

Special Immigrant Juvenile Policy Updates
Pre-Submitted and Live Q&A
National Engagement Apr. 27, 2022

Timelines for Adjudication for Special Immigrant Juvenile (SIJ) Deferred Action

Q1. When will the deferred action assessment occur related to the I-360 assessment? At the same time? With the same officer?

A1. For pending and future SIJ cases, USCIS will automatically make a deferred action determination following approval of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, similar to the process to consider deferred action for VAWA self-petitioners. Once USCIS adjudicates Form I-360 and deferred action, we will issue a Form I-797, Notice of Action, that includes information about the decision on the Form I-360 and a determination on deferred action.

For already approved SIJ I-360s where a visa number is not currently available, USCIS will consider deferred action for each case. A separate request for deferred action is not required and will not be accepted. Once USCIS decides whether to grant deferred action, we will issue an amended Form I-797, Notice of Action, that includes information about the original grant of SIJ classification and the determination on deferred action.

Q2. What is the timeline for granting of deferred action, and will it impact processing times for pending I-360s? Will USCIS be considering longest-pending applications first?

A2. USCIS began conducting deferred action determinations on May 6, 2022, 60 days after the publication of the Policy Manual update announcing the SIJ deferred action policy. Processing times may vary depending on the circumstances of the case.

Q3. Once deferred action is granted and a I-765 is filed, how long will USCIS take to adjudicate the I-765?

A3. USCIS strives to adjudicate all benefit requests in a timely manner. We will adjudicate Forms I-765 that are submitted following a grant of SIJ deferred action in the order we receive them. For more information on processing times for Form I-765, please see: <https://egov.uscis.gov/processing-times/i765>.

Correspondence/Updating Addresses

Q4. How will we be notified if SIJ-classified noncitizens are granted deferred action? In writing?

A4. If an SIJ-classified individual is granted deferred action, USCIS will issue a Form I-797, Notice of Action, containing both the approval of the Form I-360, Petition for

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Amerasian, Widow(er), or Special Immigrant, and deferred action. In addition, we will update the USCIS [Case Status Online](#) upon a grant of deferred action. The Case Status Online information can be accessed by entering the receipt number for the Form I-360.

If a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, is on file for the Form I-360, we will also send the attorney or accredited representative a courtesy notice.

Q5. What is the best way to make sure USCIS has an SIJ recipient's updated address?

A5. To update your mailing address, you may file Form AR-11, Alien's Change of Address Card, online at [USCIS.gov](#) using the [Change of Address](#) page or mail Form AR-11 to:

U.S. Department of Homeland Security
Citizenship and Immigration Services
Attn: Change of Address
1344 Pleasants Drive
Harrisonburg, VA 22801

Q6. What is the best way to request that documents related to prosecutorial discretion go to an SIJ recipient's safe mailing address? (This is for people who have already received SIJ classification and don't have a Form I-360 pending.)

A6. Safe mailing addresses are for those protected under the confidentiality provisions of 8 U.S.C. 1367 (applicants and recipients of U nonimmigrant status, T nonimmigrant status, or relief under the Violence Against Women Act).

Although petitioners and recipients of SIJ classification are not covered by the 8 U.S.C. 1367 protections, SIJ petitioners may request that USCIS use an alternate address for mail correspondence by entering an alternate address in Part 1, question 7 in Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. If the alternate address provided on the Form I-360 remains the preferred address, there is no need to update your address with USCIS.

If an individual has already been approved for SIJ classification and would like to update their alternate mailing address with USCIS, they may list the alternate address in the "Mailing Address" field on Form AR-11, Alien's Change of Address Card.

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Q7. To what address should we send the G-28 and AR-11 to update our clients' addresses with USCIS for purposes of deferred action?

A7. If you are an attorney or accredited representative and you need to change your address on file with USCIS, you may do so by doing one of the following:

- Submit a new Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, for every pending case and include the receipt number; or
- Submit a letter on your office stationery that clearly states: “**ATTORNEY CHANGE OF ADDRESS.**” Your letter must include a spreadsheet of pending cases with the form type, receipt number, A-Number, and the applicant's name listed for each case.

You must submit your form or letter to the USCIS office where the cases are currently pending.

