

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
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Ayanna Pressley
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Yvette D. Clarke
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Carolyn B. Maloney
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Mary Gay Scanlon
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J. Luis Correa
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James P. McGovern
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Jan Schakowsky
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Jason Crow
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Grace Meng
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Adam Smith
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Joe Neguse
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Juan Vargas
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Jimmy Gomez
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