



ILRC V. USCIS

FOIA results related to USCIS's special immigrant juvenile status deferred action policy

I. BACKGROUND INFORMATION ON ILRC'S FOIA TO USCIS

U.S. Citizenship and Immigration Services' (USCIS) special immigrant juvenile status (SIJS) [Deferred Action Policy](#) went into effect on May 6, 2022. Under the SIJS Deferred Action Policy, USCIS considered a youth for deferred action if the youth's special immigrant juvenile (SIJ) petition was approved and there was no visa available for the youth to adjust status. If the youth was granted deferred action, they received deferred action for four years. The policy also contemplated that youth could renew the grant if there was still no visa available at the end of the four-year period. SIJS youth who were granted deferred action enjoyed many benefits, including most notably the ability to apply for employment authorization.

In early April 2025, practitioners nationwide started reporting that their clients were being granted SIJS without deferred action determinations. On April 15, 2025, the ILRC filed a Freedom of Information Act (FOIA) request for USCIS records regarding the SIJS Deferred Action Policy. When the government failed to respond in a timely manner, we filed suit. On May 29, 2025, USCIS issued a [proposed amendment to Form G-325A](#), a form to request deferred action or to renew a grant of deferred action. The proposed amendment to the form eliminated the SIJS category. Additionally, on June 6, 2025, USCIS issued a policy alert announcing the [termination of the SIJS Deferred Action Policy](#). For more information on the termination of the SIJS Deferred Action Policy, see the End SIJS Backlog Coalition's [Practice Alert: Termination of the SIJS Deferred Action Policy](#).

In August 2025, the ILRC received 148 pages of documents from USCIS (many redacted) in our response to our FOIA.

II. ILRC'S FOIA TO USCIS

In our FOIA request, we requested all records comprising USCIS's policies, procedures, and guidance governing adjudications pursuant to the SIJS Deferred Action Policy, including but not limited to:

- Any memo or other document from the Secretary of the Department of Homeland Security (DHS), Director of USCIS, or other DHS leadership creating the SIJS Deferred Action Policy;
- Any USCIS Standard Operating Procedure related to the SIJS Deferred Action Policy;
- Any policy, guidance, manual, training, directive, or other communication implementing the SIJS Deferred Action Policy;
- The portion of the USCIS CHAP (Consolidated Handbook of Adjudication Procedures) concerning the SIJS Deferred Action Policy;
- Any memo or other document from the Secretary of DHS, Director of USCIS, or other DHS leadership terminating the SIJS Deferred Action Policy; and
- Any USCIS policy, guidance, manual, training, directive or other communication terminating the SIJS Deferred Action Policy.

III. RESULTS OF THE FOIA REQUEST AND LITIGATION

We include here all documents received from USCIS in response to our FOIA request. The litigation is ongoing, so we may receive additional documents. ILRC notes the following information contained in the FOIA results:

Termination of SIJS Deferred Action Policy:

- Email dated April 7, 2025 from Jerome Johnson, Section Chief at the National Benefits Center (NBC) directing the NBC to “pause on granting SIJ deferred action to SIJ petitioners until further notice.” An April 10, 2025 email to Terri Steele notes, “we received this direction from FOD AD Michael Valverde via NBC Director Terri Robinson.” (pp. 60-61)

Adjudication policies for SIJS deferred action:

- If DHS systems contain information that the SIJ may be ineligible to adjust status “due to an inadmissibility ground that cannot be waived under INA 245(h), then USCIS may exercise discretion not to grant SIJ DA.” Lays out next steps to take if there is information indicating the person may be ineligible to adjust status. (p. 19)
- Deferred action cannot be denied without requesting and reviewing biometrics results. Suggests that supervisor review is needed to deny deferred action. (p. 21)
- If SIJ youth fails to appear for biometrics appointment twice, they will not be granted deferred action. (p. 35)
- Chart noting it is “very uncommon” SIJS would be approved without deferred action. Also notes “very uncommon” SIJS deferred action would be terminated. (p. 24)
- USCIS may consider termination of deferred action, “If information arises indicating the individual no longer warrants the exercise of discretion for a grant of SIJ DA, or if ICE or another government agency requests termination of DA, or upon revocation of the SIJ I-360.” (p. 28)
- Training materials on inadmissibility grounds that cannot be waived include information on: juvenile adjudications (p. 39), CIMTs (pp. 40-43), controlled substance offenses (p. 44), multiple criminal convictions (p. 45), drug trafficking (p. 46), security related (pp. 47-48), and gang membership (p. 51, but mostly redacted).
- Training materials note: “Examples of CIMTs that are likely to fall within the petty offense exception if there is only one crime, or crimes that are not CIMTs: DUI/Suspended License, Battery/Assault (not aggravated), Domestic Violence (not aggravated), Theft/Larceny, Wanted person for crimes that would not result in ineligibility to adjust status, Conspiracy to commit crimes that would not result in ineligibility to adjust status.” (p. 50)
- Training materials on criminal charges without disposition state that if there are pending charges or investigations which, upon conviction, would affect eligibility to adjust status, “USCIS may weigh all factors and exercise discretion not to grant SIJ DA. For example, USCIS may exercise discretion not to grant SIJ DA if there is a pending robbery, rape, or murder charge or investigation. However, USCIS may exercise discretion to grant SIJ DA if there is one charge for assault, battery, DUI etc.” (p. 52)

ICE requests to terminate deferred action in individual cases:

- USCIS memo dated June 26, 2023 from Avidah Moussavian (Chief, Office of Policy and Strategy) and Michael Valverde (Associate Director, Field Operations Directorate) to Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Enforcement Removal Operations (ERO), and ICE Policy states: “USCIS has the sole authority to grant and terminate deferred action for noncitizens with SIJ classification. ICE may send requests to terminate SIJ DA to NBCD6SIJ@uscis.dhs.gov and should include any information that may be relevant to USCIS’ assessments of requests to terminate deferred action. USCIS considers requests to terminate deferred action on a case-by-case basis and may require additional information from ICE.” (pp. 129-130)

Processing of SIJS petitions:

- SIJS petition does not require biometrics. “Generally, criminal history, and in some cases national security concerns, do not impact adjudication of the SIJ I-360 because SIJ classification is not a benefit or [sic] that provides lawful status.” (p. 33)

Training: “Special Immigrant Juvenile Deferred Action” Examples with Analysis

Disclaimer: This document is part of a training module, titled “Special Immigrant Juvenile Deferred Action” that is intended solely for informational purposes. It is not intended to, does not, and may not be relied upon to create or confer any right(s) or benefits(s), substantive or procedural, enforceable at law by any individual or other party in benefit applications before USCIS, in removal proceedings, in litigation with the United States, or in any other form or manner. This training module does not have the force of law, or of a DHS directive.

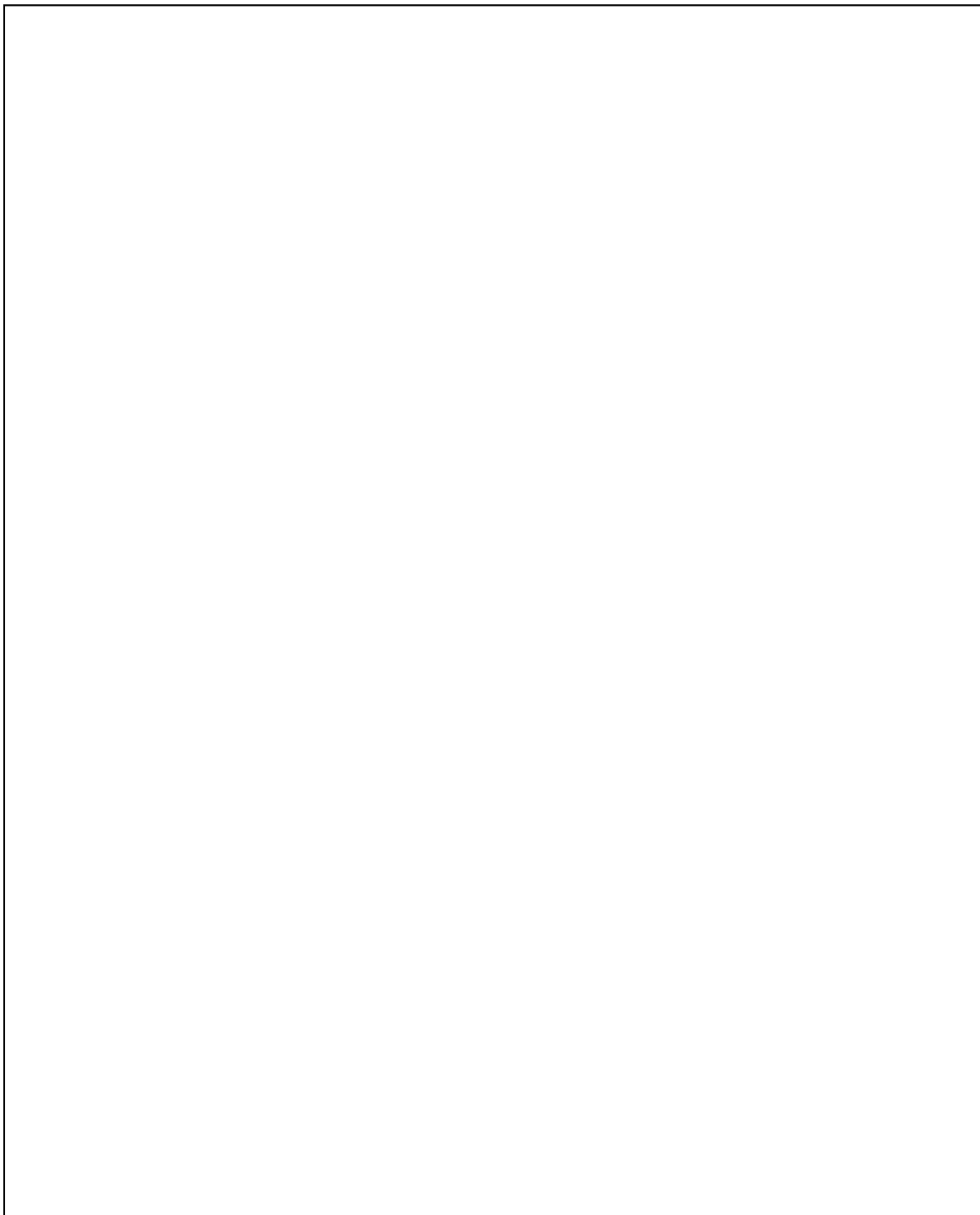
About this presentation: Authors: Field Operations Directorate, Office of Policy & Strategy, and the Office of Chief Counsel. Date of last revision: **5/11/2022** (presentation is current only as of the date of last revision). This presentation contains no sensitive Personally Identifiable Information (PII).

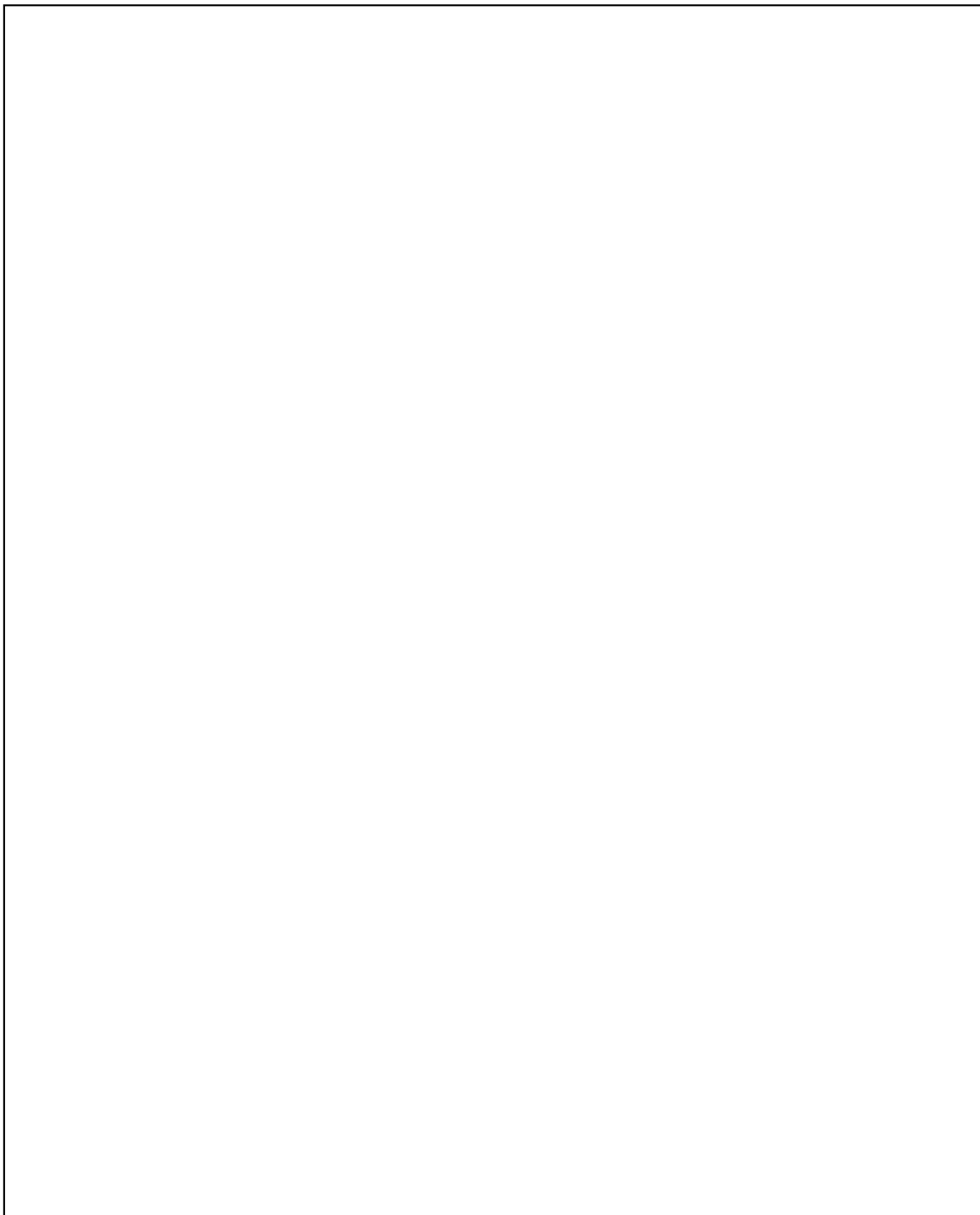
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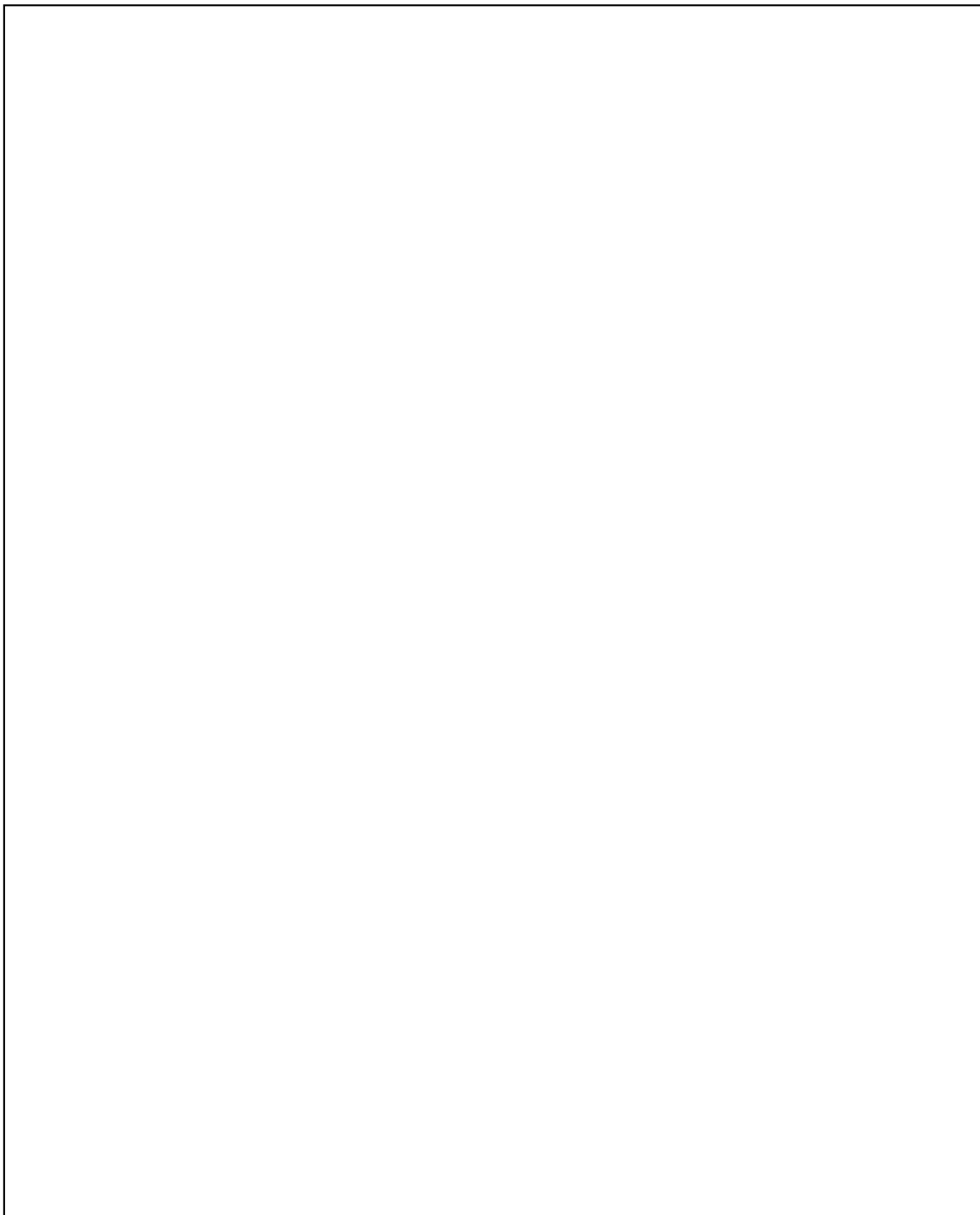
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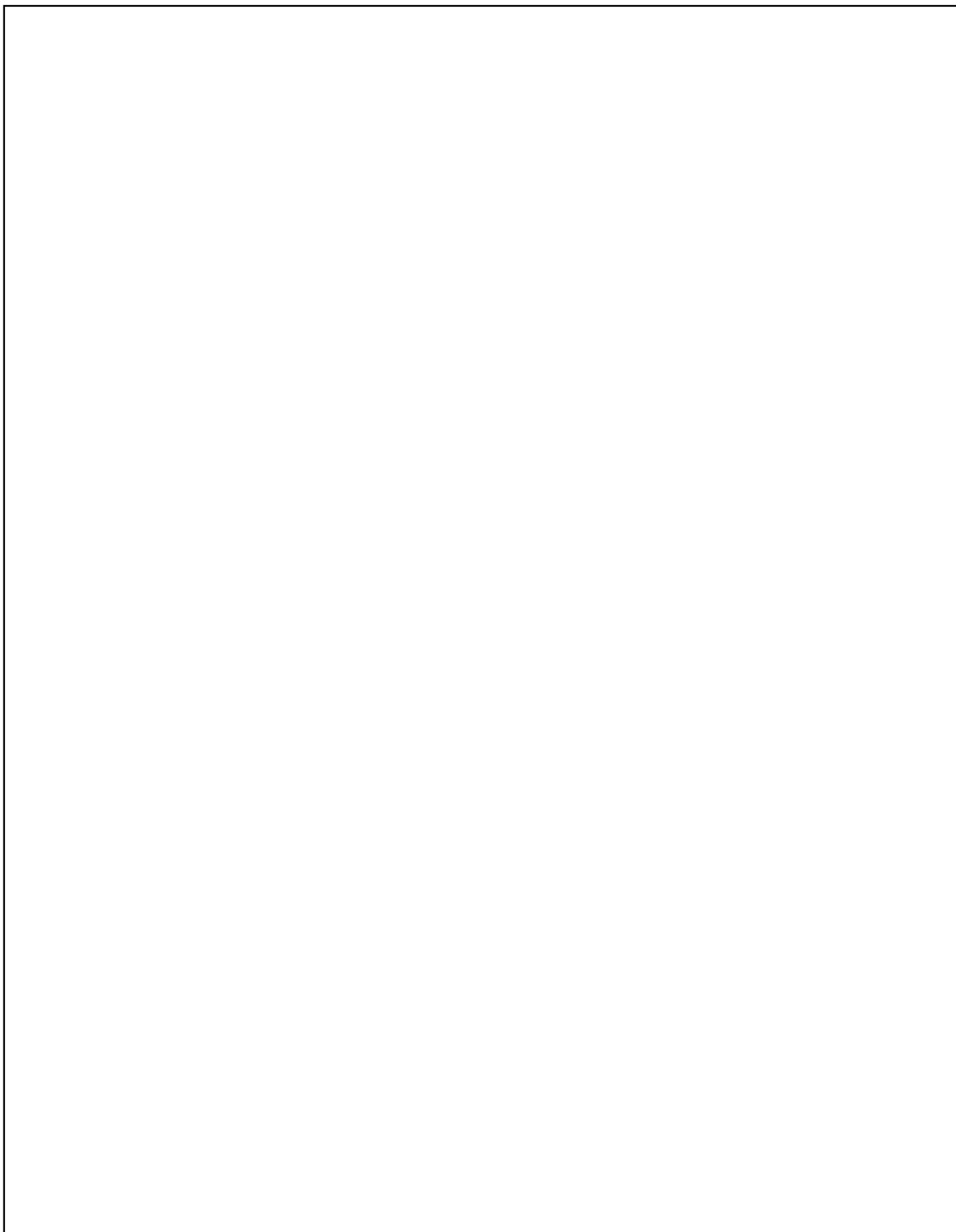
For each question: 1) Should USCIS send for biometrics? 2) Should USCIS grant SIJ DA?

