Executive Order on immigration enforcement, ICE's priorities expanded substantially, and the agency has been directed to pursue enforcement against all undocumented individuals regardless of criminal history or equities. As of February 2026, practitioners should assume that ICE is more likely to pursue enforcement against unaccompanied minors than was the case during the previous administration, particularly if the minor ages out of ORR custody and does not have a pending relief application.

Northern California's primary detention facility for minors is ORR's network of shelters, which are generally operated by nonprofit organizations and are significantly more humane than adult detention facilities. However, in cases where ICE takes enforcement action or where a minor is placed in adult ICE custody

(which may occur if the minor ages out of ORR care), detention conditions can be poor. Practitioners should be familiar with local facility conditions and should advocate for alternatives to detention when possible.

California State Law Protections: PC § 1473.7 and Immigration Consequences of Criminal Convictions

California Penal Code § 1473.7 provides a mechanism for noncitizens to challenge prior criminal convictions based on the trial court's failure to advise the defendant about immigration consequences or the defendant's lack of effective assistance of counsel with respect to immigration consequences. This provision is relevant to unaccompanied minors in removal proceedings who may have prior juvenile or adult criminal convictions. If a minor has a conviction that triggered a ground of deportability (such as a crime of moral turpitude, drug offense, or aggravated felony), the minor may be able to challenge that conviction under PC § 1473.7 and potentially obtain vacatur, which would eliminate the immigration ground.

Additionally, California's Proposition 47 reduced certain felonies to misdemeanors, and Proposition 64 similarly reduced certain marijuana offenses. For minors with convictions for offenses covered by these propositions, reduction of the conviction from a felony to a misdemeanor may have substantial immigration consequences-a misdemeanor for simple possession, for instance, may not be a "crime of moral turpitude" while a felony conviction might be. Practitioners should coordinate with criminal defense counsel to identify any reduction opportunities.

California Values Act (SB 54): Limits on Immigration Enforcement Cooperation

California Senate Bill 54 (California Values Act) limits cooperation between local law enforcement and immigration authorities. Under the Act, local police and sheriff's departments are prohibited from: using resources for immigration enforcement; providing immigration enforcement assistance except as required by federal law; and notifying immigration authorities about release dates. While SB 54 does not directly affect EOIR proceedings, it may protect minors from arrest and detention by local law enforcement based on immigration status, which indirectly benefits unaccompanied minors by reducing the likelihood of ICE custody.

Recent Developments and Emerging Legal Challenges (2025-2026)

SIJS-Based Deferred Action: June 2025 Rescission and November 2025 Federal Court Reinstatement

In June 2025, USCIS abruptly rescinded its SIJS-based deferred action policy, which had provided critical protection and work authorization to minors with approved I-360s who were unable to adjust due to visa unavailability.[33][39] The rescission eliminated automatic deferred action for SIJS beneficiaries and stated that USCIS would no longer consider SIJ classification as a basis for deferred action.[33] This policy change devastated many minors who had been relying on deferred action and work authorization during the visa backlog wait.

However, litigation challenging the rescission moved rapidly. On July 17, 2025, nine immigrant youth and several organizations (including Centro Legal de La Raza, CARECEN-NY, the National Immigration Project, Kids in Need of Defense, Public Counsel, and others) filed a class action lawsuit in the U.S. District Court for the Eastern District of New York ([A.C.R. et al. v. Noem], No. 25-03962) arguing that USCIS's rescission violated the Administrative Procedure Act.[33][39] On November 19, 2025, the court issued an order staying

USCIS's rescission and requiring USCIS to conduct SIJS-based deferred action and employment authorization adjudications pursuant to the 2022 policy alert.[33][39] As of December 2025, practitioners reported that USCIS was processing deferred action renewals and adjudications for SIJS youth consistent with the court order.[33]

This litigation outcome is significant for unaccompanied minors because it restores deferred action as a bridge between SIJS approval and visa availability. Minors with approved I-360s pending visa availability should now be eligible for deferred action, which provides work authorization (under the (c)(14) category) and temporary protected status. The deferred action eligibility strengthens the case for administrative closure of removal proceedings, because the minor's status is no longer entirely uncertain-the minor has deferred action and employment authorization pending adjustment.

Expanded Expedited Removal and Impact on Unaccompanied Minors

In January 2025, DHS expanded its use of expedited removal, a summary removal process that allows ICE or CBP to quickly remove individuals believed to be undocumented without a hearing before an immigration judge.[42] DHS directed immigration officials to identify individuals in removal proceedings who are subject to expedited removal and to terminate their active removal proceedings, placing them into expedited removal instead.[42] This poses a risk to unaccompanied minors, particularly those who are not actively pursuing relief or who have aged out of ORR custody.

However, there is significant legal doubt about whether unaccompanied children can be subjected to expedited removal. The TVPRA provides that unaccompanied children must be transferred to ORR custody and screened for special needs; expedited removal circumvents this process. Additionally, practitioners have argued (and some courts have recognized) that individuals with approved SIJS and those with approved asylum have statutory protections against expedited removal. Nonetheless, anecdotal reports suggest that ICE has subjected some previously unaccompanied minors to expedited removal despite these protections. Practitioners should monitor their clients' detention status closely and should file motions to stay expedited removal proceedings when minors are improperly subjected to this summary process.