If the case is an already-approved SIJ-based Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, submit the Form G-28 or letter to the National Benefits Center, indicating the receipt number or providing a copy of the I-360 approval notice. Do not combine requests to update the address for multiple approved Form I-360s into one letter; each request must be on a separate G-28 or letter.

You can mail the request to:

U.S. Department of Homeland Security
Citizenship and Immigration Services
National Benefits Center, Overland Park
Attn: Special Immigrant Juvenile
P.O. Box 25920
Overland Park, KS 66225

Q8. How can an individual contact USCIS if they do not receive a notice of a deferred action decision?

A8. If you have not received notice of a deferred action decision, and there is no update in the Case Status Online tool on USCIS.gov, you may contact the USCIS Contact Center at 800-375-5283. USCIS has discontinued the SIJ NBC email box for general inquiries,

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but by reaching out to the Contact Center, an internally trackable inquiry will be generated that will go to the NBC for resolution.

Q9. If we call the Customer Contact Center, and we need to send a document to USCIS, will they follow up with us by email, so that we can send that document?

A9. USCIS generally cannot accept documents via email. If you need to submit documents in response to an inquiry from USCIS such as a response to a Contact Center request, a Request for Evidence, or a Notice of Intent to Deny, please follow the instructions provided on how to transmit the requested information.

If you need to submit documents related to an SIJ petition independent of a request from USCIS, please send them by mail with the petitioner/applicant's name, date of birth, A number, and receipt number. Please mail them to:

U.S. Department of Homeland Security
Citizenship and Immigration Services
National Benefits Center, Overland Park
Attn: Special Immigrant Juvenile
P.O. Box 25920
Overland Park, KS 66225

Q10. What is the best way to let NBC know an Immigration Court case has been terminated for an administratively closed SIJ-based I-485?

A10. You may call the USCIS Contact Center to request reopening of an MSC-receipted I-485, Application to Register Permanent Residence or Adjust Status, or transfer of an SRC-receipted Form I-485 following termination of removal proceedings. The Contact Center will notify the National Benefits Center (NBC), and the NBC will issue a Request for Evidence (RFE) to obtain a copy of the order terminating removal proceedings, a copy of the Form I-485, and supporting documents, or other information, as required.

You may also submit requests to reopen a Form I-485 following termination of removal proceedings by mail. Please include a copy of the termination order, name, date of birth, A number, and receipt number. To transfer an SRC-receipted Form I-485 that was originally accepted by the Immigration Judge, please mail a copy of the termination order with a complete copy of the Form I-485 and all supporting documents, as USCIS generally is not able to obtain these documents from the court or the original filing with the Texas Service Center. Please mail them to:

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U.S. Department of Homeland Security
Citizenship and Immigration Services
National Benefits Center, Overland Park
Attn: Special Immigrant Juvenile
P.O. Box 25920
Overland Park, KS 66225

SIJ Deferred Action Process

Q11. Is there a process for people already granted SIJ to be granted deferred action, or is deferred action only available going forward for pending petitions?

A11. Yes. USCIS will consider for deferred action everyone with an approved SIJ-based Form I-360, Petitions for Amerasian, Widow(er), or Special Immigrant, who does not have a current visa number and who are therefore unable to apply to adjust status to lawful permanent residence. Those individuals do not need to take any action or make requests for USCIS to initiate this process.

If an individual applied for adjustment of status when a visa number was available or when USCIS was accepting Form I-485, Application to Register Permanent Residence or Adjust Status, based on the “Dates for Filing” chart of the Visa Bulletin, USCIS will not consider that individual for deferred action even if the Visa Bulletin subsequently retrogressed. In such a case, the individual is eligible to seek an employment authorization document while the I-485 remains pending under 8 C.F.R. 274.12(c)(9).

Q12. For I-360s approved or pending prior to the new deferred action process, are there steps we should follow to apply for deferred action?

A12. USCIS will conduct the initial deferred action determinations for approved SIJs who cannot apply for adjustment of status solely because an immigrant visa number is not immediately available. A separate request for deferred action is not required and will not be accepted. The agency will consider deferred action on a case-by-case basis to determine whether the SIJ warrants a favorable exercise of discretion.

Q13. Will USCIS conduct biometrics in connection with SIJ deferred action determinations?

