

Congress of the United States
Washington, DC 20515

May 13, 2022

The Honorable Ur M. Jaddou
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20588

Dear Director Jaddou:

We write to you today to thank you for U.S. Citizenship and Immigration Services (USCIS)' recently announced improvements to the Special Immigrant Juvenile Status (SIJS) program, including age-out protections for youth who turn 21 after filing their SIJS petitions and updated evidentiary requirements that enhance program effectiveness.¹ We are encouraged by the new final rule, as well as the announcement that the agency will consider deferred action for SIJS recipients awaiting available visa numbers.² These changes mark important steps in the right direction, but more must be done by your agency to protect these at-risk youth .

As you know, Congress created the SIJS program to furnish humanitarian protection to immigrant youth determined by state courts to have survived parental abuse, abandonment, or neglect and whose best interests would not be served by return to their countries of origin. Altogether, these young people represent one of the most vulnerable groups seeking protection within the U.S. immigration system. They have often been subjected to severe harm—including sexual assault, domestic violence, child labor, and denial of adequate food and shelter—and suffer ongoing trauma. Importantly, too, these youth are resilient members of our communities who overcome immense hardship during their journey to protection.

For these and additional reasons, it is vital that USCIS timely adjudicate SIJS petitions. Indeed, it is required by law. The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) mandates that USCIS adjudicate such petitions within 180 days of filing.³ Secretary of

¹ Press Release, U.S. Citizenship and Immigration Services, USCIS Announces Policies to Better Protect Immigrant Children Who Have Been Abused, Neglected, or Abandoned (Mar. 7, 2022), *available at* <https://www.uscis.gov/newsroom/news-releases/uscis-announces-policies-to-better-protect-immigrant-children-who-have-been-abused-neglected-or>.

² *Id.*

³ Section 235(2) provides that “All applications for special immigrant status under section 101 (a)(27)(J) of the Immigration and Nationality Act (8 U.S.C.) shall be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the application is filed.”

Homeland Security Alejandro Mayorkas has affirmed that it is the Department’s “obligation to enforce” the TVPRA.⁴

Despite this requirement, USCIS routinely adjudicates SIJS petitions beyond the 180-day timeframe. Legal services organizations indicate that they often face significant delays in the agency’s processing of these cases. USCIS data shows that while the number of pending SIJS petitions dropped from 33,791 at the end of fiscal year (FY) 2018 to 8,011 by the end of FY 2020, that number rose to 14,067 during FY 2021—a more than 75 percent increase.⁵ This growth occurred though the number of SIJS petitions filed in FY 2021 was largely consistent with annual SIJS petition filings since FY 2016. As of December 2021, the volume of pending SIJS petitions had risen further to 17,459.⁶

Vulnerable immigrant youth across the country have found themselves entangled in these slowdowns. In one case, a brother and sister submitted their I-360s on the same day, based on the same experience of neglect by their parents. While the sister’s petition has been approved, her brother is still awaiting a decision nearly a year later. His attorneys have tried multiple times to contact USCIS about the delay, to no avail. In San Diego, a teenager received a request for information on her I-360 more than 250 days after its initial filing. She and her attorneys have responded, yet they continue to await a final decision on the petition, about 10 months since it was filed.

These are just two examples out of an endless list of broken promises, as wait times routinely extend weeks and months past the 180-day deadline. Such delays not only violate the statute, but also create uncertainty and anxiety for already traumatized youth, delay stability and permanency, and heighten vulnerability to unwarranted and harmful immigration enforcement action now and in the future. Meanwhile, the announcement that USCIS will consider deferred action for SIJS recipients makes timely adjudication of SIJS petitions all the more imperative. Delays in SIJS petition processing mean delays in consideration for deferred action and the vital safeguards it would afford.

In addition to meeting the 180-day mandate for SIJS petitions, it is critical that USCIS timely process applications for lawful permanent residence (“green cards”) that are based on SIJS. For while the announcement that USCIS consider deferred action for those who receive SIJS is a welcome one, it is by no means a permanent solution or substitute for the enduring protections and pathway to citizenship that green cards provide.⁷

⁴ *DHS Actions to Address Unaccompanied Minors at the Southern Border: Hearing Before the Senate Committee on Homeland Security and Governmental Affairs*, 117th Cong. (2021), available at <https://www.hsgac.senate.gov/hearings/dhs-actions-to-address-unaccompanied-minors-at-the-southern-border> (testimony of Dept. of Homeland Security Secretary Alejandro N. Mayorkas).