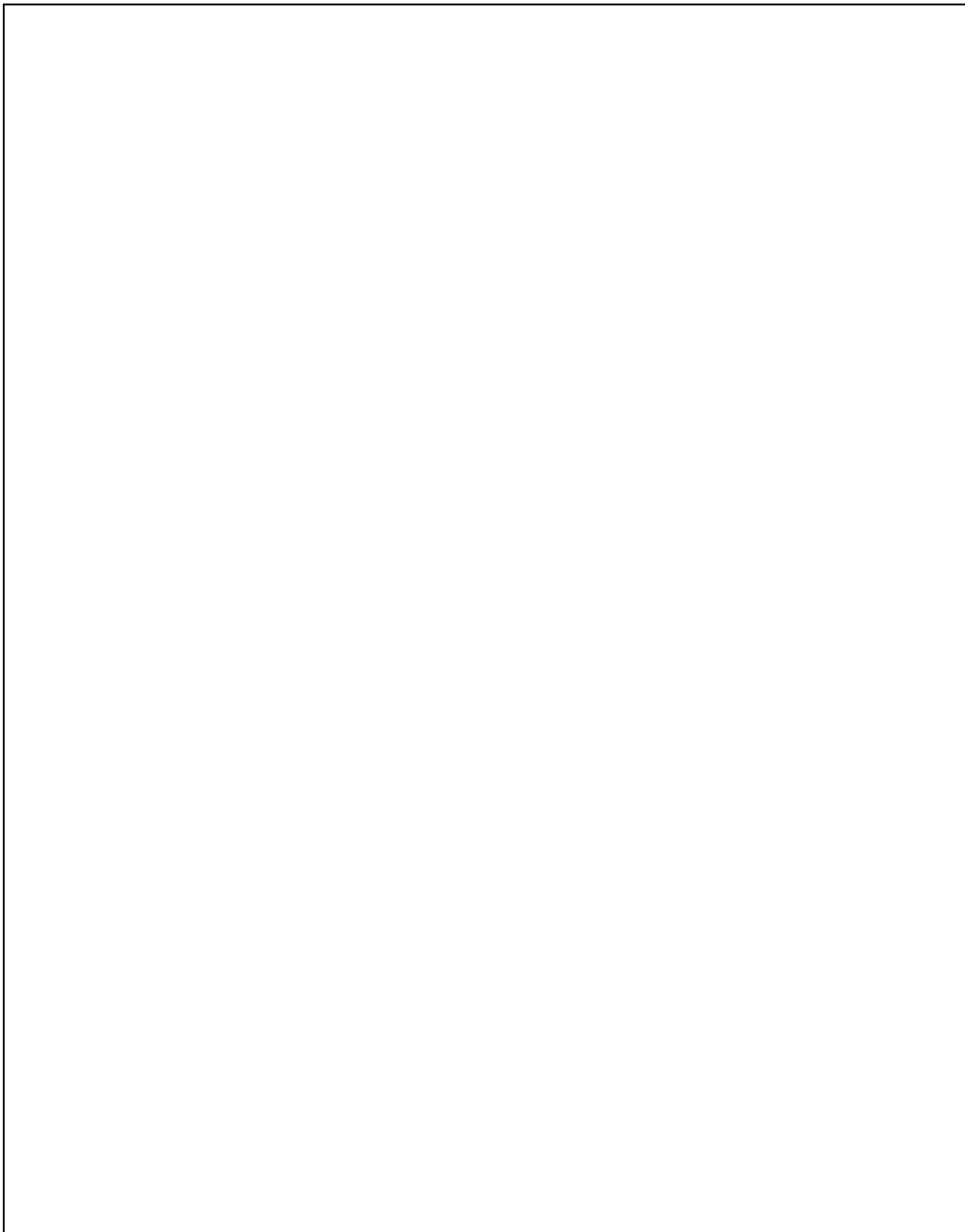




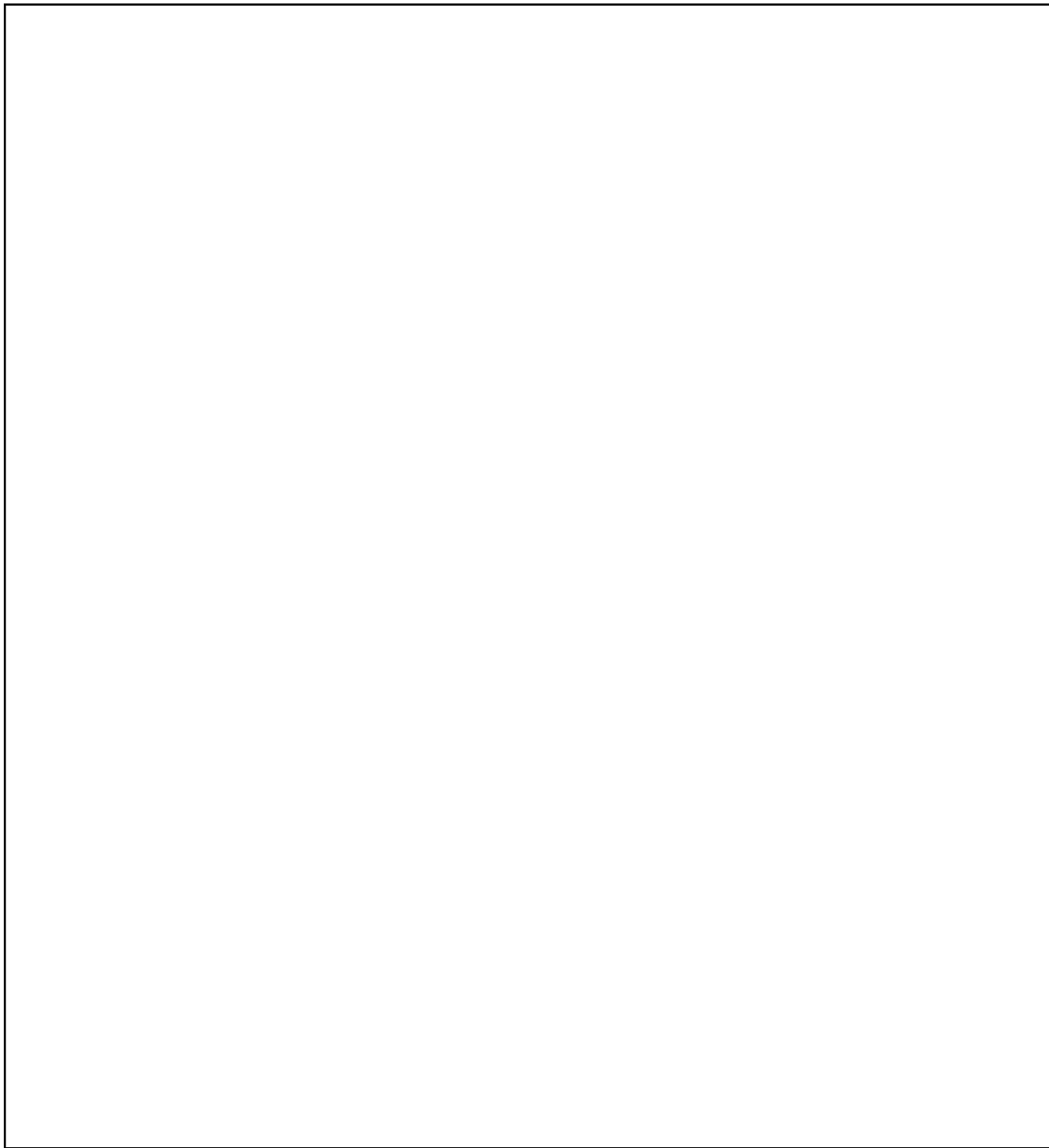








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SIJ Deferred Action Background

SIJ Deferred Action – Summary



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- An SIJ-classified individual may apply for Adjustment of Status only if an immigrant visa number is available in the employment-based fourth preference (EB-4) category.
- There is currently a multi-year wait for a visa to become available for individuals with approved SIJ I-360s.
- As a result, there is a large population of individuals who could be subject to removal and who reside in the United States without employment authorization.
- **Deferred Action** is an act of administrative convenience to the government which gives some cases lower priority for removal from the United States for a specified time-period.
- An individual with Deferred Action may apply for an I-765 under category (c)(14).

SIJ DA Background

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SIJ Deferred Action- ICE Removal Priorities



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- **ICE Directive 11005.3:** Using a Victim-Centered Approach with alien Crime Victims (“The Victims Memo”), indicates that SIJs are generally not enforcement priorities and states that absent exceptional circumstances, ICE defers enforcement actions against SIJs until they adjust status.
 - Thus, granting deferred action to SIJs further conserves DHS resources by focusing on the enforcement of higher priority cases, such as aliens who pose a threat to national security, public safety, and border security.
 - SIJ DA may be granted for those in removal proceedings, those with final removal orders, and those who have been removed.
 - However, SIJ DA may not be granted for someone in ICE detention or in state / federal detention with an ICE detainer.

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SIJ Deferred Action Policy



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- USCIS implemented the SIJ Deferred Action (SIJ DA) policy on May 6, 2022, to provide deferred action and work authorization to those with approved I-360s, who cannot apply for adjustment of status solely because a visa is not available.
- An *approved* I-360 granting SIJ classification is required to be *considered* for SIJ DA.
- During the adjudication of Form I-360, USCIS will automatically consider eligible SIJs for DA; no request is required.
- A grant of deferred action for eligible SIJs is for a period of 4 years
- An individual with SIJ DA may apply for and be granted employment authorization for the period of deferred action by filing an Application for Employment Authorization (Form I-765) under the (c)(14) category

See 6 USCIS-PM J.4.

SIJ DA Background

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SIJ Deferred Action on Form G-325A



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- In December 2024, USCIS published Form G-325A, Biographic Information (For Deferred Action).
- The new G-325A includes a selection for SIJ DA and is available for subsequent (“renewal”) requests of SIJ DA as well as certain initial requests.
- The new G-325A includes a selection to request employment authorization so that a separate I-765(c)(14) is unnecessary.
- Unlike the SIJ I-360, the G-325A requires biometrics.
- Note that upon implementation of the SIJ DA policy in May 2022, USCIS automatically identified individuals with previously approved SIJ I-360s and considered them for SIJ DA. Therefore, there should be few initial requests for SIJ DA.

SIJ DA Background

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SIJ Deferred Action on Form G-325A cont.



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- Individuals with SIJ classification may submit *initial* and *subsequent* requests for SIJ DA on Form G-325A and select a box to request employment authorization.
- Initial requests:
 - An individual may request *initial* SIJ DA if he or she has an approved SIJ I-360, a visa is not available to file an I-485, and he or she has not received a previous determination of SIJ DA.
 - This may include situations in which visas retrogress, and an individual was eligible for, but not considered for SIJ DA.
- Subsequent requests:
 - An individual may request *subsequent* SIJ DA within 150 days of the expiration of the previous grant of SIJ DA, if he or she has an approved SIJ I-360 and a visa is not available to file an I-485.
 - Note: individuals will not be eligible to file for a subsequent request until December 2025 - 150 days before May 2026.
 - Subsequent requests for SIJ DA will be rejected until December 2025.

SIJ DA Background

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Deferred Action – Preliminary Eligibility



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- The SIJ DA policy was established to consider deferred action and work authorization for individuals who have an approved I-360 granting SIJ classification, and do not have a visa available based on the DOS Final Action Date chart.
- Before approving the SIJ I-360, decide whether you must consider SIJ DA.
 - If there is **no visa available**, then USCIS will consider whether to exercise discretion to grant SIJ DA.
 - If a visa **is available**, adjudicate the SIJ I-360 without consideration of deferred action, using the “DA” “Case Approved” history action code.

The exercise of discretion will be discussed in detail later in the presentation.

Deferred Action – Visa Availability



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- To determine if alien meets preliminary criteria for consideration of SIJ DA:

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-
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-
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Preliminary Eligibility- Presence in the U.S.



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- An individual must be physically present in the U.S. to receive SIJ DA, BUT
 - For the population eligible for consideration for SIJ DA, it is difficult to determine presence in the U.S., particularly without the ability to send an RFE or NOID.
 - Note: USCIS will not issue an RFE or NOID related to deferred action because the individual has not requested deferred action, and it is a discretionary determination.
- USCIS will presume presence in the U.S. for purposes of granting SIJ DA
- However, physical presence is required to approve the I-360.

Grant SIJ I-360 with Deferred Action



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- If there is no derogatory information, USCIS will generally exercise discretion to grant SIJ DA, apply *JADA HAC- SIJ I-360 Granted With Deferred Action*, which:
 - Sends an Enterprise Print Management System (EPMS) I-797 approval notice indicating the SIJ I-360 has been approved with Deferred Action and eligibility to apply for an I-765 under category (c)(14),
 - Updates Case Status Online (CSOL), and
 - Updates the CIS2 class of admission to DAS (Deferred Action Status).
 - Notices will go to both the attorney of record or accredited representative and the AR-11 address.



Pending and Future I-
360

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Review of Background Checks to Consider SIJ DA



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- If TECS, NCIC, EARM, CPMS-IVT, or another system, contains information that indicates the individual may be **ineligible to adjust status** due to an inadmissibility ground that cannot be waived under INA 245(h), then USCIS may exercise discretion not to grant SIJ DA.
- If there is information that the individual may be ineligible to adjust status:-
 - Do not send an RFE or NOID for criminal convictions, charges, or investigations.
 - Send National Security cases through your chain of command.
 - Consider whether an IdHS criminal history record would be useful. Check to see if there are biometrics that can be reused from another form under current USCIS policy.

Pending and Future I-
360

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Biometrics for SIJ DA - Pending and Future



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If ordering biometrics, separate the approval of the SIJ I-360 from the determination of whether to grant SIJ DA to help ensure adjudication within 180 days.

- First approve SIJ I-360 separately using the “DA” Approved / Notice Ordered HAC.
- Once biometric results are available, determine whether to grant SIJ DA and apply one of the following SIJ DA HACs for the *previously approved I-360*.
 - JDAG- SIJ DA granted for previously approved SIJ I-360
 - JDAD- SIJ DA not granted for previously approved SIJ I-360



Pending and Future I-
360

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Grant SIJ I-360 without Deferred Action



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- If biometrics are available, you may exercise discretion not to grant SIJ DA. If biometrics are not available, you must request them before a decision not to grant SIJ DA.
- Additionally, if the petitioner is in ICE detention, we cannot grant deferred action and should use this option.
- Seek supervisor review.
- With supervisor approval, enter “JADN” HAC- *SIJ I-360 Granted Without Deferred Action* which will:
 - Send an I-797 SIJ I-360 Approval Notice that indicates approval of the SIJ I-360 without a grant of SIJ DA, and
 - Update CSOL

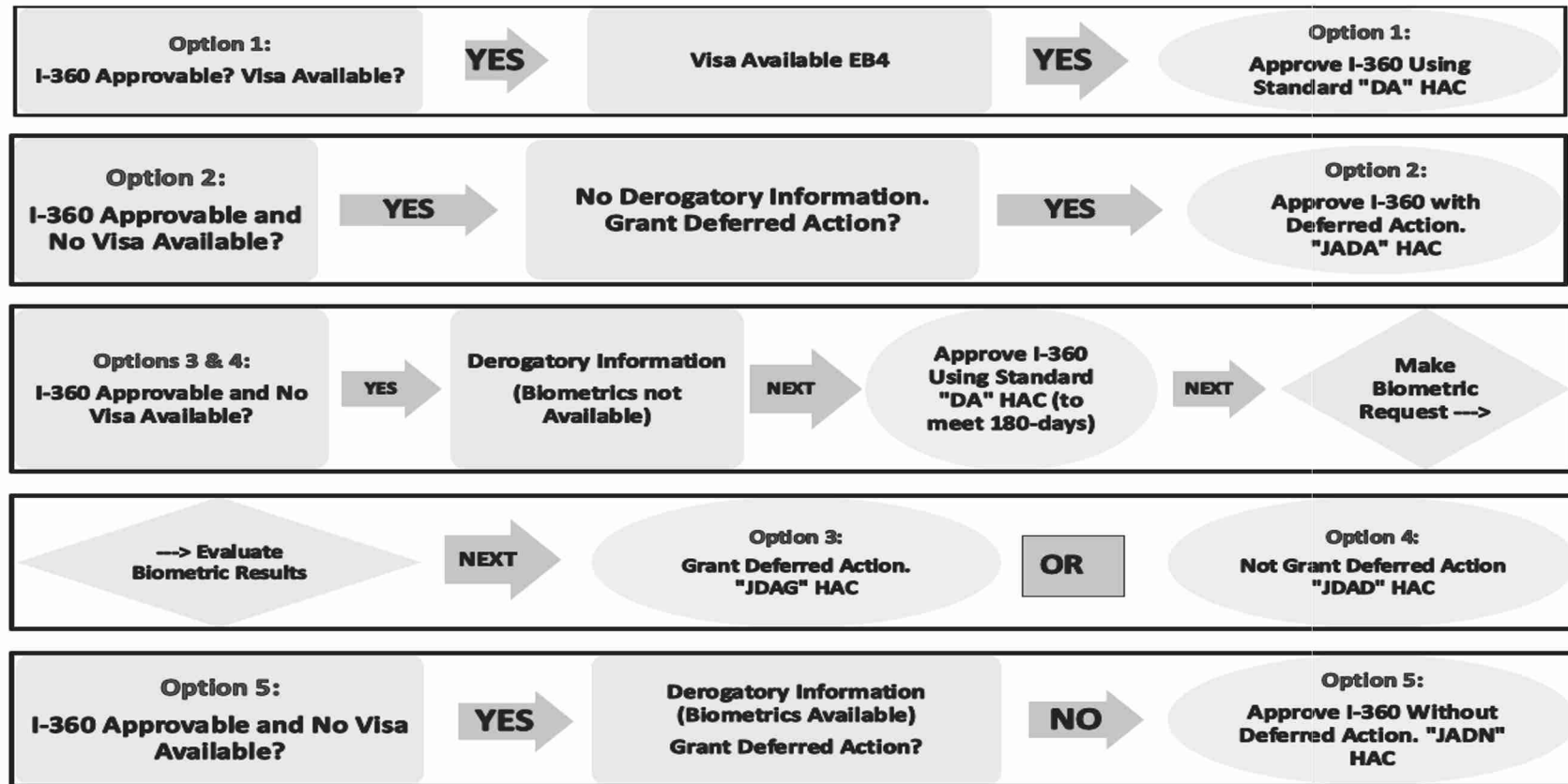


Pending and Future I-
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Process Flow for SIJ Deferred Action History Action Codes



SIJ DA HACs that Grant SIJ DA



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HAC Name	Notes:	
DA- Approved / Notice Ordered	<p>Common</p> <ul style="list-style-type: none"> • Use when visa available to file, pending or approved I-485. Approves the I-360. • Use to approve I-360 while waiting for biometrics. • This HAC only approves the I-360 and does not address deferred action. 	
JADA- <u>SIJ I-360 Approved with Deferred Action</u>	<p>Most Common</p> <ul style="list-style-type: none"> • Meets deferred action criteria. • Generates I-360 Approval Notice with deferred action. 	
JDAG- <u>SIJ Deferred Action Granted</u>	<p>Common</p> <ul style="list-style-type: none"> • Use when I-360 was previously approved and now adding a grant of deferred action • Generates amended I-797 Approval Notice to indicate deferred action granted after previous I-360 approval. • This does not re-approve the I-360. • Use after I-360 has been approved (using "DA HAC) and biometrics do not indicate likely inadmissible to adjust status. 	

