



April 10, 2026

PM-602-0198

## Policy Memorandum

**SUBJECT:** Special Immigrant Juvenile Classification and Deferred Action

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing this policy memorandum to eliminate the 2022 policy automatically considering deferred action (and related employment authorization) for aliens classified as Special Immigrant Juveniles (SIJs) who cannot apply for adjustment of status to that of a lawful permanent resident (LPR) because an immigrant visa is not immediately available.<sup>1</sup>

USCIS previously rescinded the underlying policy on June 6, 2025.<sup>2</sup> However, the U.S. District Court for the Eastern District of New York in *A.C.R. v. Noem*, No. 1:25-cv-03962 stayed the rescission on November 19, 2025, finding, among other grounds, that USCIS had not adequately addressed the alleged reliance interests of parties affected by the rescission. Pursuant to the court order, USCIS continued providing automatic consideration of deferred action for aliens classified as SIJs. USCIS has subsequently looked at the SIJ deferred action policy afresh and issues the herein notice to announce a new policy.

After examining the SIJ program and the 2022 policy, USCIS is taking this action to improve the effectiveness of the deferred action policies and process. Further, as explained below, this change is fully consistent with the applicable statute. USCIS has decided that terminating the current SIJ deferred action process is a better choice than maintaining it. As the 2022 policy was a discretionary change, the decision to terminate the policy as announced in this alert is not factually inconsistent with the findings in the 2022 policy alert.

USCIS has made an effort to identify any serious reliance interests of the parties affected by this change in policy and has determined that the government interests in rescinding the 2022 policy outweigh any such reliance interests inuring to the affected parties.

### Authority

- [INA 103](#) – Powers and duties of the DHS Secretary, Under Secretary and Attorney General.

<sup>1</sup> See [Special Immigrant Juvenile Classification and Deferred Action](#), PA-2022-10, issued March 7, 2022.

<sup>2</sup> See [Special Immigrant Juvenile Classification and Deferred Action](#), PA-2025-07, issued June 6, 2025.

- [INA 245](#) – Adjustment of status of nonimmigrant to that of person admitted for permanent residence.
- [8 CFR 204.11](#) – Special immigrant juvenile classification.

## Background

The Immigration and Nationality Act (INA) authorizes a grant of SIJ classification<sup>3</sup> on a case-by-case basis to an alien whom a juvenile court has declared to be dependent on the juvenile court, or whom the juvenile court has legally committed to or placed under the custody of an agency or department of a State, individual, or entity, and whom USCIS has determined did not seek the juvenile court's dependency or custody order primarily to obtain immigration benefit.<sup>4</sup> The juvenile court must determine that reunification with one or both parents is not viable for the juvenile alien due to abuse, neglect, abandonment, or a similar basis under state law.<sup>5</sup> In addition, it must be determined in administrative or judicial proceedings that it would not be in the juvenile alien's best interest to be returned to the country of nationality or last habitual residence of the juvenile alien or of their parent(s).

The SIJ classification is available to unmarried aliens under the age of 21 who are present in the United States and subject to state juvenile court proceedings related to abuse, neglect, abandonment, or a similar basis under state law.<sup>6</sup> USCIS determines if the petitioner meets the requirements for SIJ classification by adjudicating a [Form I-360](#), Petition for Amerasian, Widow(er), or Special Immigrant. 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 with an approved I-360 petition, however, may seek to adjust status to that of an LPR based on the approved petition if the alien meets certain statutory requirements.<sup>7</sup> One of the requirements is that an immigrant visa be immediately available at the time of filing the adjustment of status application.<sup>8</sup>

On March 7, 2022, USCIS updated its policy guidance to provide that the agency would automatically consider granting deferred action on a case-by-case basis to aliens classified as SIJs who were ineligible to apply for adjustment of status solely due to an unavailable immigrant visa.<sup>9</sup> A grant of deferred action does not confer immigration status, is not an admission to the United States, and does not excuse any past or future periods of unlawful presence or other inadmissibility grounds.<sup>10</sup>

Neither the INA nor any other statute requires or expressly authorizes deferred action and related employment authorization by policy for SIJs awaiting visa availability. Moreover, USCIS has

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<sup>3</sup> The Immigration Act of 1990, [Pub. L. 101-649](#), 104 Stat. 4978 (Nov. 29, 1990), added the SIJ classification. Congress has amended the eligibility criteria for SIJ classification several times, as noted in Table 1.

<sup>4</sup> See [INA 101\(a\)\(27\)\(J\)\(i\)](#) and [8 CFR 204.11](#).

<sup>5</sup> See [INA 101\(a\)\(27\)\(J\)\(i\)](#).

<sup>6</sup> See [INA 101\(a\)\(27\)\(J\)](#). See [8 CFR 204.11](#).

<sup>7</sup> See [INA 245\(a\)](#), [INA 245\(c\)\(2\)](#), [INA 245\(h\)](#).

<sup>8</sup> See [INA 245\(a\)](#) and [INA 245\(h\)](#). See [8 CFR 245.2\(a\)\(2\)\(i\)\(A\)](#).