⁵ Number of I 360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year, Quarter and Case Status, Fiscal Years 2010-2022, U.S. Citizenship and Immigration Services, available at https://www.uscis.gov/sites/default/files/document/reports/I360_sij_performancedata_fy2022_qtr1.pdf.

⁶ *Id.*

⁷ Press Release, *supra* note 1.

Unfortunately, even though SIJS is a form of humanitarian relief, current law counts visa numbers for SIJS recipients against a broader annual ceiling of 140,000 “employment-based” visas—a ceiling that includes per-country limits—relegating only a small percentage of that whole to SIJS youth. The resulting “SIJS visa cap” needlessly restricts visa numbers and associated green card availability for vulnerable young people granted SIJS, particularly children and youth from northern Central America and Mexico who in recent years have sought protection from abuse, abandonment, and neglect in higher numbers.

Certain “family-based” green cards that go unused in one fiscal year become available in the “employment-based” visa categories the next fiscal year. The Migration Policy Institute notes that “[a]t the end of FY 2021, at least 140,000 of the 226,000 green cards available for family-preference categories were . . . unused due to processing delays.”⁸As such, additional visas are available in the employment-based categories, including the fourth preference category that includes Special Immigrant Juveniles, in the current fiscal year.⁹ Delays in processing SIJS-based green card applications run the risk that those visas could be lost, effectively returning impacted SIJS youth into the visa backlog. In contrast, by timely processing SIJS-based green card applications this fiscal year, USCIS will help maximize use of these additional visas; alleviate the current visa backlog in which many youth seeking SIJS-based green cards are trapped; and help ensure permanent protections for these survivors of abuse, abandonment, and neglect.¹⁰

It is also important to emphasize that USCIS does not post current case processing times for SIJS petitions or SIJS-based green card applications on its website. This lack of transparency not only creates uncertainty for SIJS youth, but also frustrates the ability of Congress and the public to assess the agency’s compliance with the TVPRA. Moving forward, USCIS should publish and regularly update case processing time data specific to SIJS petitions and SIJS-based adjustment applications.

Again, while we appreciate the agency’s recent announcements to improve the SIJS program, we believe the agency can do more to protect vulnerable youth seeking refuge in the United States. To better understand the agency’s handling of SIJS cases and how it may be improved, we request you provide information to address the following questions:

1. What are the current average processing times for SIJS petitions and SIJS-based green card applications?
2. Of the 22,611 SIJS petitions filed in FY 2021:

⁸ Muzaffar Chishti and Julia Gelatt, *Mounting Backlogs Undermine U.S. Immigration System and Impede Biden Policy Changes*, Migration Policy Inst. (Feb. 23, 2022), <https://www.migrationpolicy.org/article/us-immigration-backlogs-mounting-undermine-biden>.

⁹ According to the U.S. State Department, there are about 19,880 EB-4 visas available, which is roughly twice the usual annual allotment. See Annual Numerical Limits FY-2022, <https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/Annual%20Numerical%20Limits%20FY%202022.pdf>.

¹⁰ RACHEL LEYA DAVIDSON AND LAILA L. HIASS, “ANY DAY THEY COULD DEPORT ME,” (Nov. 2011), available at <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

- a. How many petitions have received a final adjudication within the 180-day timeframe?
 - b. How many petitions remained pending for more than 180 days?
 - c. Of the petitions that remained pending for more than 180 days, how many received a Request for Evidence and/or Notice of Intent to Deny within the 180-day timeframe?
3. Has USCIS set an internal processing time goal for SIJS petitions that is different than the 180-day statutory requirement?
 - a. If yes, please identify that goal and the rationale for deviating from the statutory mandate.
4. Will you commit to posting on USCIS's website, and regularly updating, case processing time information specific to SIJS petitions and SIJS-based green card applications?
5. What actions will USCIS take to ensure prompt adjudications of SIJS petitions and SIJS-based green card applications?
 - a. When does USCIS project that it will consistently adjudicate these form types in a timely fashion?
6. What actions is USCIS taking to ensure that it processes all available 19,880 EB-4 visas in FY 2022?
 - a. Does USCIS currently project that it will use all available EB-4 visas?
 - b. If not, what percentage does USCIS project it will use?
7. Can you describe the process and timetable by which USCIS coordinates with the State Department to assign visa numbers to SIJS petitioners/recipients?
8. How many USCIS staff are currently assigned to review and process SIJS petition adjudications?
9. How many USCIS staff are currently assigned to review and process SIJS-based green card applications?
10. What FY 2023 appropriations funding level does USCIS require to ensure timely processing of SIJS petitions and green card applications, including through appropriate staffing?

