



October 12, 2023

Ur M. Jaddou
Director, USCIS

Avideh Moussavian
Chief, USCIS Office of Policy & Strategy

Sent via email

Re: Recommendations to USCIS to remove obstacles facing Special Immigrant Juveniles

Dear Ms. Jaddou and Ms. Moussavian:

The [End SIJS Backlog Coalition](#), a national group of directly impacted youth and allied advocates, writes to offer specific policy recommendations for USCIS to remove obstacles facing Special Immigrant Juvenile Status (SIJS) recipients, or SIJs. The Coalition exists to educate Congress, relevant administrative agencies, and the public about the harmful impacts of visa caps on vulnerable immigrant children, and to advocate for an end to the backlog. We applaud USCIS's efforts thus far to promote permanency and stability for SIJs in the backlog, including by launching the deferred action policy for SIJs in 2022. We are also grateful for USCIS's openness to ongoing engagement with the Coalition and the agency's responsiveness to concerns we have raised. To that end, below we offer three sets of policy recommendations for USCIS's consideration, all aimed at mitigating the harms SIJs awaiting adjustment of status face: (1) recommendations that would increase opportunities for SIJs in backlog; (2) recommendations that would remedy harms to SIJs in the backlog caused or exacerbated by now-repealed policies; and (3) recommendations to improve access to adjustment of status for SIJs whose time in the backlog has come to an end.

Increasing Opportunities for SIJs in the Backlog

Background: According to [data](#) USCIS shared with the Coalition, as of July 2023 there were approximately 120,000 SIJs with pending or approved petitions awaiting visa availability. Given the limited number of EB-4 visas available annually and the fact that the number of SIJs awaiting a visa does not include other special immigrants in the EB-4 category, SIJs now face a many years-long wait before they can adjust to lawful permanent resident (LPR) status as Congress intended. While an end to the backlog requires legislative action, we applaud USCIS's creation of a deferred action program to allow SIJs some protection from removal and the ability to work while they await a visa number. And we appreciate USCIS's [recognition](#) that work authorization provides

“invaluable assistance to these vulnerable noncitizens who are children or young adults, and have limited financial support systems in the United States, especially as they age out of care, while they await an immigrant visa number.” However, under USCIS’s current policy SIJs with deferred action are ineligible for advance parole—even though USCIS routinely grants advance parole to those with DACA, another form of deferred action for young people. As the wait times in the backlog continue to increase, many SIJs have compelling reasons to seek permission to travel abroad temporarily, such as to study abroad as part of undergraduate study or for humanitarian reasons.

Separately, some SIJs have another basis to adjust status—such as through a U.S. citizen biological parent, adoptive parent, or stepparent; marriage to a U.S. citizen that occurred after their I-360 was approved; or via the Cuban Adjustment Act—except that the young person entered without inspection. USCIS does not currently have a policy instructing adjudicators that those with an approved SIJS petition can use the benefits of INA § 245(h) for any adjustment under INA § 245(a)—not just for SIJS-based adjustment. Explicitly allowing otherwise-eligible SIJs to use their 245(h) benefits to adjust under other available bases would allow some SIJs to escape the backlog by immediately seeking adjustment of status and would conserve scarce EB-4 visas.

Recommendations:

1. USCIS should amend its [policy](#) to allow individuals with approved SIJS petitions to apply for advance parole.
2. USCIS should issue guidance to adjudicators instructing them that an individual with an approved SIJS petition can use the benefits conferred on them at INA § 245(h) to pursue an application for adjustment of status based on any other basis for adjustment available to the SIJ.¹

Remedying Harms to SIJs in the Backlog Caused or Exacerbated by Now-Repealed Policies

Background: In years past, some SIJS recipients were ordered removed when remedies like deferred action or administrative closure of removal proceedings were not available to them, and when their priority date may have been improperly retrogressed. See [Employment-Based Preference Immigrant Visa Final Action Dates and Dates for Filing for El Salvador, Guatemala, and Honduras](#), 88 Fed. Reg. 18252 (Mar. 28, 2023) (noting that the Department of State misapplied the law for seven years in a manner that erroneously limited EB-4 visas available to individuals from El Salvador, Guatemala, and Honduras). Others left the United States, as it was unsustainable to remain in the United States without employment authorization while waiting for a visa number to become available. As administrative policies have begun to align with the Congressional intent to protect and stabilize SIJS youth, USCIS should coordinate with other DHS components to provide a simple and accessible pathway for return for those with approved SIJS petitions who are outside of the United States.