Previously Approved I-360

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SIJ DA HACs that Do Not Grant SIJ DA



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HAC Name	Notes:
JADN- <u>SIJ I-360 Approved Without Deferred Action</u>	<p>Very Uncommon</p> <ul style="list-style-type: none"> • Use when approving the I-360 but not granting deferred action because likely inadmissible to adjust status. • I-360 approval notice indicates USCIS considered and did not grant DA.
JDAD- <u>SIJ Deferred Action Not Granted</u>	<p>Most Uncommon</p> <ul style="list-style-type: none"> • Deferred action considered and not granted • Generates amended I-797 Approval Notice to indicate deferred action was considered and not granted after previous I-360 approval. • This does not re-approve the I-360. • Use after I-360 has been approved (using "DA HAC) and biometrics results show likely to be inadmissible to adjust status.
JDAT- <u>SIJ Deferred Action Terminated Notice Ordered</u>	<p>Very Uncommon</p> <ul style="list-style-type: none"> • Terminates Deferred Action • Once USCIS has granted DA, the only way to remove is to terminate. Other HACs will not work (ex. JADN/JDAD).

Previously Approved I-360

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SIJ DA- HAC Tips



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- JADN (I-360 grant without DA), JDAD (previous I-360 grant without DA) should be reserved for use when there is derogatory information.
- JDAT will generally be reserved for derogatory information, but there could be a case-by-case exception.
- Do not enter the codes JADA / JDAG and THEN JADN / JDAD. Once we grant DA, the only way to take it away is to terminate DA (JDAT).
- Ensure that you do not enter HAC codes that send conflicting notices. If a correction is necessary, consider how to communicate it.
- If there **is a** visa available, just use the regular “DA” I-360 approval notice. Do not use a “J” code.

SIJ DA Background

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Post-Approval SIJ DA Actions

No Motion or Appeal Rights



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- A determination not to grant SIJ DA is discretionary and is not reviewable. Thus, there are no motion or appeal rights.
- If USCIS receives an I-290B, Notice of Appeal or Motion based on a determination not to grant SIJ DA and:
 - The "motion to reopen" or "motion to reconsider" boxes are selected the I-290B would generally be denied.
 - The "appeal" box is selected, NBC would send the case to the AAO. The AAO would generally reject the appeal for lack of jurisdiction.
- If USCIS determines that it erred, it may send an amended I-797 Approval Notice that includes a grant of deferred action.
 - HAC Previous Action Cancelled
 - Add JDAG, Deferred Action Granted for previously approved I-360.



Post Adjudications
Actions

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Termination of SIJ DA



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- USCIS may consider termination of SIJ DA:
 - If information arises indicating the individual no longer warrants the exercise of discretion for a grant of SIJ DA, or
 - If ICE or another government agency requests termination of DA, or
 - Upon revocation of the SIJ I-360.
- Termination of SIJ DA does not require a Notice of Intent to Terminate.
- Use ECHO Template to issue a Notice of Termination of SIJ DA.
- Update HAC *JDAT- SIJ Deferred Action Terminated Notice Ordered*.
 - Updates Benefits Hub and C3 History
 - Updates CSOL



Post Adjudications
Actions

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Exercise of Discretion to Grant SIJ Deferred Action

Exercise of Discretion



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- A decision based on discretion:
 - Identifies favorable and unfavorable factors
 - Considers the cumulative weight of favorable and unfavorable factors
 - Indicates the final decision on the issue of discretion
- SIJ DA is discretionary and requires weighing positive and negative factors.
 - **Positive:** Approval of an SIJ I-360 is a strong positive factor in favor of exercising discretion to grant deferred action.
 - **Negative:** Convictions that indicate the individual would be ineligible to adjust status based on an inadmissibility ground that cannot be waived would generally be a strong negative factor.
- However, USCIS may exercise discretion favorably notwithstanding the above concerns if case-specific circumstances warrant it.

Discretion Linked to Eligibility to Adjust Status



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- **Would likely be ineligible:** For those who appear to be ineligible to adjust status due to a conviction or other information, USCIS will consider this to be a strong factor weighing against the favorable exercise of discretion to grant SIJ deferred action.
- **May be ineligible:** For those who may be ineligible to adjust status due to an unresolved criminal charge or investigation for an inadmissibility ground under INA 212(a)(2) (criminal grounds) or 212(a)(3) (security grounds) that cannot be waived, USCIS will weigh the positive and negative factors to determine:
 - ***whether the risk of granting SIJ DA outweighs the possibility of not granting SIJ DA to a alien who later may be eligible to adjust status.***

Exercise of Discretion

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Evidence for Discretionary Determination



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- **Systems:** USCIS will rely on system checks to identify information that may indicate ineligibility to adjust status due to an inadmissibility ground that cannot be waived. Systems may include TECS, NCIC, EARM, EOIR, CPMS and others.
- **No RFE / NOID:** USCIS will *not* issue a Request for Evidence or a Notice of Intent to Deny to request additional information about criminal convictions, charges or investigations.
- **Preponderance of the Evidence Standard of Proof:** does not apply because SIJ DA is a discretionary determination.

Deferred Action is not a benefit and SIJ DA is not a “program.” Rather it is a purely discretionary determination. Additionally, USCIS considers deferred action without request of the petitioner. The requirement to provide an opportunity to rebut derogatory information under 8 C.F.R. 103.2(b)(8)(iv) does not apply to SIJ DA.

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Use of Biometrics / iDHS Records



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- The SIJ I-360 does not require biometrics.
- Generally, criminal history, and in some cases national security concerns, do not impact the adjudication of the SIJ I-360 because SIJ classification is not a benefit or that provides lawful status.
- For SIJ DA, USCIS may reuse biometrics (if policy permits) or request biometrics at an Application Support Center on a case-by-case basis when there are public safety or national security indicators.
- If an individual is the subject of a current investigation, refer the case to the Background Check Unit for deconfliction with the investigating entity prior to sending the case for biometrics.

Exercise of Discretion

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Requesting Biometrics from ASC



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- Approve I-360 before requesting biometrics. Use the **DA HAC** (Approved / Notice Ordered) to meet 180-day adjudication}. Use approval paragraph “indicated would adjust status, appears eligible now”.

- Request biometrics: (b)(7)(E)

A large rectangular box with a black border, intended for a request. On the left side of the box, there are three small circles, likely for binder holes.

Exercise of Discretion

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Biometric Results



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- If the petitioner is likely to be eligible to adjust status, use the **JDAG HAC** to send notice indicating the petitioner has a previously approved SIJ I-360 and is now being granted deferred action.
- If unlikely to be eligible to adjust status, use the **JDAD HAC** to send a notice indicating the petitioner has a previously approved SIJ I-360, was considered for biometrics and not granted.
- If fail to appear for biometrics twice, use the **JDAD HAC** to send a notice indicating the petitioner has a previously approved SIJ I-360, was considered for biometrics and not granted.

Exercise of Discretion

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Inadmissibility Grounds that Cannot be Waived

Inadmissibility Grounds that Cannot be Waived



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Inadmissibility Grounds that are NOT WAIVABLE for SIJ-Adjustment under INA 245(h)	
§212(a)(2)(A)(i)(I)	CIMT
§212(a)(2)(A)(i)(II)	Controlled substance violations (except 30 g marijuana)
§212(a)(2)(B)	Multiple criminal convictions w/ aggregate sentence of 5 yrs
§212(a)(2)(C)	Controlled substance traffickers
§212(a)(3)(A)	Security and related
§212(a)(3)(B)	TRIG
§212(a)(3)(C)	Adverse foreign policy
§212(a)(3)(E)	Nazi persecution, genocide

Inadmissibility Grounds

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Criminal Inadmissibility



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Generally, a non-citizen may be inadmissible if:

- Has a conviction or
- Admits to having committed acts constituting the essential elements of the crime

Conviction Requires Formal Judgement of Guilt + Punishment

- Formal Judgment of Guilt may be by Judge, Jury, Plea, Admission to Facts
- Punishment includes any Penalty or Restraint on Liberty

Juvenile Offenses



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Offense Committed While a Minor

- Juvenile delinquency adjudication is **not** a conviction
- If a minor is tried as if an adult, a judgment of guilt **is** a conviction
- A conviction as an adult in a court outside the United States is treated as juvenile delinquency adjudication, if the offense would have been dealt with in the United States before a juvenile court

Crimes Involving Moral Turpitude (CIMT)



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- **Inadmissibility under INA § 212(a)(2)(A)(i)(I) requires:**
 - Conviction, or
 - Admission to acts, which constitute the essential elements of a crime involving moral turpitude.
- **CIMT Defined:**
 - CIMT is not defined by statute but is defined by court interpretations.
 - Generally, involves reprehensible conduct & *scienter* (intentional or reckless state of mind).
 - Crime is inherently base, vile, or depraved, contrary to the rules of morality.
- **Primary categories:**
 - Crimes against the person Crimes against property Crimes against government

CIMT Examples



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Crimes against the person:

- CIMT: Murder, voluntary manslaughter, rape, aggravated assault, kidnapping, failure to register as a sex offender, child abuse, spouse abuse
- Not CIMT: Attempted suicide, simple battery, libel, mailing an obscene letter, indecent exposure.

Crimes against property:

- CIMT: Robbery, burglary, theft, extortion, blackmail, arson, forgery, larceny.
- Not CIMT: Criminal mischief, issuing a check with insufficient funds, joyriding.

Crimes against the government:

- CIMT: Counterfeiting, perjury, tax evasion, welfare fraud, using mail to defraud, receipt of kickbacks.
- Not CIMT: Contempt of court, contempt of Congress, gambling offense, desertion from armed forces.

Drugs:

- CIMT: Distribution of drugs (*e.g.*, cocaine), Drug trafficking
- Not CIMT: Simple drug possession- but would generally be a controlled substance offense.

DUI:

- CIMT: Aggravated DUI (DUI + Suspended License) may be a CIMT
- Not CIMT: Simple DUI

Inadmissibility Grounds

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Exceptions vs. Waivers



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Exception to Inadmissibility Ground: Non-citizen is not inadmissible because the ground does not apply. Applies automatically.

Waiver of Inadmissibility Ground: Non-citizen is inadmissible and must apply for a Waiver of the inadmissibility.

Inadmissibility Grounds

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Exceptions to CIMT



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Purely Political Offense (rarely used because requires foreign conviction):

- Conviction based on fabricated charges motivated by race, religion, or political minorities.

Youthful Offender (rarely used because would have to be under 18 and charged as an adult):

- Committed only one crime (one CIMT),
- Under age 18 and,
- CIMT committed and released from confinement (if sentenced to more than 5 years) before application for visa, admission or adjustment.

Petty Offense (may apply):

- Committed only one crime (one CIMT),
- Maximum penalty did not exceed one year imprisonment, and
- Not sentenced to term of imprisonment in excess of 6 months, regardless of execution.

Controlled Substance Violation



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Controlled Substance Violation: § 212(a)(2)(A)(i)(II)

- Convicted of, or admits committing acts which constitute the essential elements of, a violation of (or conspiracy or attempt to violate) *any law or regulation* of a state, the United States, or a foreign country relating to a controlled substance ...
- Waiver ONLY for a single offense of simple possession of 30 grams or less of marijuana. Requires an I-601, Application for Waiver of Grounds of Inadmissibility

Inadmissibility Grounds

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Multiple Criminal Convictions



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Multiple Criminal Convictions: § 212(a)(2)(B)

- Convicted of 2 or more offenses
 - Regardless of whether in a single trial,
 - Regardless of whether arose from a single scheme of misconduct,
 - Regardless of whether the offenses involved moral turpitude, and
 - for which the aggregate sentences to confinement were 5 years or more
- No waiver

Inadmissibility Grounds

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Drug Trafficking - Reason to Believe

Drug Trafficking: § 212(a)(2)(C)



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knows or has reason
to believe

is or has been an
illicit trafficker

or is or has been a
knowing assister, abettor,
conspirator, or colluder

Relative of Drug Traffickers: § 212(a)(2)(C)(ii)

Spouse, son, or daughter

Financial or other
benefit from illegal
activity (knew or
should have known)

Within the
prior 5 years

No waiver

Inadmissibility Grounds

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Security and Related – INA § 212(a)(3)



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212(a)(3)(A)(i) - Espionage, sabotage, export

- Damage to things used to protect the U.S.
- Applies only to present and future activities.
- No waiver

212(a)(3)(A)(ii) - Unlawful activity

- Reason to believe the alien seeks to enter to engage in “any other unlawful activity”
- Not as broad as it sounds
- Adverse impact on U.S. national security or public safety
- Used on criminal gangs and organized crime
- No waiver

Security and Related – INA § 212(a)(3)



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212(a)(3)(A)(iii) - Overthrow of U.S. government

- Activity intended to oppose, control, or overthrow the U.S. government by force, violence or other unlawful means.
- No waiver

212(a)(3)(B)(i) - Terrorist activity

- Engaging in terrorist activity- includes involvement with terrorist organization, being a member, or providing material support.
- Reasonable ground to believe entry or proposed activities in the U.S. would have potentially serious adverse foreign policy consequences.
- Determined by Secretary of State
- No waiver

Inadmissibility Grounds

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SIJ Deferred Action Discretionary Determination Examples

(b)(7)(E)

Records that Generally will not Impact SIJ DA



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Examples of CIMTs that are likely to fall within the petty offense exception if there is only one crime, or crimes that are not CIMTs: DUI / Suspended License, Battery / Assault (not aggravated), Domestic Violence (not aggravated), Theft / Larceny, Wanted person for crimes that would not result in ineligibility to adjust status, Conspiracy to commit crimes that would not result in ineligibility to adjust status.

Discretion Examples

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(b)(7)(E)

Gang Membership - An Approach



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Gang Membership is not an inadmissibility ground under INA 212(a).

-

-

- Examples:

-

-

-

Discretion Examples

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Criminal Charges Without Disposition

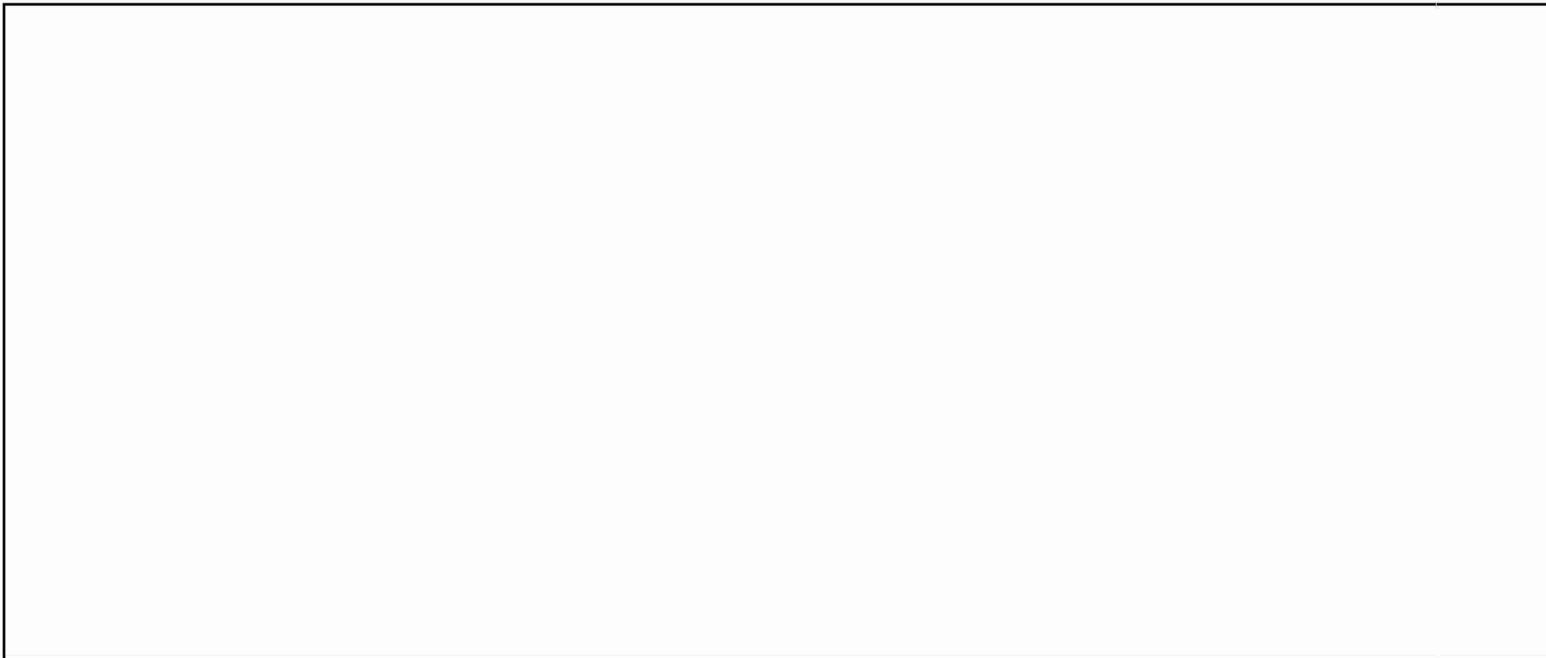
- With few exceptions, criminal inadmissibility grounds require a conviction.
- However, where there are pending charges or investigations that, if convicted, would result in ineligibility to adjust status, USCIS may weigh all factors and exercise discretion not to grant SIJ DA.
- For example, USCIS may exercise discretion not to grant SIJ DA if there is a pending robbery, rape, or murder charge or investigation.
- However, USCIS may exercise discretion to grant SIJ DA if there is one charge for assault, battery, DUI etc.

(b)(7)(E) (b)(5)



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SIJ DA Examples - TECS / EARM / IdHS



Discretion Examples

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(b)(7)(E) (b)(5)



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SIJ DA Examples - TECS / EARM / IdHS

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5.

6.



Discretion Examples

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(b)(7)(E) (b)(5)

SIJ DA Examples - TECS / EARM cont.



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7.

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9.

10.

Discretion Examples

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(b)(7)(E) (b)(5)

SIJ DA Examples - TECS / EARM cont.



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11.

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13.

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Discretion Examples

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SIJ DA Examples - NCIC



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Discretion Examples

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(b)(7)(E) (b)(5)

SIJ DA Examples - NCIC



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23.

24.

Discretion Examples

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From: Johnson, Jerome D
To: Steele, Terri L
Subject: FW: Effective Immediately: SIJ Deferred Action Pause
Date: Thursday, April 10, 2025 10:38:31 AM
Attachments: image001.png
image002.png
Importance: High

Hi Terri,

Please see below regarding messaging on the SIJ DA pause to NBC adjudicators. As mentioned on Teams, we received this direction from FOD AD Michael Valverde via NBC Director Terri Robinson.

Thanks!