Voluntary Departure Incentive Operation (October 2025) and Pressure on Minors

As discussed above, in October 2025, DHS launched an operation offering $2,500 stipends to unaccompanied children age 14 and older in ORR shelters to voluntarily depart from the United States.[8] This operation raised immediate concerns about pressure on minors and inadequate informed consent. While the operation is ongoing, practitioners should be alert to any efforts to pressure their clients into agreeing to voluntary departure and should emphasize the severe long-term consequences of that choice.

Conclusion and Strategic Recommendations

For unaccompanied minors in EOIR removal proceedings facing multiple potential remedies, the optimal strategy depends on case-specific factors including the minor's age, immigration history, criminal history, family circumstances, country of origin, and the strength of various relief claims. However, several general principles emerge from this analysis:

First, administrative closure remains a viable and legally defensible docket management tool despite PM 25-29's rhetorical opposition. The May 2024 regulatory framework codifying administrative closure authority at 8 CFR § 1003.18(c) remains in force and cannot be rescinded by policy memorandum alone. Immigration

judges retain authority to grant administrative closure even over OPLA opposition when appropriate factors weigh in favor of closure, particularly when a minor is actively pursuing relief through parallel state court proceedings (such as SIJS), awaiting USCIS adjudication of an application, or waiting for visa availability after SIJS approval. Practitioners should view administrative closure as a valuable tool in the current enforcement environment, not as a remedy that has been eliminated by PM 25-29.

Second, SIJS remains a powerful remedy for unaccompanied minors who have been abused, neglected, or abandoned and who lack parents capable of reunifying with them. The state court predicate order process should be initiated as soon as possible, ideally while the minor is still under age (prior to state-specific age-out dates). State court and immigration counsel should coordinate to obtain the predicate order, file the I-360 with USCIS before the minor's 21st birthday, and then manage the removal proceedings (through administrative closure or termination) while awaiting USCIS adjudication and visa availability. The November 2025 federal court order requiring USCIS to grant SIJS-based deferred action is a significant development that should strengthen administrative closure arguments for minors with approved I-360s pending visa availability.

Third, TVPRA protections for unaccompanied children-including the duty to advise about relief, access to counsel, and initial jurisdiction over asylum applications-should be aggressively asserted in removal proceedings. Immigration judges have an affirmative duty to inform minors about potential relief, including SIJS eligibility, even before predicate orders are obtained. Unaccompanied minors with credible asylum claims should file I-589s with USCIS as early as possible to trigger USCIS initial jurisdiction and the [J.O.P.] protections requiring continuance of removal proceedings. Child advocates and specialized legal counsel should be appointed when necessary to ensure that the minor's best interests are protected.

Fourth, voluntary departure should be pursued only as a last resort for minors without viable alternative relief. The long-term consequences of voluntary departure-bars to relief, penalties, and inability to return-are disproportionately harsh for children fleeing abuse and violence. Pre-conclusion and post-conclusion voluntary departure should be presented as options only to minors who affirmatively desire to depart and understand the consequences, and practitioners should be alert to efforts to pressure minors into agreeing to voluntary departure.

Fifth, change of status (adjustment of status) should be pursued when a minor has an approved family petition or employment-based petition and meets the requirements for adjustment. For minors with approved SIJS, termination of removal proceedings to allow affirmative adjustment before USCIS is often preferable to defensive adjustment before the immigration judge, because it removes the case from EOIR entirely and provides a non-adversarial context. For minors with family petitions, adjustment defensively before the immigration judge may be necessary if termination is not granted, and such adjustment should be prepared carefully with all supporting documentation gathered in advance.

Sixth, the sequencing of multiple relief options should be strategic, focusing on the strongest and fastest remedy first while preserving the right to pursue alternatives if the first fails. In many cases, SIJS is the strongest and most reliable remedy because it provides a clear pathway to permanent residence without discretionary elements. Asylum, while potentially strong, involves more discretion and uncertainty. Voluntary departure and change of status should generally be pursued only after stronger remedies have been exhausted.

Seventh, Northern California practitioners should leverage the San Francisco court's historical receptivity to administrative closure and the Ninth Circuit's protective precedents regarding unaccompanied minors. The Ninth Circuit has been more protective of unaccompanied children's rights than some other circuits, and the San Francisco court has generally been more favorable to applicant-side motions than many courts nationally. Practitioners should cite [C.J.L.G. v. Barr], [J.O.P. v. DHS], and other Ninth Circuit precedents aggressively.

Finally, practitioners should monitor ongoing litigation and policy developments, particularly regarding SIJS-based deferred action, expedited removal of minors, and changes to prosecutorial discretion or docket management policies. The immigration law landscape in February 2026 is in flux, with the Trump administration implementing aggressive enforcement policies while courts provide temporary stays and injunctions. Practitioners must stay current with developments and be prepared to adjust strategy as the legal landscape evolves. Regular consultation with local advocacy organizations, AILA, and other immigration practice groups is essential to maintain awareness of emerging trends and legal changes.

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