¹ USCIS follows a policy analogous to what the Coalition urges here in the context of adjustment of status under INA § 245(i). Under USCIS policy, eligible individuals can use the benefits of 245(i) “as the vehicle for adjustment, but the basis for the adjustment may be obtained through a different filing.” 76 No. 16 Interpreter Releases 621 (Apr. 26, 1999).

In addition, while the Biden administration’s policy reforms protecting SIJs from removal and providing them access to work permits are laudable, unless these protections are codified through regulation, SIJs may again face swift prioritization for removal during a future administration. DHS should issue regulations recognizing that SIJs awaiting visa availability are eligible for work authorization and protected from removal. Doing so would prevent the possibility that SIJs who currently enjoy these protections could lose them through policy changes on the first day of a next administration—at which point they could become at risk for enforcement and removal, contrary to Congressional intent.

Recommendations:

3. USCIS should work with other DHS components to create a clear and accessible parole process for SIJs outside of the United State to request return, one that does not require a fee or the filing of Form I-134.
4. USCIS should coordinate with other relevant DHS components to issue proposed rules that would create a standalone category for employment authorization for SIJs within 8 CFR § 274a.12(c) and that would codify—within 8 CFR § 204.11 or elsewhere—protections from removal for SIJs regardless of priority date.

Improving Access to Adjustment of Status for SIJs

Background: Through the Coalition’s contact with practitioners representing SIJs across the United States, we have learned about several unintended barriers to adjustment of status for those SIJs who are eligible and have an immediately available visa. We urge USCIS to promptly address these problems. Doing so would align with [President Biden’s executive order on restoring faith in the immigration system](#), which directs that “immigration processes and other benefits [be] delivered effectively and efficiently” and that the agency identify and remove “barriers that impede access to immigration benefits and fair, efficient adjudications of these benefits.”

The USCIS website provides confusing instructions on the filing location of the adjustment of status application for SIJs, causing undue time and frustration for SIJs and their legal representatives. The risk of mailing the application to the wrong location and potentially losing weeks of adjudication time can easily be minimized by USCIS. Further, for applications for adjustment of status that have been pending with USCIS because of visa retrogression, practitioners cite a lack of clarity on the process for adjudication of the application once the priority date is current. Finally, it is our understanding that SIJS-based adjustment of status applications are now adjudicated at field offices across the country. Practitioners have reported errors in adjudication, such as issuing Requests for Evidence for medical examinations despite the priority date being far from current. These errors are then difficult to correct because there is no ability to communicate directly with the adjudicating field office. In May 2023, the Coalition raised a number of problems advocates representing SIJs face when attempting to resolve issues through the USCIS Contact Center and called for the return of an SIJS-specific email inbox. We attach to this letter the May 2023 correspondence including the list of specific examples we provided.

Recommendations:

5. Make the location for SIJS-based adjustment applications clear on the USCIS website. Currently applicants must look at two different web pages to figure out the filing location, neither of which provide clear guidance. The [first page](#) references SIJS-based adjustment in a long list under “Most Common Reasons for Filing Form I-485” and links to a [separate page](#) which lists the filing location for family-based forms—without mentioning SIJS adjustment, which is not a form of family-based adjustment.
6. Take steps to promptly adjudicate previously-retrogressed I-485s of SIJs, and provide an effective mechanism for practitioners to communicate with USCIS that the application is “ripe” for adjudication. This is particularly important given the volatility of final action dates in the monthly visa bulletins for EB-4 in recent years, and the not-infrequent occurrence of visa retrogression for EB-4s.
7. Now that SIJS-based I-485s are adjudicated at field offices nationwide, provide training to adjudicators to prevent mistakes in SIJS-based adjustments, and provide an effective mechanism for practitioners to communicate with the relevant field offices to raise errors.
8. Re-institute an SIJS-specific email inbox in order to efficiently resolve SIJS-related adjudication issues, including those related to the SIJS petition, SIJS deferred action, and SIJS-based adjustment of status.

