



# WHAT IS HAPPENING WITH DEFERRED ACTION FOR SPECIAL IMMIGRANT JUVENILES (SIJS)?

By ILRC Attorneys<sup>1</sup>

## I. Background

[USCIS's SIJS deferred action \(DA\) policy](#) began in 2022 and provided that USCIS would automatically consider granting DA to people with approved SIJS, if the person could not yet apply for SIJS-based adjustment of status solely because they did not have a visa available. Many young people were granted DA based on SIJS in the years that followed.

USCIS officially terminated the SIJS DA policy last year on June 6, 2025, though advocates learned through [FOIA litigation](#) that it had in fact quietly terminated the policy internally on April 7, 2025.

Advocates filed the lawsuit [ACR v. Noem](#), challenging the termination of the DA policy. On November 19, 2025, the district court issued a stay of the government's rescission of the SIJS deferred action policy, finding that the way in which the government terminated the policy was unlawful. Plaintiffs then moved for clarification or reconsideration of footnote 24 in the court's decision, which states that "this order should not be read to suggest that USCIS remains bound by the 2024 Policy Manual or any prior presumption in favor of granting deferred action to SIJS recipients." On January 14, 2026, the court issued an opinion denying Plaintiff's motion for reconsideration. Plaintiffs appealed, and the appeal remains pending before the Second Circuit.<sup>2</sup> This means that although the SIJS DA policy was restored, the order only requires the government to automatically consider granting SIJS deferred action. It does not require USCIS to apply the favorable guidance from the USCIS Policy Manual that gave great weight to the approved SIJS petition (except for those petitions approved between April 7 and June 5, 2025 – see below chart for additional guidance).

## II. What Changed?

On April 10, 2026, USCIS issued a [new memo](#) again terminating the SIJS DA policy ("April 10th Memo"), presumably to address the deficiencies the ACR court identified with its initial termination memo.

<sup>1</sup> Thank you to Rebecca Scholtz, Senior Staff Attorney at the National Immigration Project for her thoughtful review of this resource.

<sup>2</sup> For additional information, see Public Counsel, KIND, National Immigration Project, and Lowenstein & Sandler, *Updated Guidance to Practitioners in Light of Recent Developments in A.C.R. v. Noem* (Feb. 18, 2026), [https://nipnlg.org/sites/default/files/2026-02/2026\\_ACR-Updated-Guidance.pdf](https://nipnlg.org/sites/default/files/2026-02/2026_ACR-Updated-Guidance.pdf).

Under the April 10th Memo, USCIS will no longer automatically consider granting DA to young people granted SIJS. This termination memo does not, however, go into effect until May 10, 2026, and only applies to SIJS petitions filed on or after that date. Petitioners who filed prior to May 10, 2026 will be considered automatically for deferred action. Additional information is below.

### A. What does this mean for young people who currently have SIJS DA?

The April 10th Memo states that young people with current deferred action based on SIJS will generally retain this deferred action, as well as retain their DA-based employment authorization, until the validity period expires. Nevertheless, USCIS reserves the right to terminate deferred action in its discretion on a case-by-case basis, through the issuance of a Notice to Appear or Notice of Termination. Advocates report frequent SIJS DA terminations when young people are arrested by Immigration & Customs Enforcement, as well as some terminations following interactions with law enforcement, and some seemingly random terminations.

### B. What does this mean for SIJS DA renewals?

Some young people who currently have SIJS DA may be able to file for a renewal of their deferred action if it expires within six months.<sup>3</sup>

If DA renewal request is...	Is Form G-325A required for DA renewal consideration?	What policy will USCIS apply for DA renewal consideration?	What standard will USCIS use for DA adjudication?	Additional considerations
Filed before May 10, 2026 (and since May 10 <sup>th</sup> falls on a Sunday, received by USCIS by Friday, May 8 <sup>th</sup> ).	Yes	2022 SIJS DA policy	It is unclear what standard USCIS will use at this time, as this issue is on appeal at the Second Circuit in <i>ACR</i> , as discussed above.	The End SIJS Backlog Coalition created a sample DA renewal packet, which you can access <a href="#">here</a> .

<sup>3</sup> Note that if the young person now has a visa available and thus is eligible to apply for adjustment of status, it is unlikely they would be granted a renewal of DA, as the SIJS DA policy provided that it was intended to benefit SIJs who could not apply for adjustment solely because of the visa backlog.

