



# End SIJ Backlogs Stakeholder Meeting Oct. 6, 2022 Pre-Submitted Questions and Answers

**Q1. Erroneous fee waiver rejections (and lack of public-facing statement from USCIS memorializing the policy announced during the 4.27 engagement, for which notes have yet to be posted). For example:**

- 1. Two clients who applied for I-485 and I-765 concurrently with the I-360 (from non-retrogressed countries), fee waivers were erroneously denied. Responded to the rejection and waiting for response. Both from Chicago Lockbox.**
- 2. Three cases in early summer from the New Jersey offices for an I-765 application.**

A1. We appreciate you bringing this issue to our attention. SIJ petitioners and SIJ classified noncitizens are not required to provide evidence of household income when applying for a fee waiver in recognition that many applicants are vulnerable youth who are in the foster care system or full-time students or both, without the ability to independently support themselves.

When requesting a fee waiver, noncitizens should include evidence that they were approved or filed for SIJ classification (for example, Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant; or a copy of Form I-797, Notice of Action, for Form I-360), together with the Form I-912, Request for Fee Waiver.

This policy is reflected on the [Form I-912 Instructions](#) as well as in the Q&A from the [4.27.22 National Engagement on SIJ Policy Updates](#), which is posted in the USCIS Electronic Reading Room at:

[https://www.uscis.gov/sites/default/files/document/outreach-engagements/National\\_Engagement-Special\\_Immigrant\\_Juvenile\\_Policy\\_Updates-Q%26A.pdf](https://www.uscis.gov/sites/default/files/document/outreach-engagements/National_Engagement-Special_Immigrant_Juvenile_Policy_Updates-Q%26A.pdf).



Regarding these specific incidents, we have reached out to our counterparts at the Lockboxes to ensure adherence to the policy for fee waiver requests from SIJ petitioners and beneficiary.

In addition, DHS aims to publish a notice of proposed rulemaking (NPRM) for USCIS fees this year. DHS may further revise its fee waiver and exemption policies for vulnerable populations, such as SIJs, as a part of that rulemaking.

**Q2. Trend of EAD cards being issued with a 5/9/2026 expiration date, even though that date does not correspond to the (later) date when the youth's deferred action period ends.**

**For example,**

- 1. Of 15 cases received with EADs, one has an EAD with an expiration date of two days earlier than the DA expiration date and twelve had EAD with expiration date three days earlier than the DA expiration date, and two had EAD with expiration date two days later than the DA expiration date.**
- 2. KIND has more than 150 c(14) EADs that expire on 5/9/26 but only 10 clients whose deferred action expires on that day.**
- 3. From KIND- many of the 5/9/26 EAD expirations have DA that expires on 5/12/26 (the end of the same week). We were not able to obtain A#s for this trend.**

A2. During the first week of implementation of the SIJ DA policy, a minor delay occurred between the date deferred action was granted and the date the notices were printed and mailed. As a result, the minor delay impacted the EAD validity period. This issue has been identified and corrected.

**Q3. Practitioner reports that in some number of cases (trend appears to be for Mexican children) the child receives an I-360 approval with no corresponding deferred action decision (nor any other apparent cause for delay, such as scheduling of biometrics).**

**For example:** MSCxxx826; A#xxx569

A3. For all pending and future cases as of May 6, 2022, USCIS is considering deferred action at the time of adjudication of the Form I-360 for all petitioners who do not have a current visa number available or a pending Form I-485.

Generally, the deferred action determination will be issued together with the decision on the Form I-360. However, in certain circumstances, USCIS may issue a decision on the Form I-360 before deciding on deferred action where USCIS needs additional



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*Public Engagement Division*

information, which may include requesting biometrics, to make the deferred action determination.

We appreciate you bringing this case to our attention. USCIS has reviewed this case and will provide case specific information to the affected parties. A non-citizen who is present in the United States without status may seek deferred action unrelated to the filing of Form I-360 at a USCIS Field Office. An appointment can be secured by calling the USCIS Contact Center.

**Q4. Issue of children who originally filed the I-485 defensively but then OPLA sought and obtained dismissal of removal proceedings. These children are not receiving a deferred action decision (presumably because under USCIS's policy youth who are eligible to apply for adjustment are not considered for deferred action) but also cannot obtain a c9 EAD because they no longer have an I-485 pending with the court. These children are having trouble getting the I-485 transferred to USCIS, perhaps because of visa retrogression since the filing of the I-485 in court and are left without a Deferred Action grant, without an EAD.**

A4. SIJ classified noncitizens with a pending Form I-485, Application to Register Permanent Residence or Adjust Status, are not eligible for consideration for deferred action, regardless of whether the Form I-485 is pending with the Executive Office of Immigration Review (EOIR) or USCIS. This is the case even if a visa number was available at the time of filing and the Visa Bulletin subsequently retrogressed.

USCIS considers all noncitizens with a pending Form I-485, regardless of whether it is pending before EOIR or USCIS, to be eligible to apply for an employment authorization document under category (c)(9). This includes noncitizens with a pending Form I-485 in removal proceedings, during the transfer of the Form I-485 to USCIS following termination of removal proceedings, and while the Form I-485 is pending with USCIS.