The SIJS program is stronger today because of the positive changes USCIS has made to ensure that this group of resilient youth achieve permanency in the United States. The recommendations outlined above will continue the work of ensuring that SIJS-based permanent residence is achievable for all youth who qualify. We appreciate your consideration.

Please do not hesitate to contact us with any questions or concerns at rebecca@nipnlg.org.

Sincerely,



Rebecca Scholtz
Coalition Steering Committee Member



Dalia Castillo-Granados
Coalition Steering Committee Member

On behalf of the End SIJS Backlog Coalition

Attachments

cc: Jennifer Laforce, USCIS Office of Citizenship, Partnership and Engagement



Rebecca Scholtz

Problems with USCIS Contact Center in SIJS Cases

Rebecca Scholtz

Thu, May 11, 2023 at 9:12 AM

To: "LaForce, Jennifer M"

Cc: Alexandra Rizio

Elizabeth Badger

, Dalia Castillo-Granados

, Rachel Davidson

Dear Jennifer,

We greatly appreciate USCIS's responsiveness to the issues raised by the [End SIJS Backlog Coalition](#) and are grateful for the opportunity for ongoing engagement on these issues. We—the representatives of the Coalition's Administrative Advocacy Working Group—write now to raise some specific problems that advocates representing SIJS youth have encountered when trying to resolve issues through the USCIS Contact Center.

We recently conducted a survey of practitioners representing SIJS youth regarding USCIS's Contact Center and SIJS-related issues. Attached, we provide a summary of the survey responses and excerpt illustrative examples from practitioners. In many instances, multiple practitioners reported the same problem. These responses describe a number of significant problems getting answers or assistance from the USCIS Contact Center. These survey responses echo issues we have heard reiterated in other advocates' forums. We believe the attached examples highlight the need for USCIS to re-institute the SIJS NBC inbox.

We urge USCIS to consider re-introducing the SIJS NBC email address to facilitate communication between USCIS and the legal representatives of SIJS youth. Regardless, we are interested in working with USCIS to improve outcomes for SIJS youth who need to contact USCIS.

We can provide more information about any of the attached examples, and would welcome the opportunity to discuss these issues in more depth.

Thank you for your consideration.

Kind regards,

Rebecca Scholtz & Alexandra Rizio

End SIJS Backlog Coalition

Administrative Advocacy Working Group

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**Rebecca Scholtz** | she/her

Senior Staff Attorney

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 **Problems with USCIS Contact Center_End SIJS Backlog Coalition_5.11.2023.pdf**
121K



Problems with USCIS Contact Center in SIJS Cases

May 11, 2023

Problem	Example
<p>Issues with the Contact Center misdirecting legal representatives to the Vermont Service Center</p>	<p>Multiple attorneys reported being improperly directed to the Vermont Service Center for issues related to Special Immigrant Juvenile Status.</p> <p>“When requesting to change the date for an ASC appointment, I’m occasionally told to send a letter to the Vermont Service Center. I did it once and the VSC said they couldn’t help me.”</p> <p>A client had an SIJS-based I-485 pending at USCIS, and he was also the derivative on his mother’s U visa. “When I called the USCIS customer service hotline about the status of client’s [SIJS-based] I-485, I was told that no information could be given because of the pending U visa. I was told to contact the Vermont Service Center U-Visa Unit via email, which I did, and was told by them that they had nothing to do with Form I-485.”</p>

Problems rescheduling biometrics appointments via Contact Center

“I tried numerous times [to request a biometrics appointment reschedule via the Contact Center] and almost every officer I spoke to told me something different (you’ll receive an email confirmation within 24 hours, you have to send a request in writing to the VSC, don’t worry you’re back in the queue) and nothing ever worked. The only thing that MAY work is asking to speak to a Tier 2 officer, but it will be at least a few months before you ever receive such a call.”