Jerome Johnson

Section Chief

National Benefits Center – Division 6, Section 2

U.S. Citizenship and Immigration Services

Department of Homeland Security

Office (b)(6)

From: Johnson, Jerome D

Sent: Monday, April 7, 2025 2:38 PM

To: Bishop, Debbie S (b)(6); Cameron, Trisha L (b)(6); Braley, Sharon K (b)(6); Romans, Donna S (b)(6); Jurkiewicz, Thomas G (b)(6); Moran, Ioana (b)(6); White, Chareda M (b)(6); Jeter-Boldt, Michael (b)(6); (b)(6); Abdulqaadir, Yuno H (b)(6); Ansah, Mariam N (b)(6); Barnhart, Aimee M (b)(6); Baughman, Lori M (b)(6); Berg, Tait N (b)(6); Brasil, Caleb J (b)(6); Cal Lawanson, Omorinola O (Morin) (b)(6); Cisneros, Jennifer K (b)(6); Daugherty, Samantha M (Sam) (b)(6); Davis, Sonya J (b)(6); Deaver, Whitney A (b)(6); Holtgreffe, Lidiya (b)(6); Huckabey, Marjorie J (b)(6); Hyre, Kerry F (Kerry Hyre) (b)(6); James, Victor L (b)(6); Johnson, Jerome D (b)(6); Kaky, Nazaneen A (b)(6); Kelley, Mitchell J (b)(6); Lansdale, Joshua D (Josh) (b)(6); Lawyer, Benjamin J (b)(6); Leary, Mary A (b)(6); Love, Nicole A (b)(6); Martinez, Natalie J (b)(6); Nash, Kylie E (b)(6); Nguyen, Hung P (b)(6); Pannier, Claudia C (b)(6); Pool, Brandon T (b)(6); Renfrow, Victoria (b)(6); Taylor, Ashley L (b)(6); Taylor, Melissa A (b)(6); Ward, Ke'Anthony L (b)(6); Ward, Sydney N (b)(6); Warnock, Michelle M (b)(6); Watkins, Brenda S (b)(6); Williams, Bryan A (b)(6); Williams, Rachel A (b)(6); Yockey, Cara S (b)(6); Alien, Sierra L (b)(6); Broomfield, Geraldina M (b)(6); Brown, Malcolm A (b)(6); Buda, Nathan B (b)(6); Burton, Spencer R (b)(6); Chiari, Roberto R (b)(6); Eaton, William J (Jason) (b)(6); Fairfield, Alexandria N (b)(6); Frazier, Kimberle (b)(6); Hansen, Layne A (b)(6); House, Robert F (Bob) (b)(6); Kaufmann, Timothy A (b)(6); Mitchem, Bobby R (b)(6); Myers, Derrick T (b)(6); Oliver, Caryn E (b)(6); Pinkerton, Yesenia (b)(6); Rieschick, Travis S (b)(6); Roy, Michael E (b)(6); Rucker, Paris A (b)(6); Shands, Felicia L (b)(6); Slifer, Shawna L (b)(6); Stanley, Matthew R (b)(6); Swann, Georgette E (Geo) (b)(6); Waters, Amber N (b)(6); Wright Baker, Kenna L (b)(6); Xiong, Pang (b)(6); Ahiakpor, Kobla V (kobla) (b)(6); Arevalo, Paul (b)(6); Blanks, Angelina N (b)(6); Bly, Duane A III (b)(6); Boell, Aaron M (b)(6); Brooker, Marcus W (b)(6); Davis, Erma J (b)(6); Edwards, Timothy J (Tim) (b)(6); Evans, Heather J (b)(6); Gorga, Andrew J (b)(6); Ison, Laura J (b)(6); James, Otoabasi J (b)(6); Jurkiewicz, Joseph (b)(6); Kabahuma, Kawino (b)(6); Kellerman, Nicholas F (b)(6); Kern, Nathaniel A (b)(6); Marinar, Catherine A (Cathy) (b)(6); Middleton, Matthew J (b)(6); Miller, Fredrick H (Rick) (b)(6); More, Timothy T (TODD) (b)(6); Nading, Jill S (b)(6); Nourie, Andrea R (b)(6); Peeples, Joseph R (b)(6); Petty, Steven Y (b)(6); Rodriguez Ruedas, Reidel (b)(6); Savio, Theresa-Mae B (b)(6); Solis, Cristian A (Chris) (b)(6); Swinger, Jared M (b)(6); Tiberio, Joseph E (b)(6); Willig, David D (b)(6); Wolfe, Christine K (Chris) (b)(6); Wong, Nikki L (b)(6); Bourn, Amy M (b)(6); Fretwell, Krista D (b)(6); Kelley, Crystal E (b)(6); Kendrick, Rose M (b)(6); Robinson, Terri A (b)(6)

Subject: Effective Immediately: SIJ Deferred Action Pause
Importance: High

All –

FOD has advised the NBC to pause on granting SIJ deferred action to SIJ petitioners until further notice. **Effective immediately, please do not apply any of the following HACs when rendering a final decision on an I-360:**

- JADA
- JADN
- JDAG
- JDAD

To approve an SIJ I-360 without granting deferred action, select **DA – Approve – Order Notice** under the Decision Reason field in Benefits Hub:

Decisions

* Case Decision *
Approve

* Decision Reason *
DA - Approve - Order Notice

* Approval Paragraph *
Indicated Would Adjust Status; Appears Eligible Now

* Approved Class Preference *
SL6

* Priority Date *
12/27/2024

Cancel Finalize Decision

Please see your supervisor with any questions.

Thank you,

Jerome Johnson

Section Chief

National Benefits Center - Division 6, Section 2

U.S. Citizenship and Immigration Services

Department of Homeland Security

Office



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(b)(6)

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PART F – DEFERRED ACTION

Chapter 5: Special Immigrant Juvenile Deferred Action (SIJ DA)

A. For Special Immigrant Juvenile-Based Requestors

1. Background

On May 8, 2022, USCIS implemented a policy to automatically consider granting deferred action on a case-by-case basis to aliens with an approved SIJ-based Form I-360, Petition for Special Immigrant, Amerasian, or Widow(er), including an SIJ-based Form I-360 approved prior to May 8, 2022, where such SIJ-classified aliens are ineligible for adjustment of status solely due to the unavailability of an immigrant visa number. Consideration of SIJ deferred action (SIJ DA) takes place at the NBC. The NBC notifies the SIJ-classified aliens of the decision to grant or not grant SIJ DA. An SIJ-classified alien may not appeal, move to reopen, or reconsider a decision not to grant SIJ DA by the NBC. If NBC does not grant SIJ DA to such an alien but thinks his or her case warrants deferred action on another basis, NBC will refer the case to the field office with jurisdiction (see "NBC referral to field office" below for additional information on this process).

2. Process for Direct Request for Deferred Action to the Field Office from a SIJ-Classified Alien

If a field office receives a request for deferred action directly from a requestor with an approved SIJ-based Form I-360 who does not have a visa number available, the office will follow standard procedures except that the office will not: initiate TECS checks, request biometrics, or issue an RFE. Instead, the field office will forward the request to the NBC, following the steps below.

The field office will first verify that:

- Jurisdiction is proper with the field office,
- There is an approved SIJ-based Form I-360,
- There is no visa available using the Department of State Final Action Date chart under category EB-4, and
- The alien does not already have SIJ DA.
- If the alien does not meet the above criteria, consider DA under standard procedures.
- Order the A-files / T-files.
- If the alien meets the above criteria for consideration of SIJ-DA by the NBC, enter the case into NDAT and select as follows:
- "Select Region" "NBC- SIJ Only" and
- "Field Office Recommendation" "SIJ- Referred NBC".
- Place an SIJ DA Field Office Request Referral Memo in the file. See example memo below.
- Email the memo to NBCD6SIJ@uscis.dhs.gov with the subject line: "SIJ DA Field Office Request AXXXXXXXXX."
- Forward the file to the NBC- SIJ Division.
- The NBC will decide whether to grant SIJ DA and update the Form I-360 with one of the following history actions codes:
 - SIJ DA Field Request- Granted (HAC JFDA) or
 - SIJ DA Field Request- Not Granted (HAC JFDN)

3. NBC Referral to Field Office

If the NBC does not grant SIJ DA, but identifies another basis for deferred action, as indicated by the requestor, the NBC will create a referral memo and return the case to the field office with jurisdiction. The memo will describe the circumstances of the case and identify the alternate basis for deferred action for the field office to consider and adjudicate. The NBC must also email the memo to the FOD, copying Field Operations Div. 1 at FODDivision1@uscis.dhs.gov.

Example Memo from Field Office to NBC

Current as of: February 28, 2025



i USCIS Only Internal Version

[Home](#) > [Policy Manual](#) > [Volume 6 - Immigrants](#) > [Part J - Special Immigrant Juveniles](#) > Chapter 4 - Adjudication

Chapter 4 - Adjudication

Guidance

[Resources \(22\)](#)

[Appendices \(1\)](#)

[Updates \(11\)](#)

[History \(3\)](#)

A. Jurisdiction

USCIS has sole jurisdiction over petitions for special immigrant juvenile (SIJ) classification.^[1] Provided the petitioner is otherwise eligible, classification as an SIJ establishes eligibility to apply for adjustment of status.^[2]

B. Expeditious Adjudication

In general, USCIS issues a decision on a properly filed petition for SIJ classification within 180 days.^[3] The 180-day timeframe begins on the Notice of Action (Form I-797) receipt date.^[4]

The 180-day timeframe applies only to the initial adjudication of the SIJ petition. The requirement does not extend to the adjudication of any motion or appeal filed after a denial of an SIJ petition.

C. Interview

1. Determining Necessity of Interview

USCIS has discretion to interview SIJ petitioners for the purposes of adjudicating the SIJ petition.^[5] USCIS recognizes the vulnerable nature of SIJ petitioners and generally conducts interviews when an interview is deemed necessary. USCIS conducts a full review of the petition



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to determine whether an interview may be warranted. USCIS generally does not require an interview if the record contains sufficient information and evidence to approve the petition without an in-person assessment. However, USCIS retains the discretion to interview SIJ petitioners for the purposes of adjudicating the SIJ petition, as appropriate.

2. Conducting the Interview

Given the vulnerable nature of SIJ petitioners and the hardships they may face because of the loss of parental support, USCIS strives to establish a child-friendly interview environment if an interview is scheduled. During an interview, officers avoid questioning the petitioner about the details of the abuse, neglect, or abandonment suffered, because these issues are handled by the juvenile court. Officers generally focus the interview on resolving issues related to the eligibility requirements, including age.

The petitioner may bring a trusted adult to the interview in addition to an attorney or representative.^[6] The trusted adult may serve as a familiar source of comfort to the petitioner, but should not interfere with the interview process or coach the petitioner during the interview. Given potential human trafficking and other concerns, officers assess the appropriateness of the adult's attendance in the interview and observe the adult's interaction with the child. When appropriate, the officer may interview the child without that adult present. Although USCIS may limit the number of persons present at the interview, such limitations do not extend to the petitioner's attorney or accredited representative of record.^[7]

D. Requests for Evidence

Additional evidence may be requested at the discretion of the officer if needed to determine eligibility.^[8] To provide petitioners an opportunity to address concerns before issuing a denial, officers generally issue a Request for Evidence (RFE) or a Notice of Intent to Deny (NOID), where the evidence is insufficient to adjudicate the petition.^[9] The officer may request additional evidence for reasons such as, but not limited to:

- The record lacks the required dependency or custody, parental reunification, or best interest determinations;
- It is unclear if the order was made by a juvenile court or in accordance with state law;
- The evidence provided does not establish a reasonable factual basis for the determinations or indicate what protective relief was granted by the court;
- The record contains evidence or information that materially conflicts with the evidence or information that was the basis for the court order; or
- Additional evidence is needed to determine eligibility.

E. Fraud

There may be cases where the officer suspects or determines that a petitioner has committed fraud in attempting to establish eligibility for SIJ classification. In these cases, officers follow current procedures when referring a case to Fraud Detection and National Security (FDNS).^[10]

F. Decision

1. Approval

SIJ classification may not be granted absent the consent of the Secretary of Homeland Security. DHS delegates this authority to USCIS. Therefore, USCIS approval of the SIJ petition is evidence of DHS consent. USCIS notifies petitioners in writing upon approval of the petition.^[11]

2. Denial

If the petitioner does not provide necessary evidence or does not meet the eligibility requirements, USCIS denies the Form I-360 petition. If USCIS denies the SIJ petition, USCIS provides the petitioner with a written denial notice which includes a detailed basis for the denial.^[12] An SIJ petitioner may appeal an adverse decision or request that USCIS reopen or reconsider a USCIS decision.^[13] The denial notice includes instructions for filing a Notice of Appeal or Motion (Form I-290B).

3. Revocation

Automatic Revocation

An approved SIJ petition is automatically revoked as of the date of approval if any one of the circumstances below occurs before USCIS issues a decision on the SIJ's application for adjustment of status:^[14]

- Reunification of the SIJ with one or both parents by virtue of a juvenile court order,^[15] where a juvenile court previously deemed reunification with that parent, or both parents, not viable due to abuse, neglect, abandonment, or a similar basis under state law; or
- Reversal by the juvenile court of the determination that it would not be in the petitioner's best interest to be returned to the petitioner's, or the petitioner's parents', country of nationality or last habitual residence.

USCIS issues a notice to the petitioner of such revocation of the SIJ petition.^[16]

Revocation on Notice

In addition, USCIS, with notice, may revoke an approved petition for SIJ classification for good and sufficient cause such as fraud, or if USCIS determines the petition was approved in error.^[17] In these instances, USCIS issues a Notice of Intent to Revoke (NOIR) and provides the petitioner an opportunity to offer evidence in support of the petition and in opposition to the grounds alleged for revocation of the approval.^[18]

Under the *Saravia* Settlement Agreement, USCIS does not revoke a petition for SIJ classification based in whole or in part on the fact that the state court's best interest determination was not made with consideration of the petitioner's gang affiliation.^[19]

G. Deferred Action

1. Consideration for Deferred Action

A person granted SIJ classification may apply for adjustment of status to that of a lawful permanent resident if an immigrant visa number is immediately available in the employment-based 4th preference (EB-4) category,

and the person is otherwise eligible for adjustment of status.^[20] There is an annual limit on the total number of immigrant visa numbers available in the EB-4 category^[21] and an annual limit to the number of applicants from a given country.^[22] When an immigrant visa number is not immediately available, an alien with SIJ classification cannot apply for adjustment of status until new visas become available and the SIJ's priority date becomes current.^[23]

USCIS considers deferred action for an alien with SIJ classification if the person cannot apply for adjustment of status solely because an immigrant visa number is not immediately available. Deferred action is an act of prosecutorial discretion that defers proceedings to remove an alien from the United States for a certain period of time.

Deferred action does not provide lawful status. Generally, persons granted deferred action are eligible for work authorization if they can demonstrate economic necessity for employment.^[24]

A separate request for deferred action is not required, nor will it be accepted, for aliens with SIJ classification who are ineligible to adjust status solely because an immigrant visa number is not immediately available. USCIS automatically conducts deferred action determinations for such persons.

2. Case-by-Case Discretionary Determination

As in all deferred action determinations, USCIS considers on a case-by-case basis, based on the totality of the evidence, whether the person warrants a favorable exercise of discretion.^[25] In doing so, USCIS weighs all relevant positive and negative factors that apply to the person's case.^[26] USCIS may generally grant deferred action if, based on the totality of the facts and circumstances of the case, the positive factors outweigh the negative factors.^[27]

One particularly strong positive factor that weighs heavily in favor of granting deferred action is that the person has an approved Form I-360 and will be eligible to apply for adjustment of status as soon as an immigrant visa number becomes available. Additionally, the eligibility criteria for SIJ classification are generally strong positive factors in such a determination, including that a juvenile court determined that it was in the best interest of the SIJ not to be returned to the country of nationality or last habitual residence of the SIJ or the SIJ's parents.

A person who has been granted deferred action may apply for and be granted employment authorization for the period of deferred action.^[28] The person must file an Application for Employment Authorization (Form I-765) indicating eligibility category (c)(14).

3. Period of Deferred Action

If USCIS grants deferred action to an alien with SIJ classification in the exercise of discretion, USCIS authorizes deferred action for a period of 4 years. USCIS may consider requests for renewal of deferred action for aliens with SIJ classification who remain ineligible to apply for adjustment of status because an immigrant visa number is not immediately available. A person may submit a deferred action renewal request to USCIS 150 days before expiration of the period of deferred action. Renewal requests are subject to the guidance outlined above regarding eligibility and adjudication.

4. Termination

USCIS reserves the right to terminate the grant of deferred action and revoke the related employment authorization at any time as a matter of discretion. Examples may include, but are not limited to, cases where:

- USCIS determines the favorable exercise of discretion is no longer warranted;
- The [Form I-360](#) petition for SIJ classification is revoked; or
- The prior deferred action and related employment authorization were granted in error.

Footnotes

[¹] See Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)). See [8 CFR 204.11\(h\)](#).

[²] See Application to Register Permanent Residence or Adjust Status ([Form I-485](#)). Generally, an applicant may only apply to USCIS for adjustment of status if there is a visa number available for the special immigrant classification (EB-4), and the applicant is not in removal proceedings. If an SIJ is in removal proceedings, the immigration court must terminate the proceedings before USCIS can adjudicate the adjustment application. Conversely, the applicant may seek adjustment of status with the immigration court based on USCIS' approval of the SIJ petition. For more information, see Volume 7, Adjustment of Status, Part A, Adjustment of Status Policies and Procedures [[7 USCIS-PM A](#)], Part B, 245(a) Adjustment [[7 USCIS-PM B](#)], and Part F, Special Immigrant-Based Adjustment, Chapter 7, Special Immigrant Juveniles [[7 USCIS-PM F.7](#)].

[³] See Section 235(d)(2) of the Trafficking Victims Protection and Reauthorization Act of 2008, [Pub. L. 110-457 \(PDF\)](#), 122 Stat. 5044, 5080 (December 23, 2008).

[⁴] In *Casa Libre/Freedom House v. Mayorkas*, the court issued a Declaratory Judgment that the tolling provisions in [8 CFR 204.11\(g\)\(1\)](#) are not in accordance with the 180-day timeframe in [8 U.S.C. 1232\(d\)\(2\)](#) to the extent that they allow adjudication beyond the 180-day timeframe. See *Casa Libre/Freedom House v. Mayorkas*, No: 2:22-cv-01510-ODW, 2023 WL 4872892 (C.D. Cal. July 31, 2023).

[⁵] See [8 CFR 103.2\(b\)\(9\)](#).

[⁶] See [8 CFR 204.11\(f\)](#).

[⁷] See [8 CFR 204.11\(f\)](#).

[⁸] See [8 CFR 103.2\(b\)\(8\)](#).

[⁹] For more information on timeframes and responses to Requests for Evidence and Notices of Intent to Deny, see Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence, Section F, Requests for Evidence and Notices of Intent to Deny [[1 USCIS-PM E.6\(F\)](#)].

[¹⁰] A referral to FDNS does not change the 180-day timeframe for adjudication. However, the timeframe for processing will stop or be suspended for delays caused by the petitioner. See [8 CFR 103.2\(b\)\(10\)](#). See [8 CFR 204.11\(g\)\(1\)](#).

[¹¹] See [8 CFR 204.11\(h\)](#).

[¹²] See [8 CFR 204.11\(h\)](#).

[¹³] See [8 CFR 103.3](#). See [8 CFR 103.5](#). See [8 CFR 204.11\(h\)](#).

[^ 14] See 8 CFR 204.11(j)(1).

[^ 15] Revocation does not occur, however, where the juvenile court places the petitioner with the parent who was not the subject of the nonviable reunification determination.

[^ 16] See 8 CFR 205.1(b).

[^ 17] See INA 205. See 8 CFR 204.11(j)(2). See 8 CFR 205.2.

[^ 18] See 8 CFR 205.2(b).

[^ 19] See Saravia v. Barr (PDF), 3:17-cv-03615 (N.D. Cal. January 14, 2021).

[^ 20] See Volume 7, Adjustment of Status, Part F, Special Immigrant-Based Adjustment, Chapter 7, Special Immigrant Juveniles [7 USCIS-PM F.7].

[^ 21] See INA 203(b)(4).

[^ 22] See INA 202(a)(2).

[^ 23] See Volume 7, Adjustment of Status, Part A, Adjustment of Status Policies and Procedures, Chapter 3, Filing Instructions, Section B, Definition of Properly Filed, Subsection 4, Visa Availability Requirement [7 USCIS-PM A.3(B)(4)].