<sup>9</sup> See [Special Immigrant Juvenile Classification and Deferred Action](#), PA-2022-10, issued March 7, 2022.

<sup>10</sup> See, e.g., *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483-84 (1999).

identified significant weaknesses in the SIJ program.<sup>11</sup> As discussed more fully below, USCIS must mitigate program integrity vulnerabilities, significant national security and public safety concerns, and to ensure that SIJ classification remains available for the juveniles whom it was intended to protect.

Subsequent to the implementation of the March 2022 policy guidance, President Trump issued Executive Order 14161, “Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats.”<sup>12</sup> This Executive Order 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.”

On April 4, 2025, then-Secretary Noem issued a memorandum regarding the use of deferred action.<sup>13</sup> She explained 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.

USCIS has determined that this update is necessary to better align policies with the INA, and to address concerns consistent with Executive Order 14161. As discussed below, this policy promotes the Executive Order’s instructions by ensuring that USCIS Fraud Detection and National Security Directorate (FDNS) personnel, as well as adjudicating officers, are not unnecessarily restricted from considering potentially relevant information within a record. Furthermore, USCIS has determined it is in the national and public interest to no longer automatically consider deferred action for aliens with an approved Form I-360 based on SIJ classification. Consistent with the Secretary’s April 2025 memorandum, as of the effective date of this policy change, USCIS will no longer automatically consider deferred action requests that are not consistent with statute or regulation.

## Guidance

USCIS is clarifying and explaining why the agency no longer categorically and automatically considers deferred action for SIJs who are ineligible to file an application for adjustment of status to that of an LPR solely because an immigrant visa number is not immediately available.

### *Discussion*

1. Deferred action as an exercise of prosecutorial discretion.

USCIS has determined that its officers generally should only grant deferred action to an alien when it is clearly authorized by statute or regulation. The traditional basis to defer action arises from the Executive Branch’s authority over prosecutorial discretion, including its authority to use its limited resources to prioritize certain cases for enforcement over others.<sup>14</sup> As deferred action is an

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<sup>11</sup> See USCIS, [Criminality, Gangs, and Program Integrity Concerns in Special Immigrant Juvenile Petitions](#) (July 2025).

<sup>12</sup> See [90 FR 8451](#) (Jan. 20, 2025). This policy promotes the Executive Order’s instructions 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.

<sup>13</sup> See Memorandum from former Secretary Noem, *Guidance on Deferred Action* (Apr. 4, 2025).

<sup>14</sup> See [8 CFR 274a.12\(c\)\(14\)](#) (referring to deferred action as “an act of administrative convenience to the government which gives some cases lower priority”).

extraordinary use of prosecutorial discretion, USCIS has determined that it should not use deferred action categorically for large populations of aliens without proper case-by-case scrutiny.<sup>15</sup> Therefore, USCIS' prosecutorial discretion, to the extent it has such discretion, will be exercised only in compelling cases after a determination that discretion is warranted based on a totality of the circumstances and only on a case-by-case basis. USCIS is not required to consider deferred action when not supported by statute or regulation and in compliance with the Administrative Procedure Act.<sup>16</sup>

## 2. Deferred action for approved SIJs.

The approval of an immigrant visa petition generally vests no rights in the beneficiary of the petition, as it is only a preliminary step in the adjustment of status application process. SIJs are not entitled to an immigration benefit, including adjustment of status.<sup>17</sup> Likewise, the approval of a Form I-360 does not automatically bestow deferred action consideration in order to grant employment authorization, stay removal orders, or pause or administratively close removal proceedings because immigrant visas are unavailable for several years.<sup>18</sup> USCIS' automatic consideration for deferred action for SIJs who did not yet have an available immigrant visa is inconsistent with USCIS' general policy with respect to the case-by-case exercise of prosecutorial discretion.<sup>19</sup>

Under the current 2022 SIJ deferred action policy that this memorandum terminates, USCIS failed to consider clearly relevant information like basic background and security check information, including biometrics-based background checks. Biometric-based background checks are not required for Form I-360 approval, which requires only identity verification and criminal history record information based on a petitioner's self-reported submissions. Therefore, critical information related to identity verification and any possible criminal history was not routinely considered in USCIS' exercise of prosecutorial discretion for the deferred action decision.

A July 2025 USCIS report identified significant national security and integrity vulnerabilities in the SIJ program, where a pathway was provided to lawful permanent residence and eventually citizenship to criminal aliens, gang members, and known or suspected terrorists. The "[Criminality, Gangs, and Program Integrity Concerns in Special Immigrant Juvenile Petitions](#)" report reviewed over 300,000 aliens' SIJ petitions filed from the beginning of Fiscal Year 2013 through February 2025. Key findings included 853 known or suspected gang members who filed SIJ petitions, with most receiving approval. Over 600 MS-13 gang members filed SIJ petitions, and more than 500 were approved; among them, at least 70 had been charged with gang-related federal racketeering conspiracy offenses and many others charged with violent crimes in the United States, including murder and sex offenses. Additional SIJ petition approvals included more than 100 known or suspected members of the 18th Street gang; at least three Tren de Aragua gang members; and dozens of Sureños and Norteños gang members.