11. Are there additional actions that Congress can take to advance USCIS’s timely adjudication of these form types?

We appreciate your prompt response to these questions and look forward to working together on this vital issue. If you need additional information or have any other questions, please contact Rachel Marshall (Rachel.Marshall@mail.house.gov) with Congressman Raskin’s office.

Sincerely,



Jamie Raskin
Member of Congress

Suzanne Bonamici
Member of Congress

Pramila Jayapal
Member of Congress

Ilhan Omar
Member of Congress

Jamaal Bowman, Ed.D.
Member of Congress

Henry C. “Hank” Johnson, Jr.
Member of Congress

Chellie Pingree
Member of Congress

Judy Chu
Member of Congress

Barbara Lee
Member of Congress

Ayanna Pressley
Member of Congress

Yvette D. Clarke
Member of Congress

Carolyn B. Maloney
Member of Congress

Mary Gay Scanlon
Member of Congress

J. Luis Correa
Member of Congress

James P. McGovern
Member of Congress

Jan Schakowsky
Member of Congress

Jason Crow
Member of Congress

Grace Meng
Member of Congress

Adam Smith
Member of Congress

Adriano Espaillat
Member of Congress

Joe Neguse
Member of Congress

Juan Vargas
Member of Congress

Jimmy Gomez
Member of Congress

Eleanor Holmes Norton
Member of Congress

Bonnie Watson Coleman
Member of Congress

Raúl Grijalva
Member of Congress

Alexandria Ocasio-Cortez
Member of Congress

Eric Swalwell
Member of Congress



**U.S. Citizenship
and Immigration
Services**

July 1, 2022

The Honorable Jamie Raskin
U.S. House of Representatives
Washington, DC 20515

Dear Representative Raskin:

Thank you for your May 13, 2022 letter regarding processing times for Special Immigrant Juvenile (SIJ) petitions and related applications for adjustment of status to lawful permanent residence.

We appreciate your support for our agency's recent policy updates regarding the SIJ program, including the publication of the SIJ final rule and the U.S. Citizenship and Immigration Services (USCIS) Policy Manual update allowing for consideration of deferred action for SIJ-classified youth awaiting visa number availability.

USCIS is committed to working to minimize any processing delays and ensure compliance with the statutory time for adjudication under the Trafficking Victims Protection Reauthorization Act of 2008. As you noted, Congress created the SIJ classification to provide humanitarian protection to vulnerable noncitizen youth who were determined by state juvenile courts to have been abused, abandoned or neglected by one or both parents, and for whom it would not be in their best interest to return to their or their parents' country of nationality or last habitual residence. You further note that these youths have often been subjected to severe harm, including domestic violence and lack of adequate food and shelter, and suffer ongoing trauma. For these and other reasons, USCIS agrees that it is deeply important that petitions for SIJ classification and related applications for adjustment of status are timely processed. It is equally important that more visas be made available to ensure firm stability for the thousands of vulnerable youth waiting for visas to become available every fiscal year due to limits in the statute.

In recognition of the need for specialized and consistent adjudication of these sensitive cases, USCIS centralized adjudication of SIJ petitions and related adjustment applications at the National Benefits Center in 2016. From 2016 to 2022, receipt volumes surged for SIJ-based Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, and SIJ-based Form I-485, Application to Register Permanent Residence or Adjust Status. USCIS adjusted staffing and continues to monitor to meet workload needs. Despite being unable to staff to authorized

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levels during the hiring freeze, the Agency continued to increase the number of officers adjudicating SIJ classification and the related adjustment of status.