[^ 24] See 8 CFR 274a.12(c)(14).

[^ 25] While separate biometrics submission is not required for consideration of deferred action, the officer may need to update the biographic background checks performed for the SIJ petition adjudication. Depending on the facts and circumstances of the individual case, the officer may also request that the person submit biometrics for a background check or interview the person before granting deferred action. See 8 CFR 103.2(b)(9).

[^ 26] See Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures, Chapter 4, Adjudication [10 USCIS-PM A.4].

[^ 27] Aliens with approved SIJ classification awaiting visa availability to apply for adjustment of status are among the beneficiaries of victim-based immigration benefits who receive consideration for prosecutorial discretion regarding civil immigration enforcement actions. USCIS may grant deferred action to aliens with approved SIJ classification who have never been in removal proceedings, as well as those in removal proceedings, those with a final order, or those with a voluntary departure order (as long as they are not in immigration detention).

[^ 28] See 8 CFR 274a.12(c)(14).

Current as of April 02, 2025



U.S. Citizenship
and Immigration
Services

February 24, 2022

DECISION MEMORANDUM

TO: Ur M. Jaddou
Director

FROM: Amanda Baran
Chief, Office of Policy and Strategy

AMANDA
BARAN

Digitally signed by
AMANDA BARAN
Date: 2022.02.24
12:38:52 -05'00'

A. Ashley Tabaddor
Chief Counsel

STEPHEN P
BELL JR

Digitally signed by
STEPHEN P BELL JR
Date: 2022.02.24
12:46:45 -05'00'

SUBJECT: **Providing Deferred Action and Employment Authorization for Special Immigrant Juveniles Without Immediately Available Visa Numbers**

Purpose: Approval of a process to consider providing deferred action (and related employment authorization) to Special Immigrant Juveniles (SIJs) with an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, who are ineligible to file an application for adjustment of status to that of a lawful permanent resident (LPR) solely because an immigrant visa number is not immediately available.

Justification Summary: Individuals with an approved SIJ petition remain subject to removal and do not have the ability to obtain employment authorization until they can apply to adjust status. Deferred action and the ability to apply for employment authorization would help protect SIJ-classified individuals who cannot apply for adjustment of status solely because they are waiting for an immigrant visa number to become available. Currently, the wait is approximately three years and is likely to increase in the future. (b)(5)

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 2

(b)(5)

Background: SIJ classification is available to noncitizen children who have been subject to state juvenile court proceedings related to abuse, neglect, abandonment, or a similar basis under state law. If a juvenile court has made certain judicial determinations and issued orders under state law on dependency or custody, parental reunification, and the best interests of the child, then the child may be eligible for SIJ classification.¹ USCIS determines if the petitioner meets the requirements for SIJ classification by adjudicating Form I-360. This process includes review of the petition, the juvenile court order(s), and supporting evidence to determine if the petitioner is eligible for SIJ classification.

SIJ classification alone does not render an individual lawfully present, does not confer lawful status, and does not result in eligibility to apply for employment authorization. An individual granted SIJ classification may apply for adjustment of status to that of an LPR only if an immigrant visa number is immediately available to them in the employment-based fourth preference (EB-4) category,² and he or she may adjust status if otherwise eligible.³

¹ See INA § 101(a)(27)(J); 8 CFR § 204.11.

² See INA § 245(a), (h); 8 CFR § 245.2(a)(2)(i)(A).

³ See *id.*

Providing Deferred Action and Employment Authorization for Special Immigrant Juveniles Without Immediately Available Visa Numbers

Page 3

(b)(5)

There is an annual limit on the total number of visas available in the EB-4 category,⁴ and these visas are shared between SIJs and other categories of special immigrants.⁵ Visas for special immigrants may not exceed 7.1 percent of the annual worldwide employment-based immigration limit and no more than 7 percent of visas can be issued to beneficiaries from a particular country.⁶ [REDACTED]

Challenges with the Current Process for SIJs: [REDACTED]

⁴ See INA § 203(b)(4).

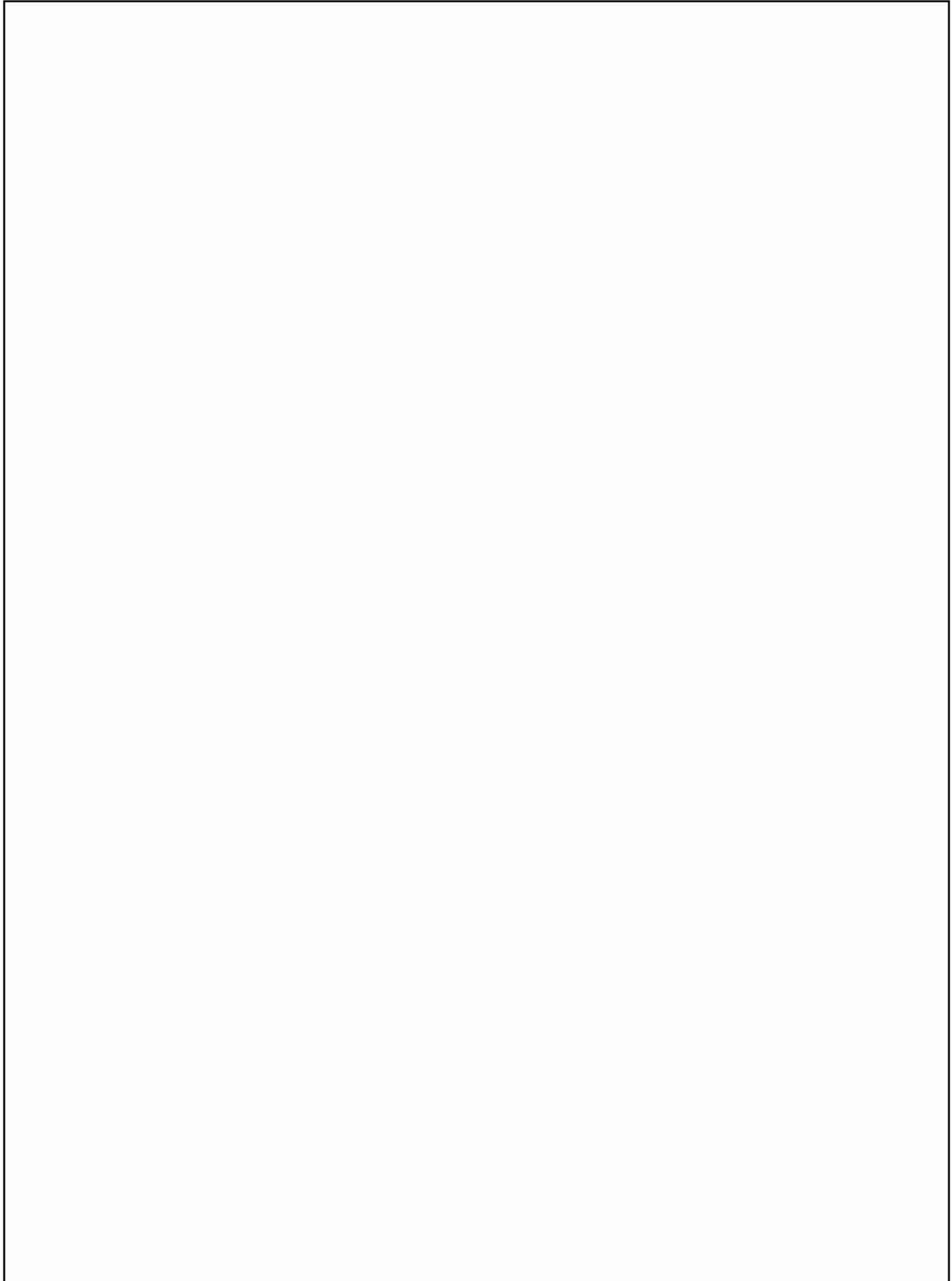
⁵ Some special immigrants no longer or rarely file for adjustment (for example, Amerasians, Panama Canal Zone Employees, Certain Armed Forces Members) and other special immigrants use very few EB-4 visa numbers (for example, Certain Broadcasters and Retired Employees of International Organizations). Other than SIJs, Ministers of Religion, Certain Employees or Former Employees of the U.S. Government Abroad, and Religious Workers are the other categories of special immigrants that use a significant number of EB-4 visas.

⁶ See INA 203(b)(4). This means that there are approximately 19,951 visas available for all EB-4 immigrants in FY22. During a typical fiscal year, only 9,940 visas are available for all EB-4 immigrants.

**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 5

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 7

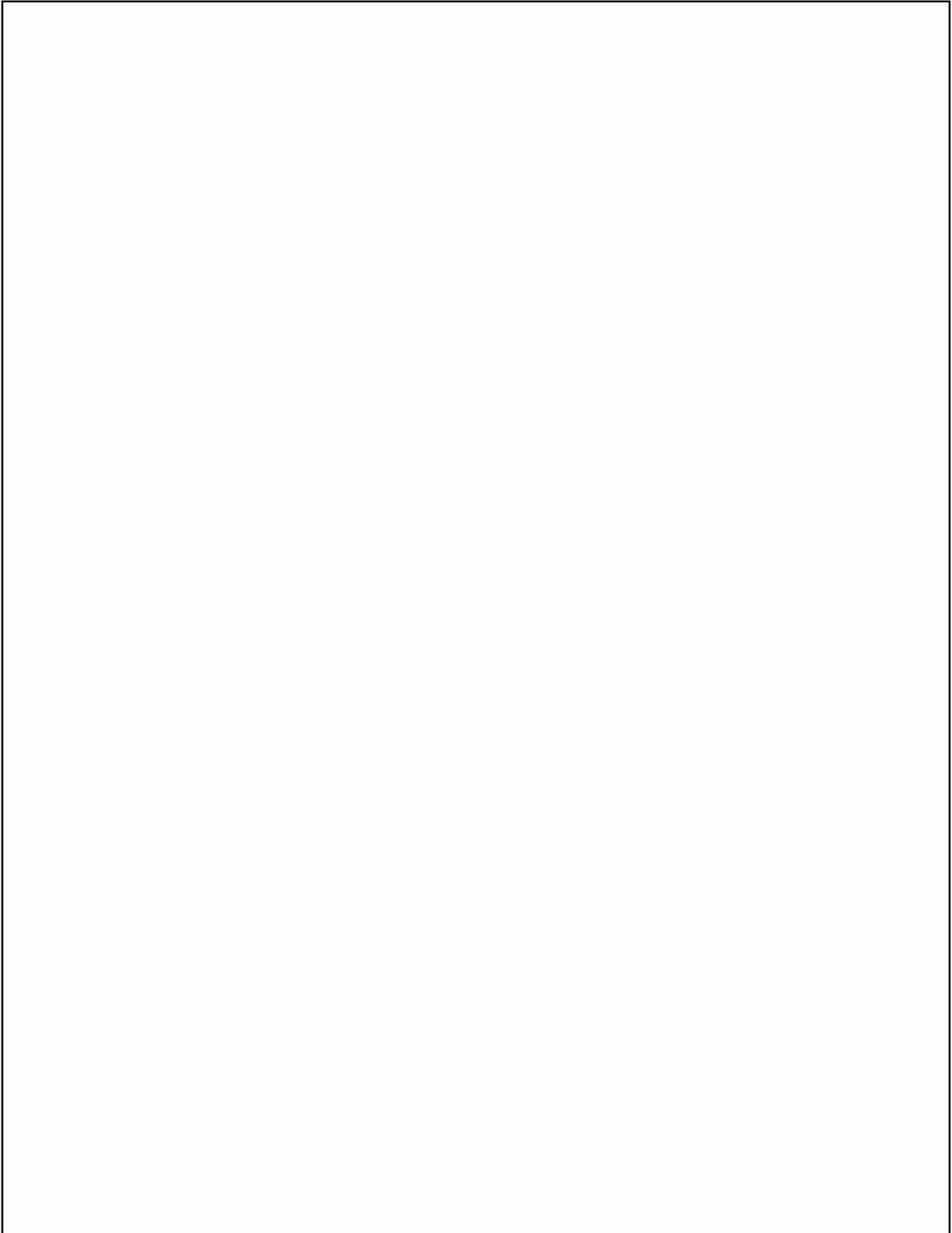
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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 9

(b)(5)



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(b)(5)

Recommendation:

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UR M
Approve/date JADDOU

Digitally signed by UR M
JADDOU
Date: 2022.02.24
15:17:00 -05'00'

Disapprove/date _____

Modify/date _____

Needs discussion/date _____


Attachment(s):

Attachment A, Table 1: I-360 Special Immigrant Juvenile Petitions for Which a Visa Is
Not Currently Available as of November 29, 2021

Attachment B, Table 2: FBI Fingerprint Response and Adjudicative Outcomes for SIJ I-
485s, FY2016- FY2021

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 12

Attachment B

(b)(5)

Table 2

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Deferred Action for Special Immigrant Juveniles (SIJs) Without Available Visa Numbers

PRIVILEGED DELIBERATIVE & PREDECISIONAL DOCUMENT INCLUDING
ATTORNEY WORK PRODUCT

Issue



U.S. Citizenship
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Services

Approximately 34,000 SIJs are unable to apply to adjust status due to oversubscription of visa numbers in the EB-4 category

- As a result, these SIJs are left for years without:
 - Lawful presence,
 - Lawful status, or
 - Eligibility to apply for employment authorization

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An individual granted SIJ classification may apply for adjustment of status to that of an LPR only if an immigrant visa number is immediately available in the employment-based fourth preference (EB-4) category.

For the thousands of SIJ-classified individuals who do not have a visa number immediately available, the protection that Congress intended to afford them is often delayed for years, leaving them vulnerable to removal and unable to work lawfully or obtain certain government-issued identification documents.

82.5% of SIJ petitioners are over age 14 at the time of adjudication- could be eligible to work, very challenging to go years without ability to legally work while needing to remain present in the US to adjust status once a visa is available

Proposed Solution (b)(5)

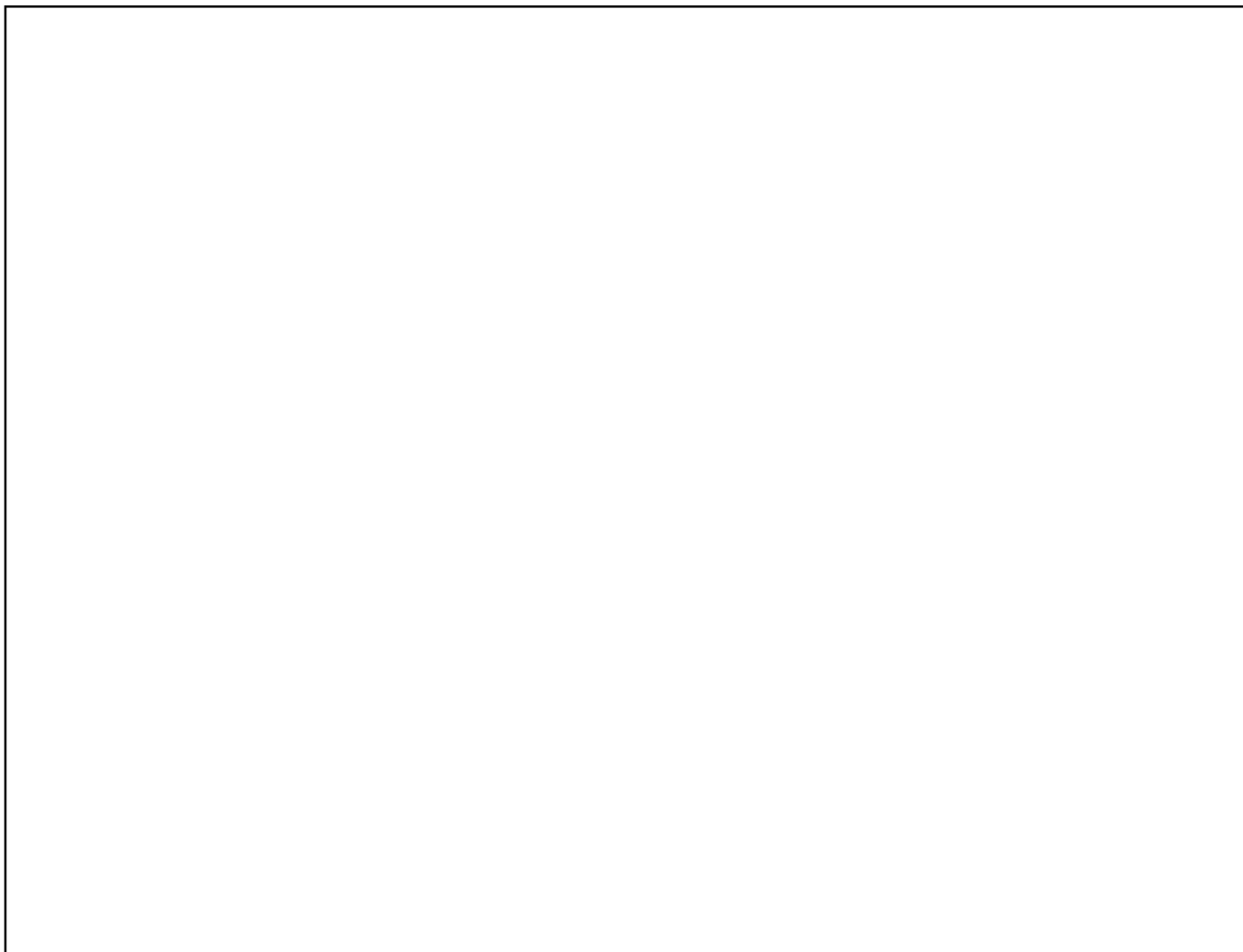


U.S. Citizenship
and Immigration
Services

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(b)(5)



Justification



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- Consistent with Congressional intent to afford protection to abandoned, abused, or neglected children
- Conserves DHS resources by focusing on the enforcement of higher priority cases

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(b)(5)

- Congress intended that SIJ-classified individuals would be eligible to apply for lawful permanent residence, but due to the unavailability of visa numbers, such individuals now must wait for several years before they can do so. [REDACTED]

[REDACTED]

- [REDACTED]

⁸⁵
(b)(5)

(b)(5)

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Next Steps



U.S. Citizenship
and Immigration
Services

- **Litigation deadlines**
 - LFOP Class Action-Response due 1/31/2022
 - Gonzalez-Response due 1/31/2022
- **Ideally coordinate policy issuance with publication of the SIJ Final Rule (estimated March 2022)**

Pre-Decisional - For Official Use Only

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director
Camp Springs, MD 20588-0009



U.S. Citizenship
and Immigration
Services

April 13, 2022

DECISION MEMORANDUM

TO: Ur M. Jaddou
Director

FROM: Daniel M. Renaud

DANIEL M RENAUD

Senior Counselor to the Director for Operational Efficiency

Digitally signed by DANIEL M RENAUD
Date: 2022.04.14 11:26:17 -04'00'

SUBJECT: **Consideration of criminal convictions, charges and pending investigations that indicate an individual *may* not be eligible to adjust status when exercising discretion to grant Special Immigrant Juvenile deferred action.**

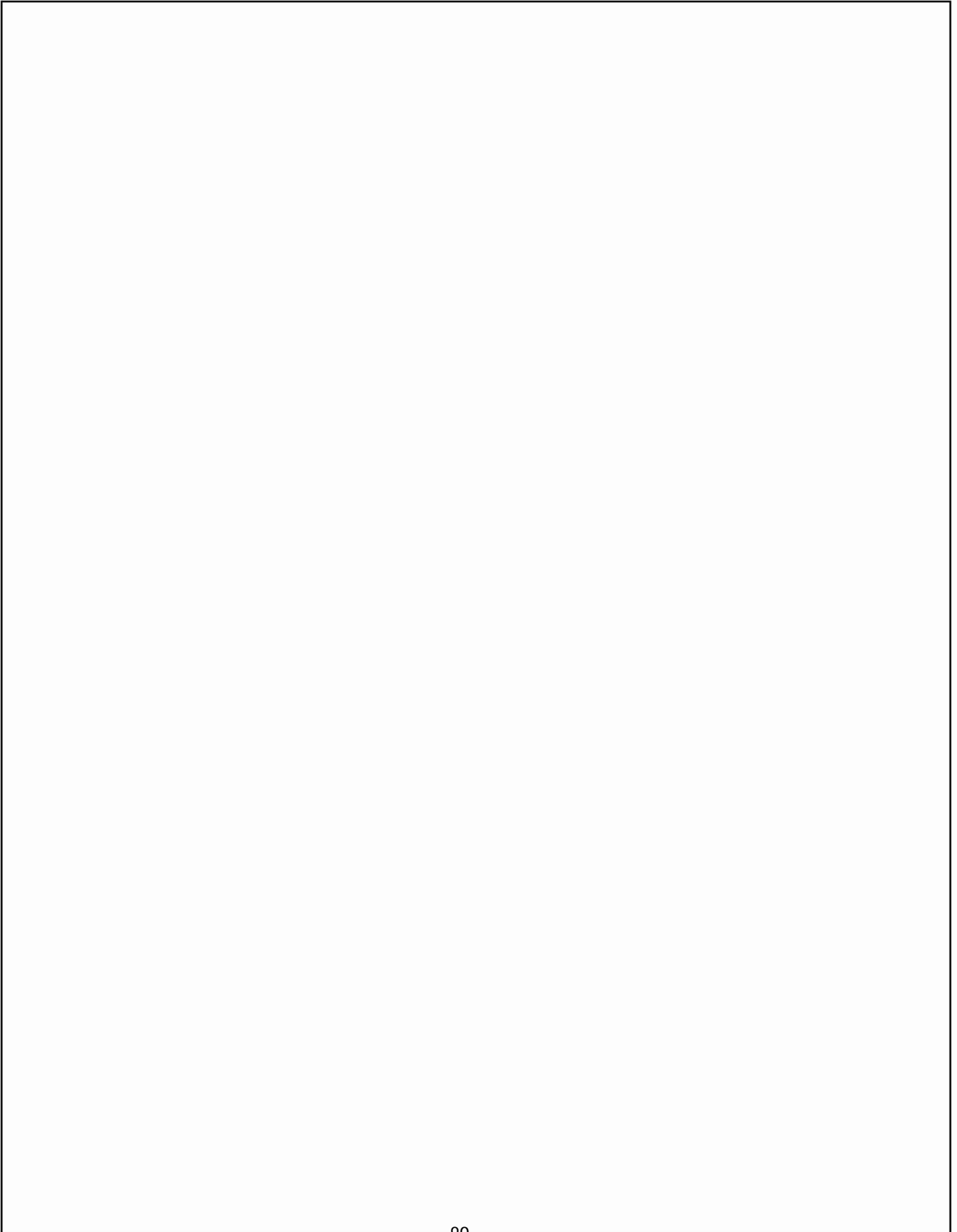
Purpose: Requesting concurrence on how USCIS will consider a grant of deferred action where the presence of convictions, unresolved criminal charges, or investigations may result in an un-waivable ground of inadmissibility making the Special Immigrant Juvenile (SIJ) ineligible to adjust status to lawful permanent resident.