Another practitioner reported that when contacting the Contact Center to request rescheduling of a biometrics appointment, the system routes her to a Tier II officer, “who does not respond and then closes the inquiry.”

“I contacted [the] USCIS Contact Center about six times to get the issue solved. Each call I received a different instruction, [for] example I was going to get an email with new biometrics notice, or that I was going to be contacted via phone by USCIS, etc. I received emails from USCIS stating that they could not process my request and needed to contact NBC. Then [I] got another email stating to expect a call from USCIS to reschedule biometrics within 30 days, which it never happened. Another call I was told that [the] client’s address hadn’t been updated on their end and needed to wait another 30 days. Last call I was told biometrics were reschedule[d] for this month and to expect biometrics notice via email, and again never happened. All this to say it took them 7 months to get a new date.”

<p>Contact Center representative was unaware of new age-out filing procedures</p>	<p>“We called USCIS Contact Center to set up an appointment to be able to file an I-360 Petition at the field office because the child ages out in two weeks (April 25). The officer at USCIS contact service did not know about this process. She said we would be contacted within 30 days (which defeats the purpose). She hung up before she gave her agent ID but we have the service item number 27763934.”</p>
<p>Attempts to remedy improper rejection of SIJS petition in an age-out case</p>	<p>“I recently filed an I-360 petition for a client who is turning 21 on 05/01/2023. The rejection notice said that the I-360 was rejected because I did not fill out the address in Part 1, page 1. I resubmitted the I-360 pointing out that the instructions above that section say that it is not necessary for Special Immigrant Juveniles to fill out that section and that they can skip to Item 7. Yesterday I received the I-360 back again and it was rejected for the same reason. After receiving the second rejection I contacted the USCIS contact center via Emma about it. They said that they only thing they can do is tell me to follow the instructions on the rejection notice. I told them that it was wrongly rejected and they said that they could not help me with that issue - just that I should follow the instructions on the rejection notice. They did suggest that I call the 1-800 number to speak to someone but they did not say how people on the 1-800 could help me and why they could not. They did not say that in person filing was an option for my client.”</p>
<p>Trying to obtain missing receipts or approval notices, or to correct data on an EAD</p>	<p>“I . . . had one client for whom I never received the SIJS approval notice. I only knew his application was approved due to the Case Status Online. I called the Contact Center many times to try to get a new approval notice, but it never worked.”</p>

<p>Making inquiries about long-pending adjustment of status adjudication or I-360 petition pending more than 180 days</p>	<p>One legal representative reported that an I-485 has been pending 4.5 years, and no inquiries have been successful.</p> <p>One representative reported that adjudication of an adjustment of status application took 2.5 years. That attorney called the Contact Center, filed an inquiry, and filed an ombudsman request.</p> <p>In another case, an attorney tried to speak to a representative about a long delay. “I was repeatedly told [by the automated system] ‘if you continue asking for an agent I will have to disconnect you.’” The Contact Center system ultimately did disconnect the representative.</p>
<p>Issue trying to update client’s mailing address as representative office address</p>	<p>“On February 22, 2023, the AR-11 was rejected because USCIS said they could not update the mailing address to that of the attorney ‘because [USCIS has] no evidence that this address serves as a safe mailing address for the petitioner...’. There is no way to upload evidence with the AR-11 online. On February 23, 2023, I called the call center, was told they could do nothing about this, and would not be able to update the mailing address and I would need to file a new AR-11 online and ‘provide evidence.’ I walked the call center employee through the online AR-11 form and showed her there's no way to provide evidence (which USCIS already has on file). The call center employee also told me that you have to submit a separate AR-11 for every form filed, even though there is a place to add multiple forms. She also said I could not submit another AR-11 for 30 days. She did not offer a way to resolve this issue successfully. I responded to the email rejection that I received, but have not received a response. I will try again when 30 days have elapsed, since the EAD was sent shortly after this call (and may be lost as a result of this issue), and the I-485 is retrogressed.”</p>