Enclosed, please find responses to the questions presented in your letter.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director

Enclosure

**The U.S. Citizenship and Immigration Services Response to
Representative Jamie Raskin’s May 13, 2022 Letter**

1. What are the current average processing times for SIJS petitions and SIJS-based green card applications?

As of June 24, 2022, the average processing time to adjudicate a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (“SIJ Petition”), based on SIJ is 9 months. However, the average processing time fluctuates from month to month due to fluctuations in staffing and because some cases cannot be adjudicated on a first-in-first-out basis due to litigation requirements. Additionally, USCIS is actively working to increase the number of adjudicators, through hiring initiatives to address our high vacancy rate and by shifting existing personnel, to ensure USCIS adjudicates within required processing times.

As of June 24, 2022, the average processing time to adjudicate a Form I-485, Application to Register Permanent Residence or Adjust Status (“SIJ Adjustment of Status”), based on SIJ is 10.2 months. However, it is important to note that average processing times for SIJ-based adjustment of status petitions and applications to adjust status are not a meaningful data point because the calculation includes cases that cannot proceed to final adjudication because a visa is not available due to statutory limitations.

2. Of the 22,699 SIJS petitions filed in FY2021:

a. How many petitions have received a final adjudication within the 180-day timeframe?

8,381

b. How many petitions remained pending for more than 180 days?

14,318

c. Of the petitions that remained pending for more than 180 days, how many received a Request for Evidence and/or Notice of Intent to Deny within the 180-day timeframe?

943

3. Has USCIS set an internal processing time goal for SIJS petitions that is different than the 180-day statutory requirement?

No. USCIS works to issue decisions on properly filed petitions for SIJ classification within 180 days.¹ The 180-day timeframe begins on the Notice of Action (Form I-797) receipt date. If the petitioner did not submit all required initial evidence with the petition, and USCIS issues a request for initial evidence, the timeframe resets, and the 180 days starts over from the date of receipt of the required initial evidence.²

¹See Section 235(d)(2) of the Trafficking Victims Protection and Reauthorization Act of 2008, [Pub. L. 110-457](#), 122 Stat. 5044, 5080 (December 23, 2008). See also 8 CFR 204.11(g).

²See [8 CFR 204.11\(g\)](#); [8 CFR 103.2\(b\)\(10\)\(i\)](#).

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If the petitioner submitted all required initial evidence with the petition, but USCIS requires additional evidence to determine the petitioner’s eligibility, the 180-day timeframe is suspended from the date of issuance of the request for additional evidence.³ As with many other immigration benefit requests, subject to this suspension provision,⁴ the clock resumes at the same point where it stopped once USCIS receives the requested evidence, a response, or a request for a decision based on the evidence.⁵

a. If yes, please identify that goal and the rationale for deviating from the statutory mandate.

See above.

4. Will you commit to posting on USCIS’s website, and regularly updating, case processing time information specific to SIJS petitions and SIJS-based green card applications?

As indicated above, average processing times for SIJ Petitions fluctuate from month to month due to changes in SIJ staffing and because some cases cannot be adjudicated on a first-in-first-out basis due to litigation requirements. Average processing times for SIJ Adjustment of Status applications are not a meaningful data point because many cases cannot be adjudicated to completion due to restrictions on visa availability. We remain, however, committed to transparency and are exploring ways to provide more information to the public in the future.

5. What actions will USCIS take to ensure prompt adjudications of SIJS petitions and SIJS-based green card applications?

USCIS places a high priority on the SIJ workload, continually looking to ensure the prompt adjudication of SIJ Petitions and SIJ adjustment of status applications, to include acquisition and assignment of personnel and innovative operational efficiencies. USCIS has a significant adjudicator vacancy rate due to an unanticipated surge in receipt volumes, a prior hiring freeze and subsequent attrition. We have resumed hiring in recent months and continue to increase SIJ staff. Please see response to question 8 & 9 regarding staffing.

a. When does USCIS project that it will consistently adjudicate these form types in a timely fashion?

While USCIS continually strives to achieve timely adjudications, factors such as filing trends, litigation, and resource constraints make it difficult to predict future processing times. Please also see the response to question #6.

³ See [8 CFR 204.11\(g\)](#).

⁴ See [8 CFR 103.2\(b\)\(10\)\(i\)](#).

⁵ See [8 CFR 204.11\(g\)](#); [8 CFR 103.2\(b\)\(10\)\(i\)](#).

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6. What actions is USCIS taking to ensure that it processes all available 19,880 EB-4 visas in FY 2022?

a. Does USCIS currently project that it will use all available EB-4 visas?