A13. While a separate biometrics submission is not required for consideration of deferred action, USCIS may need to update the background checks performed to adjudicate the SIJ petition. Depending on the facts and circumstances of the individual case, we may also request that you submit biometrics for a background check or go for an interview before granting deferred action. See 8 CFR 103.2(b)(9).

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Q14. What factors will be considered for deferred action, specifically, factors that are not already part of the Form I-360 adjudication?

A14. Deferred action is a temporary, favorable exercise of discretion that gives some cases lower priority for immigration enforcement action. USCIS examines the totality of the circumstances in an individual case to weigh the positive and negative factors to determine whether to exercise discretion 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.

Q15. What evidence will USCIS rely on in its consideration of deferred action?

A15. USCIS will weigh positive and negative factors on a case-by-case basis to determine whether to exercise discretion to grant deferred action. Approval of the SIJ petition is a particularly strong positive discretionary factor.

USCIS will not issue a request for evidence (RFE) or notice of intent to deny (NOID) in the context of SIJ deferred action determinations.

Q16. I would like to know how USCIS plans to handle deferred action for SIJ individuals in removal proceedings. Many of my SIJ clients have approved I-360 petitions and are still in removal proceedings. Some have filed I-485s before their priority date is current, because certain judges allow / require it. And some filed their I-485 while their priority date is current, but the date has retrogressed.

a. Will your office grant deferred action to individuals in removal proceedings with an approved SIJ I-360?

Yes, deferred action may be granted to SIJ-classified individuals without a current visa number who are in removal proceedings.

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- b. Will you consider prioritizing these cases to help prevent removal orders?

USCIS will consider deferred action for SIJ-classified noncitizens as expeditiously as possible. There is not presently a mechanism for USCIS to expedite review based on an individual being in removal proceedings.

- c. Will your office still grant deferred action to individuals in removal proceedings who have filed an I-485?

USCIS will not consider deferred action for SIJ-classified noncitizens in removal proceedings who have a pending or approved Form I-485, Application to Register Permanent Residence or Adjust Status, with the U.S. Department of Justice, Executive Office of Immigration Review, even if a visa number was available at the time of filing and the Visa Bulletin subsequently retrogressed.

An individual with a pending Form I-485 is, however, eligible for work authorization pursuant to 8 C.F.R. 274.12(c)(9).

- d. Will USCIS still consider for deferred action those whose removal proceedings are terminated in immigration court?

Yes, USCIS may still consider for deferred action those whose removal proceedings are terminated in immigration court if they are otherwise eligible.

Q17, If an SIJ recipient submitted an I-485 application, but the application was rejected due to a change in the visa bulletin, would they no longer be considered for deferred action?

A17. As long as there is no pending or approved Form I-485, Application to Register Permanent Residence or Adjust Status, and an immigrant visa number is not available, the SIJ-classified noncitizen may be considered for deferred action and the rejection of Form I-485 will not impact this consideration.

Q18. Will renewal of deferred action be automatically considered, or only on the request of the deferred action recipient?

A18. USCIS may consider requests for renewal of deferred action for noncitizens 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 in the USCIS Policy Manual regarding eligibility and adjudication for an initial grant of SIJ deferred action.

Additional information regarding renewals for SIJ deferred action will be forthcoming.

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Q19. The Policy Manual states that “USCIS authorizes deferred action for a period of 4 years.” Will all grants of DA to SIJS recipients be for a four-year period? For how long will EADs based on SIJS DA be valid? Four years?

A19. USCIS will issue grants of deferred action for up to four years. A person who has been granted deferred action may apply for and be granted employment authorization for the period of deferred action. This means that if someone is issued employment authorization following a grant of deferred action, the work authorization will expire the same day that the grant of deferred action expires.

Q20. What types of detention qualify as “immigration detention,” as referenced on page 5, footnote 25 of the SIJ Deferred Action Policy Manual Update?

A20. Immigration detention as referenced in [footnote 25](#) of Vol. 6, Part J, Chapter 4 of the USCIS Policy Manual refers to detention with U.S. Immigration and Customs Enforcement. It does not include custody under the U.S. Department of Health and Human Services, Office of Refugee Resettlement for unaccompanied minors.

Q21. Will individuals granted deferred action under this policy be eligible for advance parole?