<p>Question about how to submit supplemental materials after filing an I-360 Petition</p>	<p>An attorney spent hours trying to figure out how to send additional documents for a pending I-360 (not a response to an RFE; they discovered they left out a page of a predicate order in the initial filing). The attorney called the Contact Center, used Emma, etc; they spent hours investigating how to submit supplemental materials but they never received a satisfactory answer. One of the answers supplied by Emma was to email the nvcinquiry@state.gov email address.</p>
<p>Inability to alert USCIS that it has jurisdiction over an adjustment of status application</p>	<p>“USCIS approved I-485 prematurely (without jurisdiction) while client was still in removal proceedings. Proceedings were later dismissed and I contacted Contact Center to inquire re: reissuing the I-485 approval and green card. I called in November 2022, was told my request would be routed to Tier II officer and I would get a call back in 30 days. No call back. I called again in January 2023 and was told that nothing had been done regarding my previous inquiry but I would get a call back in 3 days. Again no call back. I proceeded with a written letter to NBC that issued the I-485 approval. I later (after 30+ days) got a call back from a Tier II officer, but was not provided any helpful information because the officer did not understand why it was improper for the I-485 to be approved while child remained in removal proceedings. I am still waiting on a written response from the NBC, or I’ll be once again calling the Contact Center. This is the sort of issue that would have been easily addressed and resolved by the NBCSIJ email.”</p>

Communicating about suspected mistaken failure to grant deferred action

“My client’s Form I-360 was approved in 01/2023. The approval notice did not include a grant of deferred action...I called the USCIS Contact Center to ask for an amended approval notice to be issued that includes a grant of deferred action so that my client could apply for a C14 EAD. I called the Contact Center on 03.13.2023. I spoke to an Information Specialist and was told that could not be done by phone. I was told to submit an eRequest via the self service tools function on USCIS.gov. However, the options for eRequests are very limited and my request didn’t really fit into one of the available options. The option I thought was best was “Typographic Error” because that allowed me a box to type in what was erroneous and what I needed. I submitted that eRequest also on 03.13.2023 and received an auto-response that stated, “Thank you for your request: USCIS will review and process the request. Expect a reply by April 12, 2023.” As of today [April 14, 2023], I have not received a response.”



U.S. Citizenship
and Immigration
Services

December 5, 2023

Rebecca Scholtz
Senior Staff Attorney
National Immigration Project
2201 Wisconsin Ave. NW, Suite 200
Washington, DC 20007

Dear Ms. Scholtz:

Thank you for your October 12, 2023 letter to U.S. Citizenship and Immigration Services (USCIS). I am responding on behalf of the agency.

We appreciate your support regarding USCIS' efforts to promote permanency and stability for Special Immigrant Juvenile status recipients (SIJs) in the visa backlog, including the USCIS Policy Manual update allowing for consideration of deferred action and related employment authorization for SIJ-classified youth without a current visa number. We also acknowledge your concerns regarding the harms SIJ-classified youth awaiting adjustment of status face, and we appreciate your recommendations to mitigate these harms and improve access to adjustment of status for those SIJs who become eligible. USCIS remains dedicated to ensuring that these vulnerable youth maintain access to the support that they need during the wait for visa availability and through the process of adjusting status. Below are responses to each of the recommendations you have provided.

1. USCIS should amend its policy to allow individuals with approved SIJS petitions to apply for advance parole.

Thank you for this suggestion. USCIS will take the recommendation from the National Immigration Project's End SIJS Backlog Coalition under advisement.

2. USCIS should issue guidance to adjudicators instructing them that an individual with an approved SIJS petition can use the benefits conferred on them at INA § 245(h) to pursue an application for adjustment of status based on any other basis for adjustment available to the SIJ.