Noncitizens who filed Form I-485s with EOIR and wish to transfer their application to USCIS following termination or dismissal of removal proceedings, may do so by calling the USCIS Contact Center. 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 a Form I-485 that was originally accepted by the Immigration Judge, please mail a copy of the termination order with a complete



## U.S. Citizenship and Immigration Services

Public Engagement Division

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:

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

**Q5. Questions about USCIS prioritization and process for deferred action decisions in the cases of approved I-360s who have not yet received a decision regarding deferred action. For example, we learned from the July 2022 declaration of Rose Kendrick, the Deputy Director of the USCIS National Benefits Center, filed in pending litigation concerning (c)(11)-based EAD requests for SIJS youth that about 15% of cases were still pending a decision on their deferred action from those with approved I-360s on the date the policy went into effect. We wonder whether there is a reason for the delay in adjudication on those cases?**

A5. USCIS has worked to ensure that eligible noncitizens with approved SIJ I-360s at the time of implementation of the SIJ deferred action policy were considered for deferred action as quickly as possible.

We are pleased to report that as of Sept. 20, less than 0.1% of this pool of eligible SIJ-classified noncitizens had not yet received a decision regarding deferred action.

**Q6. USCIS elimination of NBCSIJ email inbox, which was a critical tool for practitioners to efficiently communicate with NBC (e.g., to provide immigration court dismissal order allowing USCIS to adjudicate I-485), and inadequate substitute of USCIS Contact Center for this population. Some specific issues include:**

1. The responses regarding where to send follow-up EOIR dismissal orders have been utterly inadequate, merely giving links to other USCIS.gov pages that do not address the issue.
2. The USCIS contact center had previously resolved issues through the NBCSIJ email that cannot be resolved through the contact center including:
  - a. Delays in processing where the delay may be causing a financial or humanitarian hardship (i.e., medical or financial aid needs)
  - b. Receipting issues (receipt notice not issued on date of receipt as reflected by courier tracking; or receipt notice mis-spelled)



- client's name where name was spelled correctly on the applications)**
- c. Clarifications re: RFEs (an RFE noted a document missing that was not in fact missing from the submission)**
  - d. To notify if a child's case was terminated/dismissed in immigration court.**
  - e. To notify that an age-out case was en route to USCIS.**

**Officers at the Contact Center do not seem to be equipped to handle the nuances of SIJS/I-360s. Organization called to request the biometrics appt. be rescheduled for a (C)(14) EAD and received an email response 2 weeks later stating that the case type was not something that could be discussed at the call center as it was based on an I-360 and we should contact VSC directly. We were given the mailing address for the VSC in Essex Junction. This was despite the fact that the call was related to an I-765 and not the I-360, not to mention the fact that the I-360 on file had been processed at the NBC for the eligible SIJ youth and had nothing to do with a VAWA petition.**

A6. Thank you for bringing this to our attention. We understand the importance of efficient communication with applicants and petitioners following up on their benefit requests. We are directing stakeholders to the USCIS Contact Center for general inquiries to better ensure USCIS accountability and tracking of the inquiries. Though we have discontinued the NBC SIJ Mailbox, when an SIJ-related inquiry comes to the USCIS Contact Center, an internal inquiry is generated and sent to the NBC mailbox, where it is tracked and assigned to an officer with expertise in SIJ for resolution. We continue to engage with the USCIS Contact Center to appropriately respond to SIJ-related inquiries.

The agency is also reviewing overall protocols for how to handle inquiries and customer service issues for protected individuals and will consider this feedback during this review process. We want to ensure protections remain in place, as appropriate, while not unduly burdening those seeking assistance with a case.

In addition to the USCIS Contact Center, for certain issues such as transferring Form I-485 from EOIR to USCIS, there is also the option to make the request by mail to the NBC.

**Q7. Significant delays with SIJS I-360 petitions and SIJS-based I-485s and (c)(9) I-765s. Delays in I-360 adjudications in violation of the statutory 180-day deadline prejudice children who would otherwise be granted deferred action and eligible for an EAD and other corresponding benefits, for example in some state's health insurance programs.**



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A7. USCIS is committed to working to minimize any processing delays and making a decision on I-360 petitions within the statutory timeframe for adjudication.

From 2016 to 2022, receipt volumes surged for SIJ-based I-360s. USCIS adjusted staffing and continues to monitor to meet workload needs. Despite being unable to staff to authorized levels during the hiring freeze, USCIS continued to increase the number of officers adjudicating SIJ classification and the related adjustment of status.

USCIS places a high priority on the SIJ workload, continually looking to ensure prompt adjudication of SIJ Petitions and SIJ adjustment of status applications, to include acquisition and assignment of personnel and innovative operational efficiencies. In addition to an unanticipated surge in receipt volumes, USCIS has a significant adjudicator vacancy rate due to a prior hiring freeze and subsequent attrition. In recent months, we have resumed hiring and will increase the level of staffing dedicated to the SIJ workload. In the meantime, we are shifting existing personnel to address the increased workload and adjudicate within required processing times.

**Q8. USCIS stance on the need for an I-601 waiver for SIJS youth with prior removal orders. There have been inconsistencies reported when a child has a prior DHS removal order or an EOIR removal order but is an arriving alien, so USCIS has jurisdiction to adjudicate the I-485. In some instances, USCIS has adjudicated the I-485 without also adjudicating the accompanying I-601.**

A8. When USCIS has jurisdiction over an SIJ-based applicant for adjustment of status because the applicant is an arriving alien, if there is an unexecuted final removal order, USCIS would only request a Form I-601, Application for Waiver of Inadmissibility, for an inadmissibility ground that may be waived pursuant to INA 245(h), relating to inadmissibility grounds that apply to SIJs.