If DA renewal request is...	Is Form G-325A required for DA renewal consideration?	What policy will USCIS apply for DA renewal consideration?	What standard will USCIS use for DA adjudication?	Additional considerations
Filed on or after May 10, 2026	Yes	Nothing specific to SIJS, USCIS will consider this a general request for renewal of DA. <sup>4</sup>	Deferred action is wholly discretionary, and DHS can consider any positive or negative factor in the case. The April 10th Memo indicates that “a grant of deferred action is an extraordinary exercise of discretionary authority that should be used judiciously on a case-by-case basis in extraordinary and compelling circumstances.” <sup>5</sup>	As it is much less likely that USCIS will grant renewal of DA to young people whose renewal requests are filed on or after May 10, 2026, practitioners must be particularly mindful of USCIS’s NTA Memo, which states that USCIS will issue an NTA when it denies a benefit request.

<sup>4</sup> Deferred action is one form of prosecutorial discretion. Deferred action is a more formal decision of a DHS immigration official to not take action to remove someone, even though that person may in fact be removable. See 8 CFR § 274a.12(c)(14).

<sup>5</sup> USCIS Policy Memorandum, *Special Immigrant Juvenile Classification and Deferred Action*, at 3 (Apr. 10, 2026), <https://www.uscis.gov/sites/default/files/document/memos/PM-602-0198-SIJDeferredAction-20260410.pdf>.

### C. What does this mean for SIJS petitions filed before May 10, 2026?

SIJS petitions filed before May 10th (which falls on a Sunday, meaning that in order to benefit, SIJS petitions should be received by USCIS by Friday, May 8th), will still be automatically considered for deferred action under the 2022 SIJS DA policy.

If SIJS petition was...	Is Form G-325A required for DA consideration?	What policy will USCIS apply for DA consideration?	What standard will USCIS use for DA adjudication?	Additional considerations
Filed before May 10, 2026	No*	2022 SIJS DA policy	USCIS must automatically consider granting deferred action under the 2022 policy, but the standard used to adjudicate is on appeal at the Second Circuit in ACR. It is unclear what standard USCIS will use at this time ( <b>unless the petition was approved between April 7 and June 5, 2025 – see below</b> ).	<b>Those eligible for SIJS should strongly consider filing before May 10, 2026, in order to be automatically considered for DA.</b> <i>Note: May 10<sup>th</sup> falls on a Sunday meaning that in order to benefit, SIJS petitions should be filed by Friday May 8<sup>th</sup>.</i>  There is no required timeline for USCIS to consider DA.
Approved between April 7, 2025 and June 5, 2025	No	2022 SIJS DA policy	Per ACR, USCIS must automatically consider granting deferred action, AND consider the approved SIJS petition as a “strong positive factor” in its discretionary analysis.	There is no required timeline for USCIS to consider DA. However, anecdotal reports indicate that young people in this group have received biometrics appointments and are receiving grants of deferred action.

\*Although Form G-325A is not required for DA consideration, some practitioners have considered filing one in the hopes that it will prompt adjudication. However, practitioners should consider two issues before taking this approach: 1) under USCIS’s current Notice to Appear (NTA) policy, it will issue an NTA when it denies an immigration benefit and the person is not otherwise in lawful status; and 2) the standard that USCIS must apply to these DA adjudications is currently on appeal in the *ACR* litigation, so it is possible that by waiting until the Second Circuit rules, young people could benefit from a more favorable DA standard.

### D. What does this mean for SIJS petitions filed on or after May 10, 2026?

For SIJS petitions filed on or after May 10, 2026, USCIS will NOT automatically consider granting deferred action.

If SIJS petition was...	Is Form G-325A required for DA consideration?	What policy will USCIS apply for DA consideration?	What standard will USCIS use for DA adjudication?	Additional Considerations
Filed on or after May 10, 2026	Yes (or can file a letter requesting DA)	Nothing specific to SIJS, USCIS will consider this a general request for DA.	Unclear, but April 10th Memo indicates that “a grant of deferred action is an extraordinary exercise of discretionary authority that should be used judiciously on a case-by-case basis in extraordinary and compelling circumstances.” <sup>6</sup>	As it is much less likely that USCIS will grant DA to young people whose SIJS petitions are filed on or after May 10, 2026, practitioners must be particularly mindful of USCIS’s NTA Memo, which states that USCIS will issue an NTA when it denies a benefit request.

<sup>6</sup> USCIS Policy Memorandum, *Special Immigrant Juvenile Classification and Deferred Action*, at 3 (Apr. 10, 2026), <https://www.uscis.gov/sites/default/files/document/memos/PM-602-0198-SIJDeferredAction-20260410.pdf>.



**San Francisco**  
t: 415.255.9499  
f: 415.255.9792

**Washington D.C.**  
t: 202.777.8999  
f: 202.293.2849

**Houston**

**San Antonio**

[www.ilrc.org](http://www.ilrc.org)

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