Thank you for this recommendation. We will consult internally on the feasibility of implementing this suggestion.

3. USCIS should work with other DHS components to create a clear and accessible parole process for SIJs outside of the United State to request return, one that does not require a fee or the filing of Form I-134.

Thank you for this recommendation. We will consult internally as well as with our agency partners on the feasibility of implementing this suggestion.

- 4. USCIS should coordinate with other relevant DHS components to issue proposed rules that would create a standalone category for employment authorization for SIJs within 8 CFR § 274a.12(c) and that would codify—within 8 CFR § 204.11 or elsewhere—protections from removal for SIJs regardless of priority date.**

The statute governing the SIJ classification does not render an individual lawfully present, does not confer lawful status, and does not result in eligibility to apply for employment authorization. For these reasons, USCIS implemented the SIJ-based Deferred Action process to afford SIJs protection from removal and the ability to obtain work authorization to be employed lawfully.

- 5. Make the location for SIJS-based adjustment applications clear on the USCIS website. Currently applicants must look at two different web pages to figure out the filing location, neither of which provides clear guidance. The first page references SIJS-based adjustment in a long list under “Most Common Reasons for Filing Form I-485” and links to a separate page, which lists the filing location for family-based forms—without mentioning SIJS adjustment, which is not a form of family-based adjustment.**

Thank you for bringing this to our attention. USCIS makes every effort to ensure that guidance on where to file benefit requests is as clear as possible. To that end, we are currently working to improve guidance on USCIS.gov to provide greater clarity as to where SIJ-based adjustment of status applications must be filed. We hope to have this improved webpage ready by the third quarter of Fiscal Year 2024.

- 6. Take steps to promptly adjudicate previously-retrogressed I-485s of SIJs, and provide an effective mechanism for practitioners to communicate with USCIS that the application is “ripe” for adjudication. This is particularly important given the volatility of final action dates in the monthly visa bulletins for EB-4 in recent years, and the not-infrequent occurrence of visa retrogression for EB-4s.**

USCIS has operational processes in place to identify Form I-485 applications for adjudication as visa numbers become available. Generally, applicants or their representatives do not need to contact USCIS to request adjudication of their application.

- 7. Now that SIJS-based I-485s are adjudicated at field offices nationwide, provide training to adjudicators to prevent mistakes in SIJS-based adjustments, and provide an effective mechanism for practitioners to communicate with the relevant field offices to raise errors.**

USCIS designated certain field offices to adjudicate SIJ adjustment of status applications. The designated field offices received training in advance of adjudicating these applications. If an applicant or their representative believes there was an error in regard to the decision on their application, they may file a Motion to Reconsider. For all other inquiries or concerns, applicants or their representatives should use the customer service options explained further below.

8. Re-institute an SIJS-specific email inbox in order to efficiently resolve SIJS-related adjudication issues, including those related to the SIJS petition, SIJS deferred action, and SIJS-based adjustment of status.

We recognize the challenges that SIJ petitioners and recipients have faced in communicating with USCIS to efficiently and effectively resolve SIJ-related adjudication issues. Though we have discontinued the SIJ National Benefits Center email box for general inquiries, we have been working as an agency to improve the customer service options available to benefit requestors, including SIJ petitioners, and have recently unveiled some new tools. These new features include self-service tools for [online rescheduling of biometrics appointments](#); a [myProgress](#) expansion to new forms, including Form I-765, Application for Employment Authorization; and a new text ahead feature in which customers can opt in to have the Contact Center text in advance before providing a call back on an inquiry. We will continue to work on further enhancing our customer service options to ensure SIJ petitioners and recipients have swift and effective resolution to adjudication issues. To flag potential systemic issues for USCIS, please email the USCIS Feedback Mailbox at uscisfeedback@uscis.dhs.gov. This email box accepts inquiries for administrative, technical, systemic or operational issues that could indicate a trend or theme impacting case processing.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Avidah Moussavian". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Avidah Moussavian
Chief
Office of Policy and Strategy