Background:

On March 6, 2022, USCIS announced a new policy under which USCIS will consider, without request, a grant of deferred action for SIJ-classified individuals who are unable to apply to adjust status because they do not have an available immigrant visa number. A noncitizen with SIJ classification who has been granted deferred action by USCIS may apply for, and be granted, employment authorization for the period of deferred action, by filing an Application for Employment Authorization (Form I-765), under category (c)(14). USCIS will complete TECS, NCIC and in some cases iDHS (biometrics) criminal history checks for eligible SIJ-classified individuals in the case-by-case consideration of deferred action.

(b)(5)

Recommendation:

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JADDOU

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JADDOU
Date: 2022.04.18 12:49:51
-04'00'

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Disapprove/date_____

Modify/date_____

Needs discussion/date_____



U.S. Citizenship
and Immigration
Services



Deferred Action for Special Immigrant Juveniles (SIJs) Without Available Visa Numbers

December 10, 2021

PRIVILEGED DELIBERATIVE & PREDECISIONAL DOCUMENT INCLUDING
ATTORNEY WORK PRODUCT

Agenda



U.S. Citizenship
and Immigration
Services

- Issue
- Proposed Solution
- Justification
- Considerations
- Next Steps

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Issue



U.S. Citizenship
and Immigration
Services

Approximately 34,000 SIJs are unable to apply to adjust status due to oversubscription of visa numbers in the EB-4 category

- As a result, these SIJs are left for years (at present, 2.5 years) without:
 - Lawful presence,
 - Lawful status, or
 - Eligibility to apply for employment authorization

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An individual granted SIJ classification may apply for adjustment of status to that of an LPR only if an immigrant visa number is immediately available in the employment-based fourth preference (EB-4) category.

For the thousands of SIJ-classified individuals who do not have a visa number immediately available, the protection that Congress intended to afford them is often delayed for years, leaving them vulnerable to removal and unable to work lawfully or obtain certain government-issued identification documents.

82.5% of SIJ petitioners are over age 14 at the time of adjudication- could be eligible to work, very challenging to go years without ability to legally work while needing to remain present in the US to adjust status once a visa is available

Proposed Solution

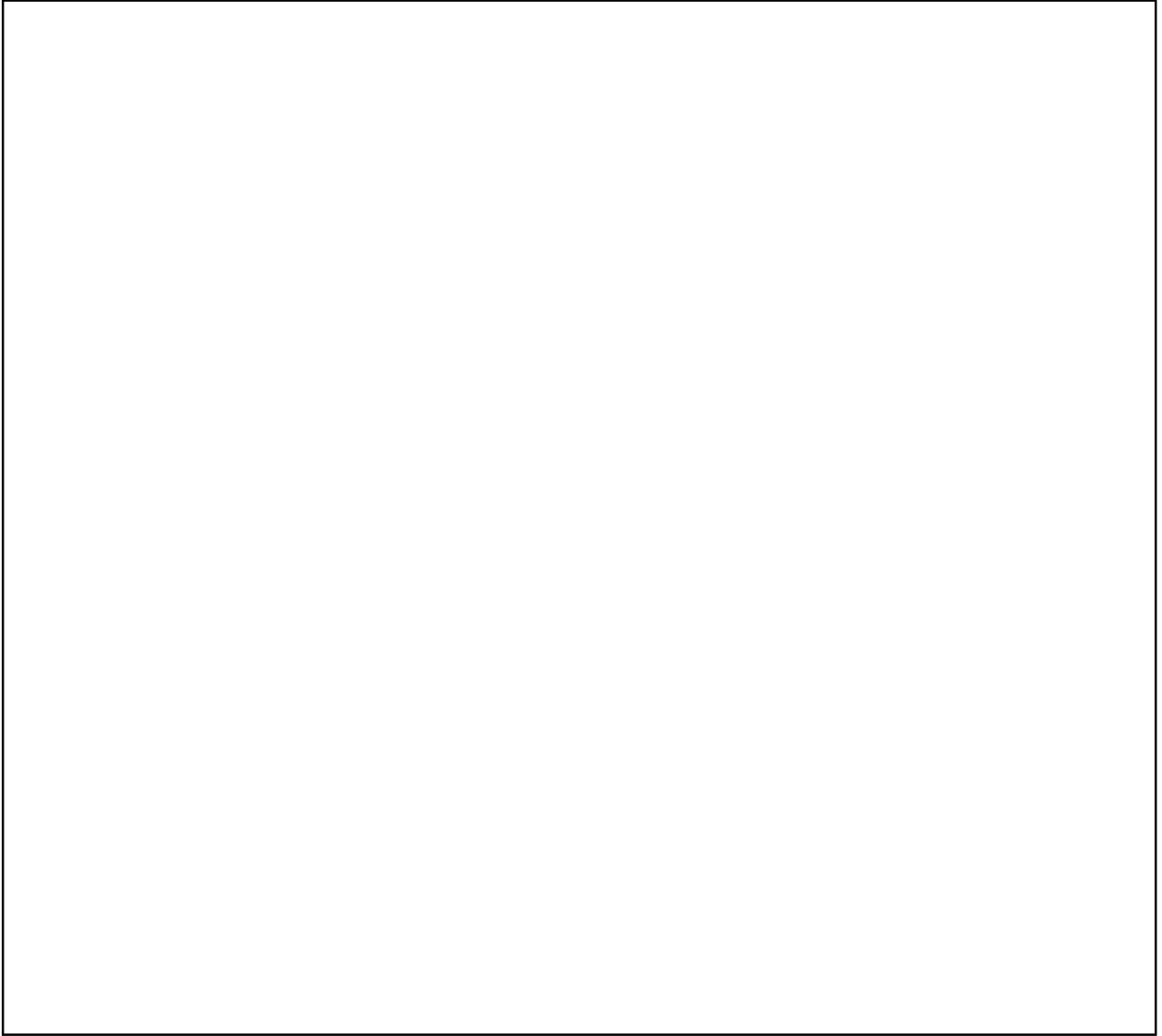


U.S. Citizenship
and Immigration
Services

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(b)(5)



Justification



U.S. Citizenship
and Immigration
Services

- Consistent with Congressional intent to afford protection to abandoned, abused, or neglected children
- Conserves DHS resources by focusing on the enforcement of higher priority cases

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(b)(5)

- Congress intended that SIJ-classified individuals would be eligible to apply for lawful permanent residence, but due to the unavailability of visa numbers, such individuals now must wait for several years before they can do so.

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96

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Legal Considerations



U.S. Citizenship
and Immigration
Services

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Current Legal Landscape:

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Low Risk Solution

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Other Considerations



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If we proceed

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○

○ Furthermore

Other Considerations, Cont.



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Next Steps



U.S. Citizenship
and Immigration
Services

- **Litigation deadlines**
 - LFOP Class Action-Response due 12/22/2021
 - Gonzalez-Response due 1/31/2022
- **Ideally coordinate policy issuance with publication of the SIJ Final Rule (estimated March 2022)**

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U.S. Citizenship
and Immigration
Services

February 24, 2022

DECISION MEMORANDUM

TO: Ur M. Jaddou
Director

FROM: Amanda Baran
Chief, Office of Policy and Strategy

AMANDA
BARAN

Digitally signed by
AMANDA BARAN
Date: 2022.02.24
12:38:52 -05'00'

A. Ashley Tabaddor
Chief Counsel

STEPHEN P
BELL JR

Digitally signed by
STEPHEN P BELL JR
Date: 2022.02.24
12:46:45 -05'00'

SUBJECT: **Providing Deferred Action and Employment Authorization for Special Immigrant Juveniles Without Immediately Available Visa Numbers**

Purpose: Approval of a process to consider providing deferred action (and related employment authorization) to Special Immigrant Juveniles (SIJs) with an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, who are ineligible to file an application for adjustment of status to that of a lawful permanent resident (LPR) solely because an immigrant visa number is not immediately available. (b)(5)

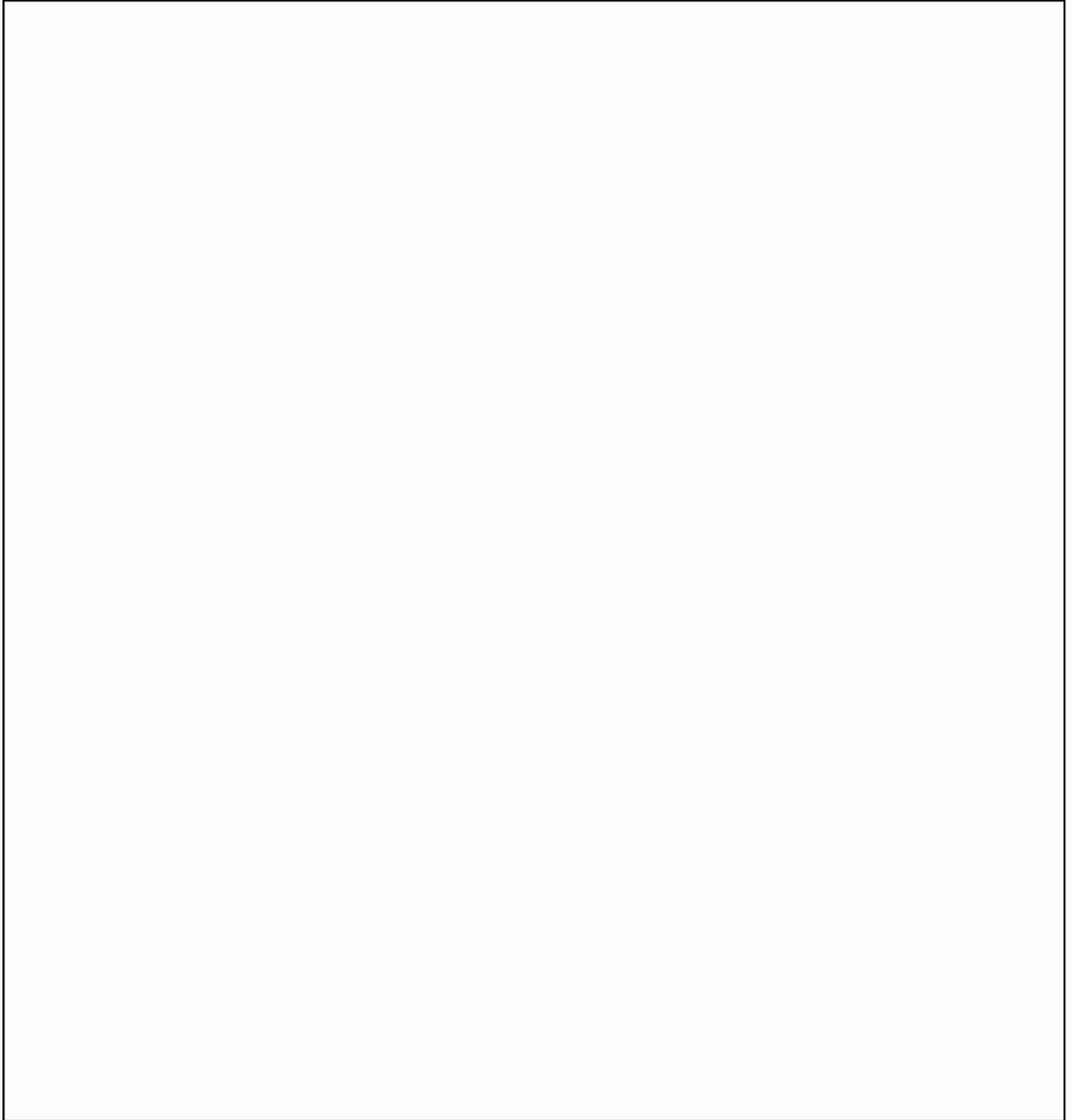
Justification Summary:

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 2

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¹ See INA § 101(a)(27)(J); 8 CFR § 204.11.

² See INA § 245(a), (h); 8 CFR § 245.2(a)(2)(i)(A).

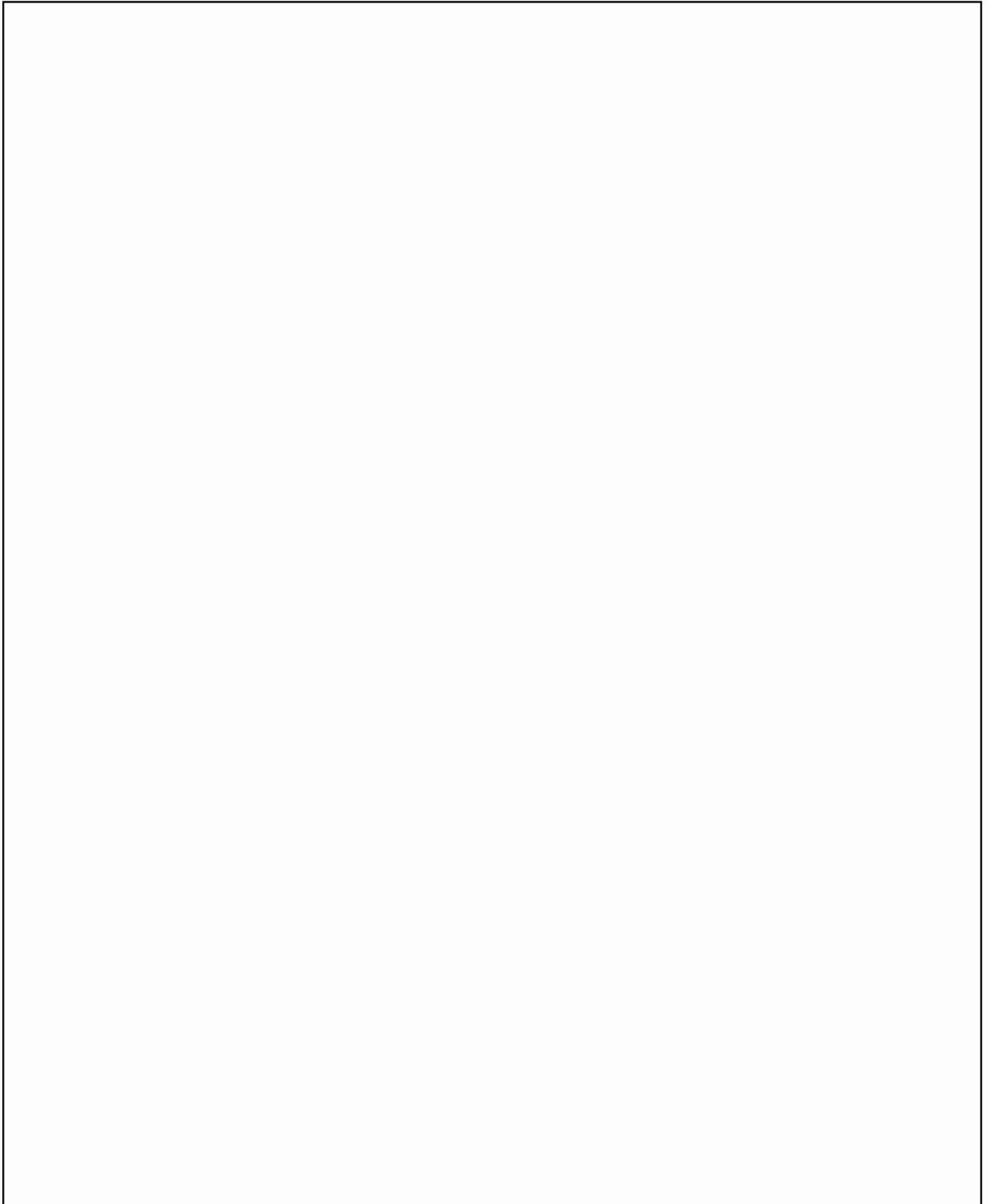
³ See *id.*

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 3

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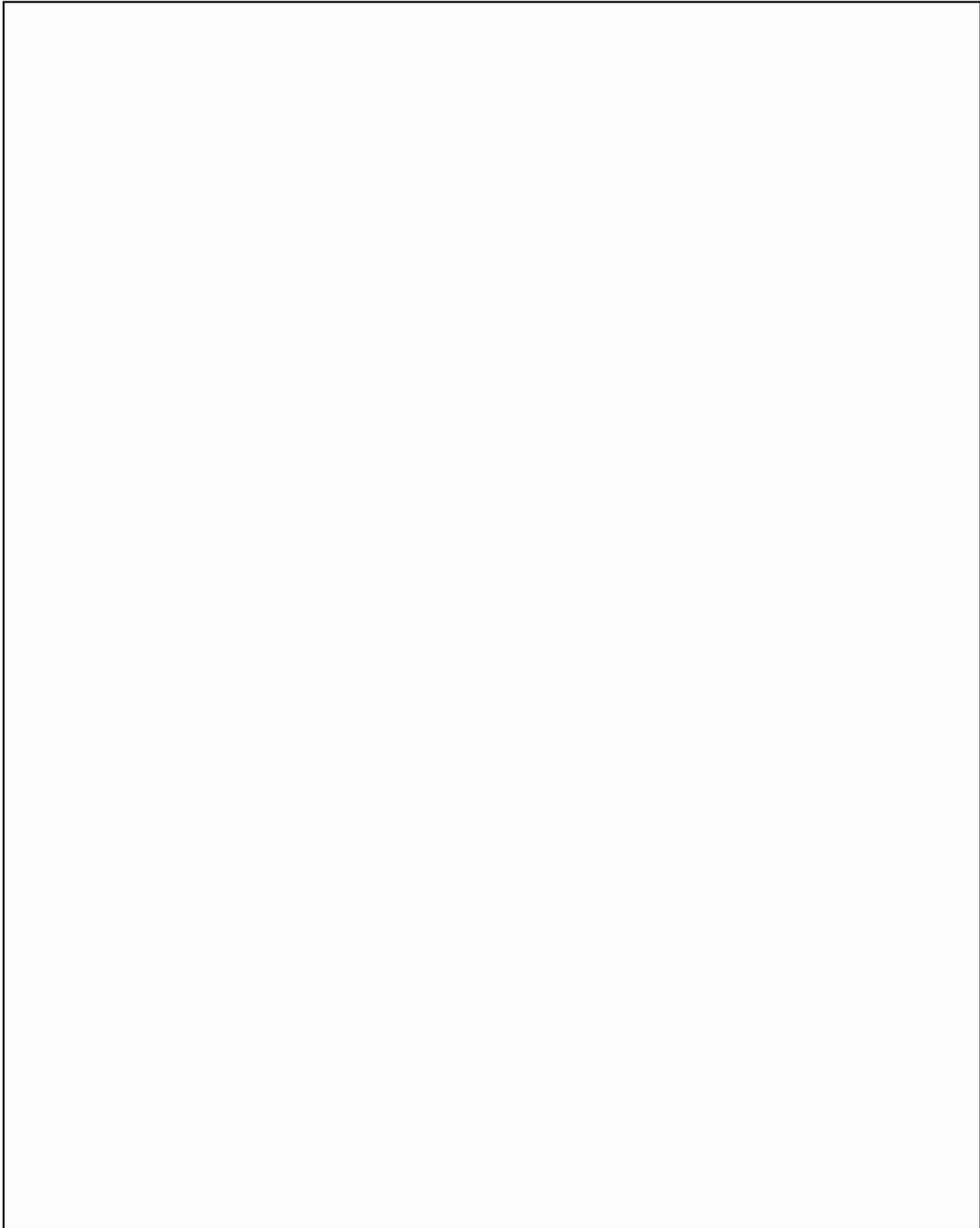