A21. No, SIJ classified noncitizens granted deferred action under this policy will not be eligible to apply for advance parole.

Q22. What process to request reconsideration will be available to individuals with approved SIJS petitions for whom USCIS denies deferred action or terminates a previous grant?

A22. Deferred action is an exercise of prosecutorial discretion; it is not a benefit. There is therefore no review of a determination not to grant SIJ deferred action.

Q23. When should we submit a status inquiry for the Deferred Action adjudication on cases that already have an approved I-360? Can the inquiry be submitted online?

A23. For the previously approved SIJ-based I-360, Petitions for Amerasian, Widow(er), or Special Immigrant, USCIS will make determinations about whether to grant deferred action as efficiently as possible. When USCIS decides whether to grant deferred action, the decision will be available on [Case Status Online](#), and an amended Form I-797, Notice of Action, will be mailed to the SIJ classified individual and their attorney of record. You

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may also contact the USCIS Contact Center at 800-375-5283 to inquire about the status of a deferred action determination.

Employment Authorization Documents (EADs)

Q24. Will there be a fee for the I-765 application based on deferred action through SIJ?

A24. Form I-765 must be accompanied by the proper fee or a Form I-912, Request for Fee Waiver. If requesting a fee waiver, the SIJ should include a copy of the Form, I-797 Notice of Action approving Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, together with the Form I-912. The same I-912 Instructions for filing a fee waiver for an SIJ-based Form I-485, Application to Register Permanent Residence or Adjust Status, apply in the context of seeking a fee waiver for the SIJ deferred action I-765, Application for Employment Authorization.

Q25. Can we submit I-765 applications along with I-360 applications starting on May 6?

A25. No. Form I-765, Application for Employment Authorization, may only be filed after the SIJ-classified individual has received a grant of deferred action.

Q26. Where do we submit I-765 applications based on deferred action through SIJ?

A26. Depending on your state of residence, file Form I-765, Application for Employment Authorization, with the Chicago Lockbox or the Phoenix Lockbox, **Attn: I-765 C14**.

You can find more information on where to file on our Direct Filing Addresses for Form I-765, Application for Employment Authorization page at <https://www.uscis.gov/i-765-addresses>.

Q27. If an applicant physically resides in one state (ex: Missouri), but uses their attorney's address as their safe or alternate mailing address in another state (ex: California), which Lockbox should the applicant use to file the I-765 (Phoenix or Chicago)? Physical residence or mailing address?

You should file with the Lockbox that corresponds to the location where you physically reside. However, you may still list an alternate or safe mailing address in the "U.S. Mailing Address" field on Form I-765 if you prefer to receive correspondence at another address, such as your attorney's address.

Q28. For an individual with an approved SIJ that is subject to the backlog, what will happen with Form I-765 filed under category (c)(11), which is still pending, arguing that the individual was paroled and therefore eligible for the EAD? Should they write now to the service center asking to convert the pending I-765 into category (c)(14) in light of the

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new policy and to hold it until it goes into effect in May 2022, or should the individual file a new I-765 C14 in May, or do nothing at the moment?

A28. If USCIS grants such an individual deferred action, they must file a new Form I-765, Application for Employment Authorization, indicating category (c)(14) after grant of deferred action.

Q29. How will USCIS determine “economic necessity” for work authorization under category (c)(14) based on SIJS deferred action? Will children too young to work be precluded from obtaining EADs?

A29. Form I-765WS, Worksheet, will not be required. Economic necessity will be presumed based on an approved SIJ-based Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant.

There is no age requirement for filing Form I-765; even those too young to work may seek an employment authorization document. An employment authorization document may serve other purposes beyond granting authorization to work lawfully, including as a form of government issued identification.

Q30. Can we submit the I-765, Application for Employment Authorization, if we see a grant of deferred action on USCIS Case Status Online even if we haven't received the notice in the mail?

A30. Yes, SIJ-classified individuals may submit an I-765, Application for Employment Authorization, based on a grant of deferred action as indicated on [Case Status Online](#).

Q31. Is there any process by which to expedite a (c)(14) I-765 for an individual granted deferred action who is experiencing extreme poverty or other emergency circumstances?

A31. USCIS will consider expedite requests on a case-by-case basis pursuant to the criteria in the USCIS Policy Manual at [Vol. 1, Part 1, Chap. 5, Requests to Expedite Applications or Petitions](#).