USCIS, with its partners at the Department of State (DOS), expects to use all of the available EB-4 visas in FY 2022. Visa use during the first half of the year was so high that DOS had to retrogress some of the EB-4 dates in the March Visa Bulletin to prevent the agencies from exceeding the annual limit.

b. If not, what percentage does USCIS project it will use?

The agencies expect to use all available EB-4 visas.

7. Can you describe the process and timetable by which USCIS coordinates with the State Department to assign visa numbers to SIJS petitioners/recipients?

USCIS has at least two formal meetings each month with DOS and other partners to discuss visa use coordination, and the two agencies meet informally several additional times each month. Generally, by the end of the first week of a month the agencies have met to collaborate on the Visa Bulletin for the following month. Both agencies evaluate visa use year-to-date compared to the annual and quarterly limits, share data about their pending inventories, and discuss operational constraints and projections for future visa use. Based on those conversations, DOS, in collaboration with USCIS, sets the dates in the Visa Bulletin.

There is, however, no “reservation” or “assignment” of visas to the beneficiaries of petitions, including SIJ petitions. Visas remain available in the pool of visas authorized for issuance during the fiscal year until DOS issues an immigrant visa to a noncitizen through consular processing or the noncitizen otherwise acquires Lawful Permanent Resident status through adjustment of status with USCIS (approval of their Form I-485). In the adjustment of status context, the process has the following steps: (1) a USCIS officer determines that an applicant is eligible for adjustment of status and warrants a favorable exercise of discretion; (2) the USCIS officer requests an immigrant visa number from DOS; (3) DOS allocates the immigrant visa; and (4) the USCIS officer approves the adjustment of status application. Step 4, if a visa is immediately available to the applicant, is to take place immediately after Step 3.

8. How many USCIS staff are currently assigned to review and process SIJ petition adjudications?

USCIS uses contract and federal resources to complete review and processing of SIJ petitions. Many job assignments, particularly for contractor tasks, are process-based and not based on form type or are not exclusive to a single form type; therefore, we are not able to definitively identify the number of staff members assigned to this single form type. Not unexpectedly, agency priorities drive resource demands, and assignments and resources are shifted as needed to ensure agency priorities are met. As of June 24, 2022, the National Benefit Center (NBC) has 52 officers permanently assigned to adjudicate SIJ petitions and

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SIJ Adjustment of Status applications. This does not include officer resources dedicated to pre-processing and process-based aspects of the adjudicative workflow that cannot be attributed to a single form type, such as those supporting resolution of security issues, fraud detection and national security support, and training.

9. How many USCIS staff are currently assigned to review and process SIJS-based green card applications?

USCIS uses contract and federal resources to complete review and processing of SIJ-based adjustment of status applications. Many job assignments, particularly for contractor tasks, are process-based and not based on form type or are not exclusive to a single form type; therefore, we are not able to definitively identify the number of staff members assigned to this single form type. Not unexpectedly, agency priorities drive resource demands and assignments and resources are shifted as needed to ensure agency priorities are met. As stated above, the NBC has 52 officers permanently assigned to adjudicate SIJ petitions and SIJ Adjustment of Status applications. This does not include officer resources dedicated to pre-processing and process-based aspects of the adjudicative workflow that cannot be attributed to a single form type.

10. What FY 2023 appropriations funding level does USCIS require to ensure timely processing of SIJS petitions and green card applications, including through appropriate staffing?

The fiscal year (FY) 2023 President's Budget for USCIS includes support for discretionary funding, which was provided through the FY 2022 Omnibus enactment that is specifically for application processing. If Congress enacts the FY 2023 discretionary funding for USCIS' application processing, it will help USCIS address backlog for immigration forms and support the Administration's refugee ceiling. USCIS will reevaluate the FY 2023 priorities for forms that have the most backlog and will consider petitions for SIJ classification as well as the immigration forms associated with green cards and ensure adequate staffing and funding is available.

11. Are there additional actions that Congress can take to advance USCIS's timely adjudication of these form types?

USCIS will benefit from and appreciates the ongoing support for discretionary/appropriated funding in FY 2023 and outyears so it can continue its prioritization on reducing backlogs across its major immigration benefit forms and ensure it has adequate staffing, facilities space, and a secure IT infrastructure. Through support from Congress, USCIS will continue its efforts to provide timely processing and adjudication of various forms related to humanitarian efforts, which include asylum, refugee, and parole work among other immigration benefits.