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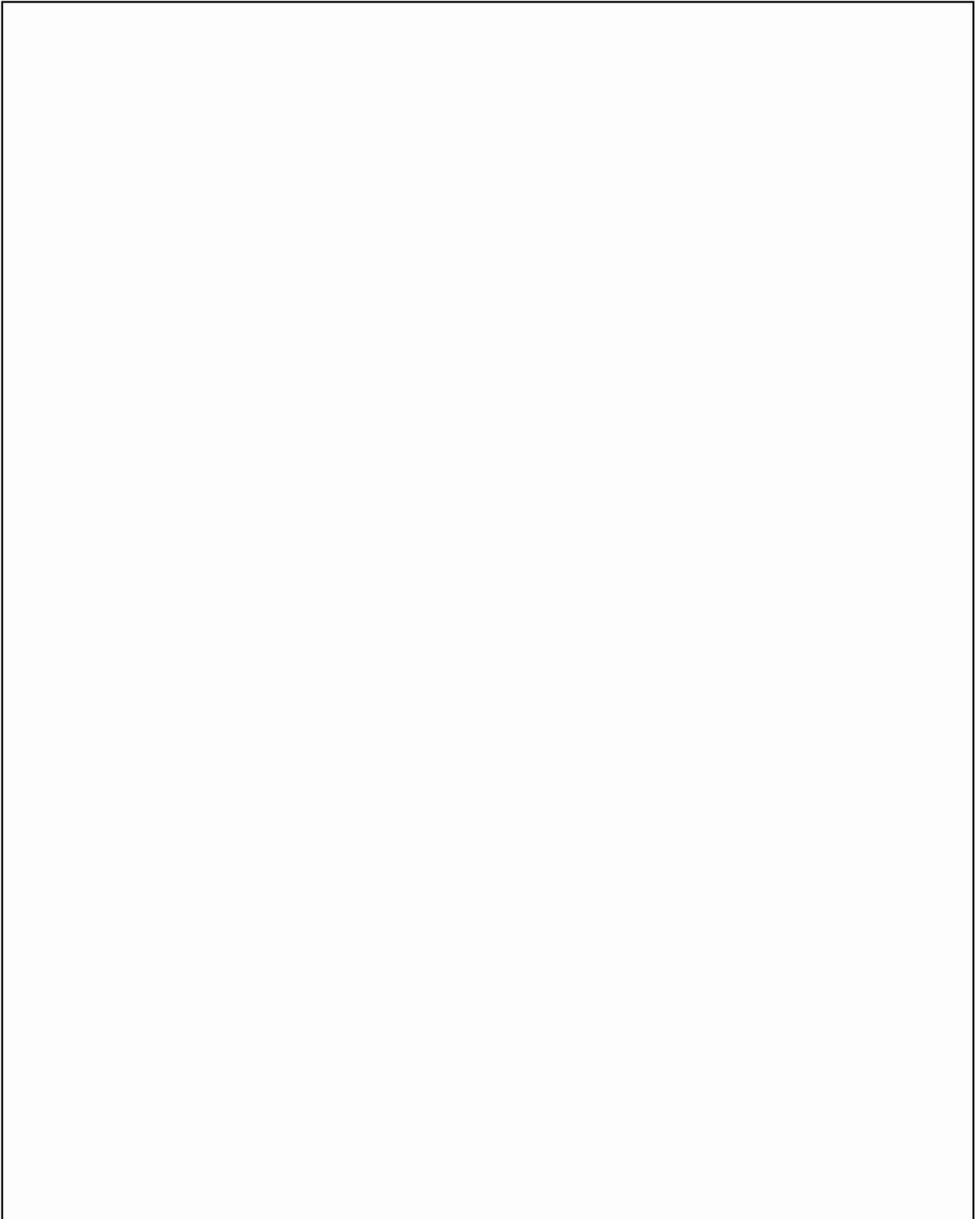
**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

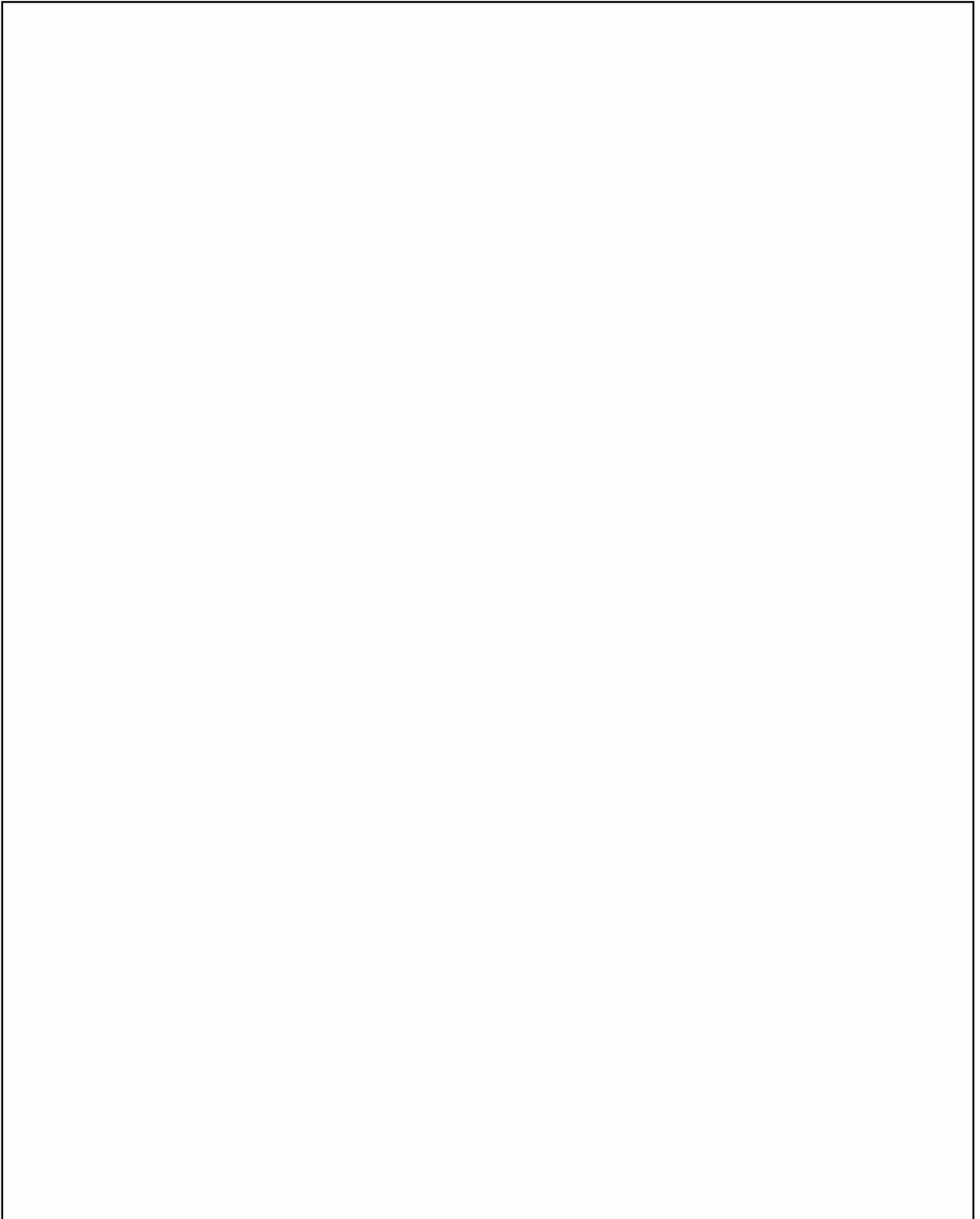
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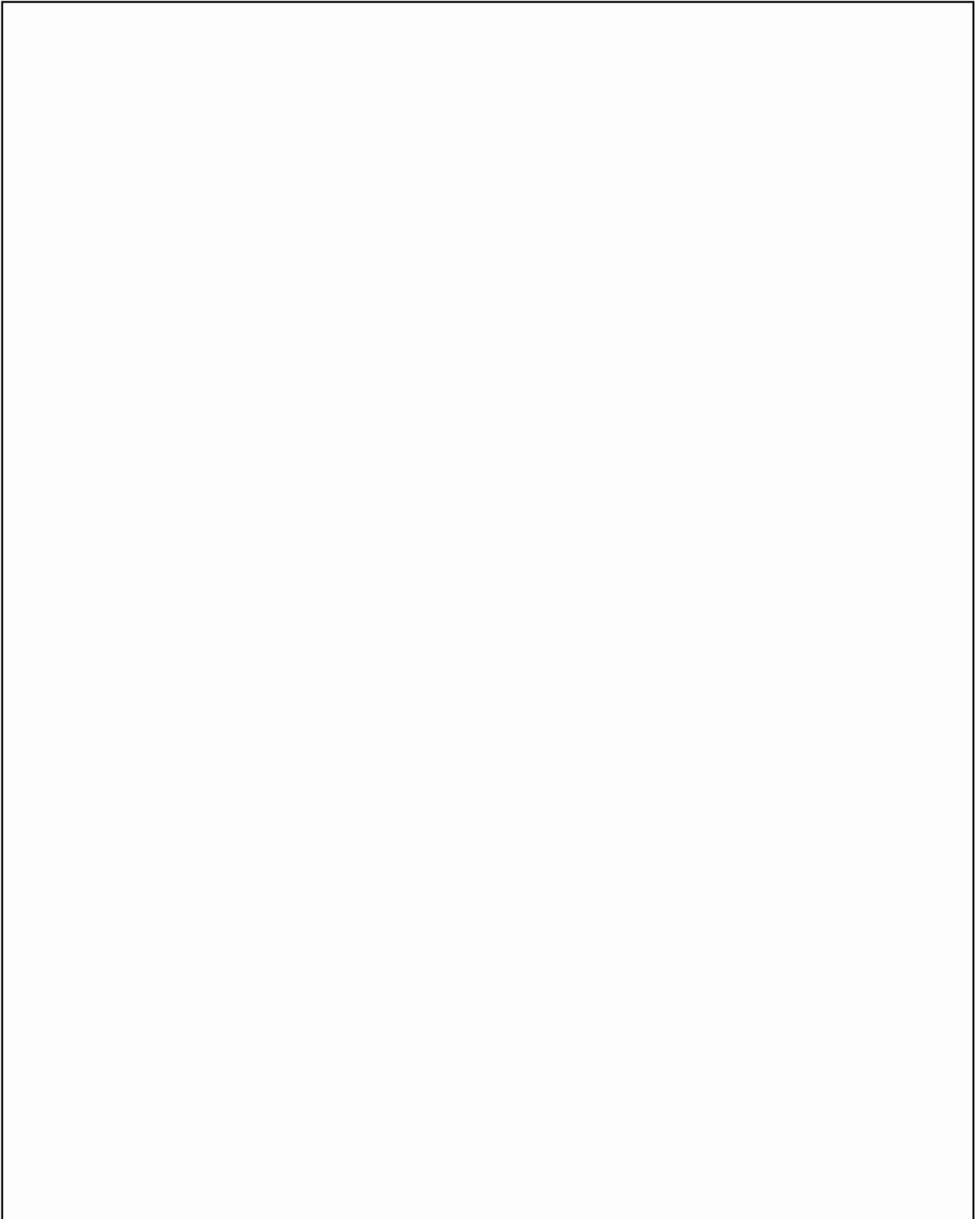
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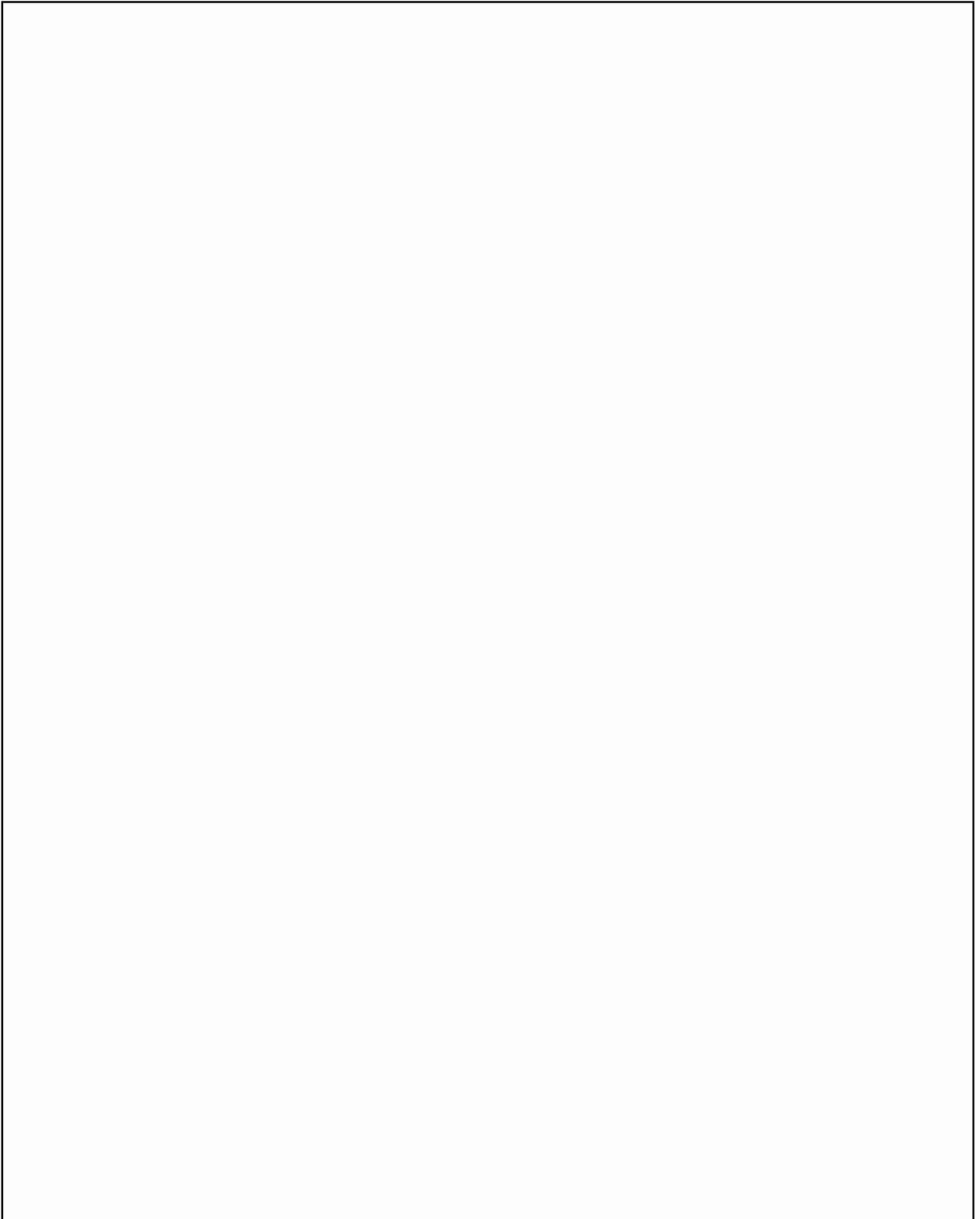


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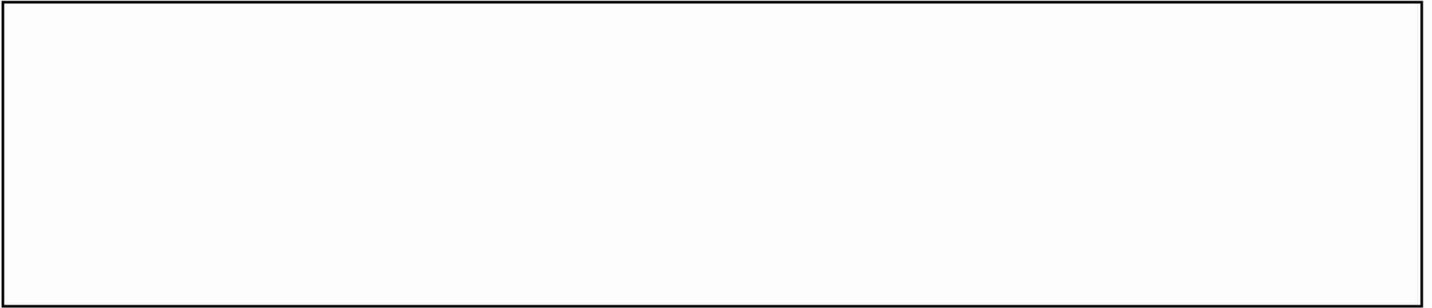




**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

Page 9

(b)(5)



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Recommendation

UR M
Approve/date JADDOU Digitally signed by UR M
JADDOU
Date: 2022.02.24
15:17:00 -05'00' Disapprove/date _____

Modify/date _____ Needs discussion/date _____

Attachment(s):

Attachment A, Table 1: I-360 Special Immigrant Juvenile Petitions for Which a Visa Is
Not Currently Available as of November 29, 2021

Attachment B, Table 2: FBI Fingerprint Response and Adjudicative Outcomes for SIJ I-
485s, FY2016- FY2021

**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

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Attachment A

(b)(5)

Table 1

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**Providing Deferred Action and Employment Authorization for Special Immigrant
Juveniles Without Immediately Available Visa Numbers**

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Attachment B

Table 2

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DELIBERATIVE, PREDECISIONAL, AND ATTORNEY-CLIENT PRIVILEGED
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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.”⁸ As 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 Muza ffar 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/A+ny+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

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

(b)(5)


1.  ² What are the current average processing times for SIJS petitions and SIJS-based green card applications?

2.  ⁴ Of the 22,611 SIJS petitions filed in FY2021:

- 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.  ⁵ 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.

See above.

(b)(5)

¹ See 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).

² See 8 CFR 204.11(g); 8 CFR 103.2(b)(10)(i).

³ See 8 CFR 204.11(g); 8 CFR 103.2(b)(10)(i).

Summary of Comments on EXSO Combined RR.pdf

Page: 6

Number: 1 Author: Dankner, Margot S Date: 5/16/2022 2:20:00 PM
Flagging for FOD or OPQ

Number: 2 Author: Terri L Steele Date: 5/19/2022 11:06:00 AM
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Number: 3 Author: Dankner, Margot S Date: 5/16/2022 2:20:00 PM
Flagging for FOD.