SIJ Final Rule Questions

Q32. Given the rescission of automatic revocation if applicant is married after I-360 application was approved, would there be any consequences related to I-360 approval if applicant is married?

A32. If an SIJ petitioner gets married before the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, is approved, that person would be ineligible for SIJ

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classification under 8 CFR §204.11(b)(2), which provides that a petitioner must be “unmarried at the time of filing and adjudication.” Therefore, to remain eligible for SIJ classification, the noncitizen must remain unmarried at the time of filing and adjudication of the Form I-360. However, if the noncitizen marries after approval of the I-360, this is no longer a basis for automatic revocation of the I-360 petition.

Q33. Under the final rule, will an SIJ whose priority date is not current, and who got married before the rule became final, now be eligible to adjust status when their priority date is current, notwithstanding the fact that they married before this rule was published?

A33. Such an individual may apply for SIJ-based adjustment of status if their SIJ approval has not been revoked and they are otherwise eligible.

Q34. Under the new regulations, a person who married after the approval of the SIJS I-360 petition remains eligible to apply to adjust status. If such a marriage occurred after Form I-485 was filed and the I-485 is pending before April 7, 2022, will USCIS proceed to adjudicate the pending I-485 when the new rules take effect?

A34. Yes. If such an individual’s SIJ approval has not been revoked and they are otherwise eligible, USCIS will still proceed with adjudication of the pending Form I-485, Application to Register Permanent Residence or Adjust Status.

Q35. Because marriage no longer results in automatic revocation of the I-360 approval, is there any need to provide an update to USCIS about a marriage that occurred after the I-360 approval?

Q35. No. SIJ-classified individuals do not need to provide an update to USCIS about a marriage that occurred after the I-360, Petition for Amerasian, Widow(er), or Special Immigrant, approval.

Q36. How does someone know if their SIJ classification was automatically revoked?

A36. If the facts of a case trigger an automatic revocation pursuant to 8 CFR 204.11(j), USCIS will issue a Notice of Automatic Revocation to the petitioner and the attorney of record.

Q37. Must the SIJ petitioner retain the guardianship or custodial relationship with the guardian/custodial parent throughout the entire process, including the I-485 processing?

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A37. The fact that a juvenile leaves a court-ordered placement does not by itself affect SIJ eligibility. However, in general, the petitioner must remain under the jurisdiction of the juvenile court at the time of the filing and adjudication of the SIJ-based I-360, Petition for Amerasian, Widow(er), or Special Immigrant, subject to some exceptions. If the petitioner is no longer under the jurisdiction of the juvenile court for a reason related to their underlying eligibility for SIJ classification, the petitioner may no longer be eligible for SIJ classification. This may include cases in which the petitioner is no longer under the jurisdiction of the court because:

- The court vacated or terminated its determinations that made the petitioner eligible because of subsequent evidence or information that invalidated the determinations; or
- The court reunified the petitioner with the parent with whom the court previously deemed reunification was not viable because of abuse, neglect, abandonment, or a similar basis under state law.

USCIS will not re-adjudicate the Form I-360 when adjudicating Form I-485, Application to Register Permanent Residence or Adjust Status. However, an approved Form I-360 is automatically revoked as of the date of the approval if either of the following circumstances occur before USCIS issues a decision on the Form I-485:

- Reunification of the petitioner with one or both parents by virtue of a juvenile court order, 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.

Q38. If you obtain a juvenile court order in one state and move to another state before the I-360 is approved, do you need new juvenile court orders in the new state?

A38. A juvenile court order does not necessarily terminate because of a petitioner's move to another court's jurisdiction. In general, a court maintains jurisdiction when it orders the juvenile placed in a different state or makes a custody determination and the juvenile and the legal custodian relocate to a new jurisdiction. A new juvenile court order is only needed if the original juvenile court order is no longer valid or in effect, unless the order terminated due to the petitioner aging out of the juvenile court jurisdiction or because a child welfare permanency goal was reached, such as adoption.

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If the original order is terminated due to the relocation of the petitioner, but another order is issued in a new jurisdiction, USCIS considers the dependency or custody to have continued through the time of adjudication of the SIJ petition, even if there is a lapse between the court orders.

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