Number: 4 Author: Terri L Steele Date: 7/21/2025 2:05:39 PM
Inserted data from OPQ

Number: 5 Author: Dankner, Margot S Date: 5/16/2022 2:21:00 PM

(b)(5)

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

(b)(5)

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. Which 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?

Number: 1 Author: Dankner, Margot S Date: 5/16/2022 2:29:00 PM
FOD/OCC: See suggested response.

Number: 2 Author: OP&S RND Date: 5/17/2022 6:56:00 AM

Number: 3 Author: Dankner, Margot S Date: 5/16/2022 3:20:00 PM
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Number: 4 Author: Terri L Steele Date: 5/19/2022 11:05:00 AM
Added

Number: 5 Author: OP&S RND Date: 5/17/2022 6:58:00 AM
Noting, as FOD drafts a response here


Number: 6 Author: Terri L Steele Date: 5/19/2022 11:05:00 AM
FOD has no additional comment here.


Number: 7 Author: Dankner, Margot S Date: 5/16/2022 2:18:00 PM
Flagging for OP&S RND/FOD.


Number: 8 Author: Dankner, Margot S Date: 5/16/2022 2:18:00 PM
Flagging for OP&S RND.

**The U.S. Citizenship and Immigration Services Response to
Representative Jaime Raskin's May 13, 2022 Letter
(b)(5)**

8.  ² many USCIS staff are currently assigned to review and process SIJS petition adjudications?

9.  ⁴ many USCIS staff are currently assigned to review and process SIJS-based green card applications?

10.  ⁸ 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?

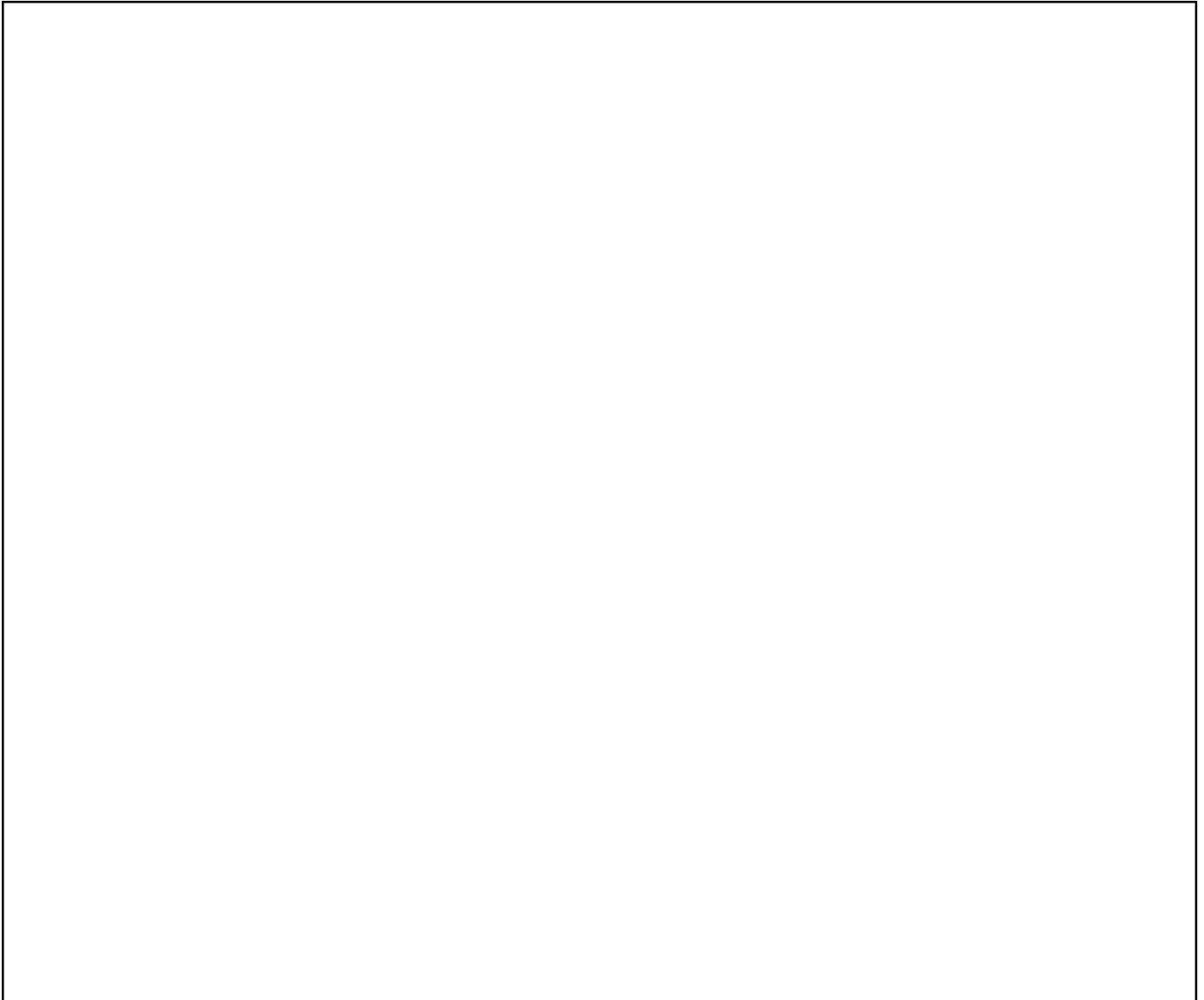
Page: 8

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Number: 5	Author: Dankner, Margot S	Date: 5/16/2022 2:20:00 PM
Flagging for FOD.		
Number: 6	Author: Omar Hughes	Date: 5/19/2022 4:24:00 PM
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Number: 7	Author: Omar Hughes	Date: 5/19/2022 3:14:00 PM
Flagging for SCOPS		
Number: 8	Author: Terri L Steele	Date: 5/19/2022 11:06:00 AM
FOD does not have a comment here.		
Number: 9	Author: Omar Hughes	Date: 5/19/2022 4:25:00 PM
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Not sure who will address this.		

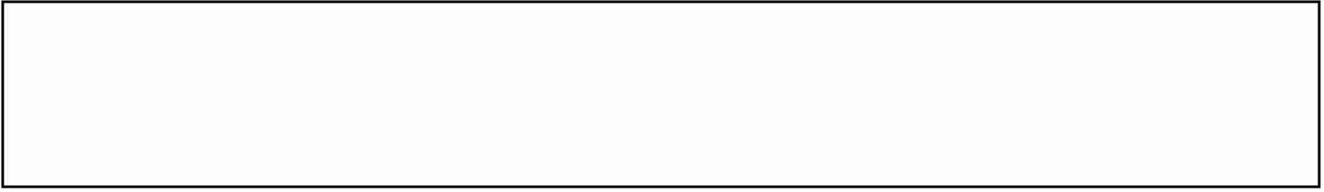
The Honorable Jamie Raskin
U.S. House of Representatives
Washington, DC 20515

Dear Representative Raskin:

(b)(5)



(b)(5)



Respectfully,

Ur M. Jaddou
Director



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

June 26, 2023

Memorandum

TO: Immigration and Customs Enforcement (ICE), Office of the Principal Legal Advisor (OPLA), Homeland Security Investigations (HSI), Enforcement and Removal Operations (ERO) and ICE Policy.

FROM: Avidah Moussavian
Chief, Office of Policy and Strategy

Michael Valverde
Associate Director, Field Operations Directorate

SUBJECT: Special Immigrant Juvenile (SIJ) Deferred Action

USCIS has received inquiries from ICE components, including ERO and OPLA, about USCIS' Special Immigrant Juvenile Deferred Action (SIJ DA) process implemented in May 2022. ICE and USCIS interests intersect as many individuals who receive a grant of SIJ DA from USCIS are also in removal proceedings or have final removal orders. On occasion, ICE agents and OPLA attorneys request that USCIS terminate deferred action so that ICE can pursue removal actions. During those exchanges, ICE has requested information and additional clarity about the overall SIJ DA process; in response, USCIS compiled this memorandum for reference by ICE components and offices when interacting with individuals who have been granted SIJ DA.

- USCIS considers exercising discretion to grant deferred action for individuals with an approved SIJ-based [Form I-360](#), Petition for Special Amerasian, Widow(er), or Special Immigrant, if the person cannot apply for adjustment of status solely because an immigrant visa number is not immediately available.
- USCIS automatically considers eligible SIJ-classified noncitizens for deferred action. SIJ-classified noncitizens do not need to request deferred action, and requests for deferred action will not be accepted. A grant of SIJ deferred action is for a period of four years.
- A noncitizen with SIJ classification who has been granted deferred action by USCIS may apply for, and be granted, employment authorization for the period of deferred action, by filing a [Form I-765](#), Application for Employment Authorization, indicating category (c)(14).

Subject

Page 2

- When considering whether to exercise discretion to grant deferred action, USCIS completes robust background checks, and requests biometrics on an ad hoc basis. USCIS relies heavily on the presence of TECS records to initiate requests for biometrics to further identify and validate criminal history information.
- USCIS weighs positive and negative factors, on a case-by-case basis, to determine whether to grant deferred action.
 - The fact that an individual has been approved for SIJ classification is a strong positive factor in favor of exercising discretion to grant deferred action.
 - If background and security checks indicate that an SIJ-classified individual may be subject to an inadmissibility ground under INA 212(a) that cannot be waived and that would make them ineligible for SIJ-based adjustment of status, this would generally be a strong negative factor weighing against the favorable exercise of discretion.
 - USCIS may determine on a case-by-case basis that other adverse factors weigh against a favorable exercise of discretion, such as serious unresolved criminal charge(s) that may result in an inadmissibility ground that cannot be waived, rendering an SIJ-classified individual ineligible for SIJ-based adjustment of status.
 - USCIS may also exercise discretion favorably notwithstanding the above concerns if case-specific circumstances warrant it.
- USCIS has the sole authority to grant and terminate deferred action for noncitizens with SIJ classification. ICE may send requests to terminate SIJ DA to NBCD6SIJ@uscis.dhs.gov and should include any information that may be relevant to USCIS' assessment of requests to terminate deferred action. USCIS considers requests to terminate on a case-by-case basis and may require additional information from ICE.
- USCIS may terminate deferred action if the SIJ-classified individual was not eligible at the time of the initial grant of deferred action, the SIJ Form I-360 is revoked, or if they are no longer eligible based on new information, including new information about criminal activity that impacts the discretionary determination to grant SIJ deferred action.
- USCIS sends a Notice of Termination of deferred action but does not send a Notice of Intent to Terminate. There is no mechanism to contest or appeal the decision not to grant or to terminate SIJ deferred action. However, an individual with SIJ classification may request deferred action on any other basis, through the local USCIS field office.
- Additional information about SIJ classification and related deferred action may be found at:
 - USCIS Policy Manual, [Volume 6, Part J: Special Immigrant Juveniles](#)
 - SIJ Landing Page: <https://www.uscis.gov/working-in-US/eb4/SIJ>



June 6, 2025

PA-2025-07

Policy Alert

SUBJECT: Special Immigrant Juvenile Classification and Deferred Action

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the USCIS Policy Manual to eliminate automatic consideration of deferred action (and related employment authorization) for aliens classified as Special Immigrant Juveniles (SIJs) who are ineligible to apply for adjustment of status to lawful permanent resident (LPR) status due to visa unavailability.

Background

The SIJ classification is available to alien children subject to state juvenile court proceedings related to abuse, neglect, abandonment, or a similar basis under state law.¹ SIJ classification does not render an alien lawfully present, does not confer lawful status, and does not result in eligibility to apply for employment authorization. An alien classified as an SIJ, however, may seek to adjust status to that of an LPR based on the SIJ classification if the alien meets certain requirements. One of the requirements is that an immigrant visa be immediately available at the time of filing the adjustment of status application.²

On March 7, 2022, USCIS updated its policy guidance to provide that the agency will automatically consider granting deferred action on a case-by-case basis to aliens classified as SIJs who are ineligible to apply for adjustment of status solely due to unavailable immigrant visas.³

While Congress likely did not envision that SIJ petitioners would have to wait years before a visa became available, Congress also did not expressly permit deferred action and related employment authorization for this population. Neither an alien having an approved Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) without an immediately available immigrant visa available nor a juvenile court determination relating to the best interest of the SIJ are sufficiently compelling reasons, supported by any existing statute or regulation, to continue to provide a deferred action process for this immigrant category.

Therefore, USCIS has determined that this update is necessary to more closely align agency policies and procedures with statutory requirements and authorities. Further, this policy adheres to Executive

¹ See INA 101(a)(27)(J). See 8 CFR 204.11.

² See INA 245(a) and INA 245(h). See 8 CFR 245.2(a)(2)(i)(A).

³ See Special Immigrant Juvenile Classification and Deferred Action, PA-2022-10, issued March 7, 2022.

Order 14161, “Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats” (January 20, 2025)⁴ and USCIS has determined it is in the national and public interest to revert to the policy prior to March 7, 2022.

This guidance confirms that USCIS will no longer consider granting deferred action on a case-by-case basis to aliens classified as SIJs who are ineligible to apply for adjustment of status solely due to unavailable immigrant visas. This update, contained in Volume 6 of the Policy Manual, is effective immediately and applies to aliens classified as SIJs before, on, or after that date based on an approved Form I-360. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Provides that USCIS will no longer conduct deferred action determinations for aliens with SIJ classification who cannot apply for adjustment of status solely because an immigrant visa is not immediately available.
- Removes prior guidance stating USCIS will accept new Applications for Employment Authorization (Form I-765), under category (c)(14), from aliens with SIJ classification who have been granted deferred action by USCIS because they cannot apply for adjustment of status solely because an immigrant visa number is not immediately available.
- Explains that aliens with current deferred action based on their SIJ classification will generally retain this deferred action, as well as retain their current employment authorization provided based on this deferred action, until the current validity periods expire.
- Provides minor clarifications to the current policy on terminating SIJ deferred action and confirms that USCIS, within its discretion, may terminate deferred action and revoke any associated employment authorization prior to the end of the current validity period.

Summary of Changes

Affected Section: Volume 6 > Part J > Chapter 4, Adjudication

- Revises Section G (Deferred Action) in its entirety.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 6: Immigrants, Part J, Special Immigrant Juveniles, Chapter 4, Adjudication [6 USCIS-PM J.4].

⁴ This directs federal agencies to, in part, “vet and screen to the maximum degree possible all aliens who intend to be admitted, enter, or are already inside the United States.” This policy promotes this by ensuring that USCIS Fraud and National Security personnel, as well as adjudicating officers, are not unnecessarily restricted from considering potentially relevant information within a record.



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Office of the Chief Counsel
Camp Springs, MD 20588-0009

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

February XX, 2022

BRIEFING MEMORANDUM

TO: Alejandro Mayorkas
Secretary, Department of Homeland Security

☐ Close Hold
(Limit review to
senior leadership)

FROM: Ur M. Jaddou
Director, U.S. Citizenship and Immigration Services

SUBJECT: **Providing Deferred Action and Employment Authorization for Special
Immigrant Juveniles When Visa Numbers Are Not Immediately Available**

(b)(5)

Purpose:

Justification:

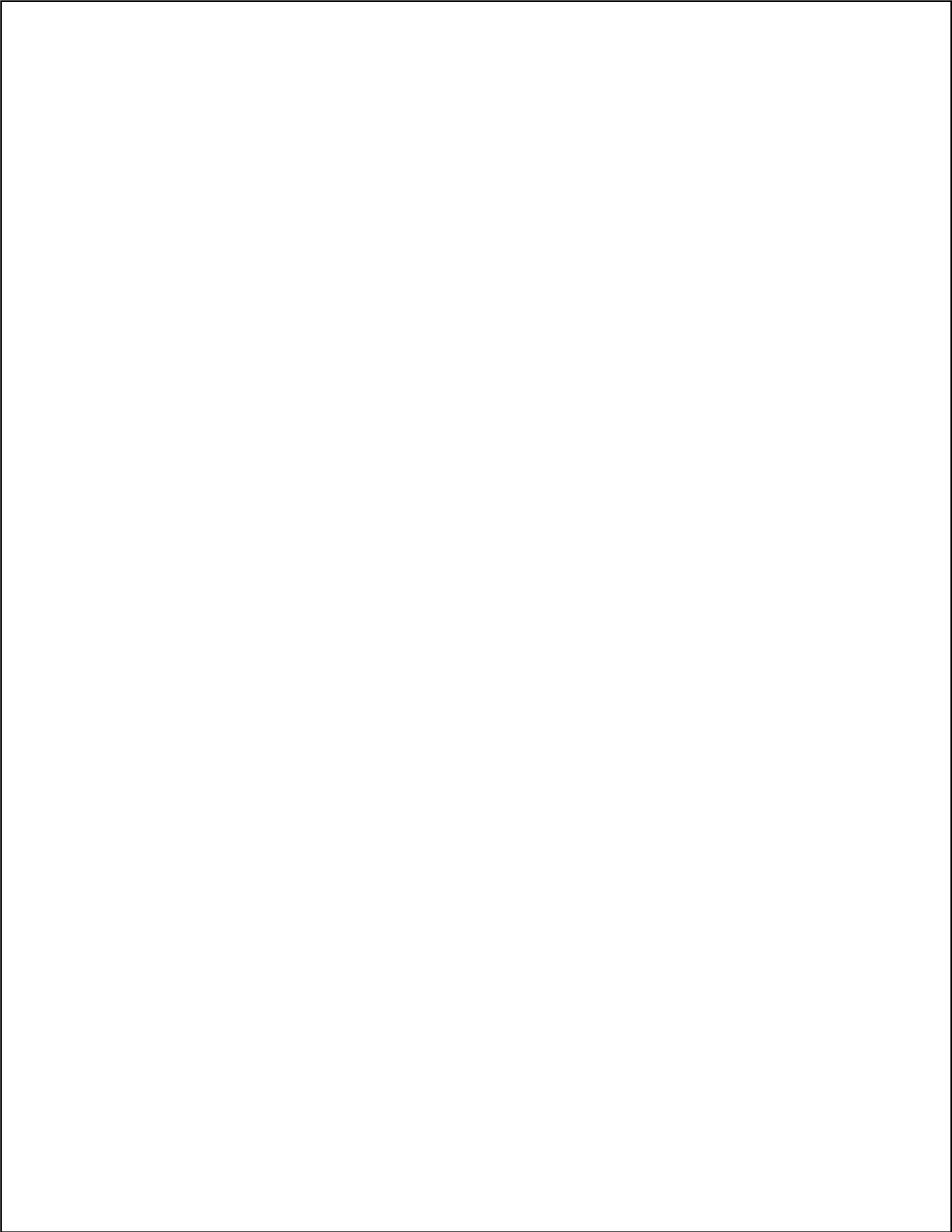
(b)(5)

* * *

Background:

Legal Challenges:

(b)(5)



(b)(5)

Policy Justifications:

(b)(5)

Conclusion:

Training: “Special Immigrant Juvenile Deferred Action” Examples with Analysis

Disclaimer: This document is part of a training module, titled “Special Immigrant Juvenile Deferred Action” that is intended solely for informational purposes. It is not intended to, does not, and may not be relied upon to create or confer any right(s) or benefits(s), substantive or procedural, enforceable at law by any individual or other party in benefit applications before USCIS, in removal proceedings, in litigation with the United States, or in any other form or manner. This training module does not have the force of law, or of a DHS directive.

About this presentation: Authors: Field Operations Directorate, Office of Policy & Strategy, and the Office of Chief Counsel. Date of last revision: **5/11/2022** (presentation is current only as of the date of last revision). This presentation contains no sensitive Personally Identifiable Information (PII).

Dissemination: This presentation may not be reproduced or further disseminated without the express written consent of the National Benefits Center, Office of Policy and Strategy, Field Operations Directorate & the Office of Chief Counsel. Please contact the Office of Policy and Strategy, Humanitarian Affairs Division for additional information.

For each question: 1) Should USCIS send for biometrics? 2) Should USCIS grant SIJ DA?

Probably in some answers below is a general guideline based solely on the potentially negative factor raised in each example, and is for training purposes only. In adjudicating DA, each adjudicator will exercise their discretion after considering all positive and negative factors present in any actual case. (b)(5)

1)

2)