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<sup>15</sup> See Memorandum from former Secretary Noem, *Guidance on Deferred Action* (Apr. 4, 2025).

<sup>16</sup> See *Dep't of Homeland Sec. v. Regents*, 591 U.S. 1 (2020).

<sup>17</sup> See *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988).

<sup>18</sup> See *Matter of Pinzon Rozo*, 29 I&N Dec. 507 (BIA 2026); see also *Matter of Tzalam*, 29 I&N Dec. 300 (BIA 2025); *Matter of B-N-K-*, 29 I&N Dec. 96 (BIA 2025).

<sup>19</sup> See *Regents*, 591 U.S. at 12-13 (stating that Congress has in the past used express language to make certain classes of individuals eligible for deferred action).

USCIS has found that the 2022 SIJ deferred action policy creates significant national security and public safety concerns. A recent USCIS analysis of SIJ data between fiscal years 2013 and early 2025 revealed that nearly 19,000 SIJ petitioners had criminal arrests—over 120 for murder.<sup>20</sup> Since implementing the SIJ deferred action policy in 2022, USCIS has also seen an increase in filings by SIJ petitioners from countries where foreign terrorist organizations are known to recruit or operate. Aliens filing SIJ petitions frequently entered the United States without inspection from such countries as Afghanistan, Russia, Somalia, Tajikistan, and Uzbekistan.

USCIS additionally has found that categorical deferred action likely increased the number of SIJ petitions received by the agency, and over half of these petitions were filed by aliens who are over the age of 18. Although 18 years old is the legal age of majority in nearly all states, USCIS applies the Trafficking Victims Protection Reauthorization Act (TVPRA) to include individuals between the ages of 18 and 21 at the time of SIJ petition filing. This influx has created an even larger visa backlog, and approved SIJ petitioners must now wait several years before they may apply for adjustment of status. This has harmed bona fide SIJ petitioners, as well as all other special immigrant petitioners, including religious workers, physicians, and U.S. armed forces personnel, by delaying the benefits of lawful permanent resident status.

### 3. Change in deferred action policy.

USCIS has determined that (a) deferred action is an extraordinary exercise of prosecutorial discretion and that it should not be used categorically for large populations of aliens, without proper case-by-case-scrutiny, and (b) a grant of deferred action to removable aliens without appropriate vetting implicates serious national security, public safety, and benefit integrity concerns. Therefore, USCIS has decided to discontinue automatic consideration of SIJs for deferred action as set forth below.

#### *Policy*

Based on the above USCIS is issuing the following changes in policy:

- USCIS will no longer automatically conduct deferred action determinations for SIJs who cannot apply for adjustment of status solely because an immigrant visa is not immediately available.
- 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 their current grant of deferred action, until the validity period expires.
- USCIS, within its discretion, and on a case-by-case basis, may terminate deferred action, through the issuance of a Notice to Appear or Notice of Termination, and revoke any associated employment authorization prior to the end of the validity period.

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<sup>20</sup> *Criminality, Gangs, and Program Integrity Concerns in Special Immigrant Juvenile Petitions*, USCIS Fraud Detection and National Security Directorate report (July 2025), available at [https://www.uscis.gov/sites/default/files/document/reports/DO\\_SIJ\\_Report.pdf](https://www.uscis.gov/sites/default/files/document/reports/DO_SIJ_Report.pdf).

- Aliens granted SIJ classification may individually request deferred action, like any other alien subject to removal, in accordance with deferred action policy.

*Reliance Interest Analysis:*

Before deciding to rescind the current 2022 policy, USCIS analyzed and considered the extent to which there may be reasonable reliance interests of parties who will be affected and weighed those reliance interests against the government's interest in terminating automatic deferred action consideration for SIJs.

1. Aliens who have not petitioned for SIJ classification.

USCIS has determined that an alien who has not submitted Form I-360 will not have taken any action or incurred any costs in reliance on being granted deferred action after his or her petition is approved.

USCIS has analyzed the SIJ program and determined that this change in policy will have no effect on an alien who has not yet petitioned for SIJ classification. A juvenile alien who is in a situation of abuse, neglect, abandonment, and who would petition a court for a dependency order would be expected to do so without regard to whether USCIS had a policy of granting deferred action should he or she ever submit a petition for SIJ classification. To the extent aliens who have not yet petitioned for SIJ classification but who were planning to submit a Form I-360 primarily to secure a grant of deferred action and related work authorization,<sup>21</sup> USCIS is providing a 30-day effective date for this policy, so those aliens may have the time to submit an SIJ Form I-360.<sup>22</sup>

2. Aliens who have petitioned for SIJ classification.

USCIS believes that some SIJ petitioners would not have submitted a Form I-360 if not for the perceived likelihood that they would be granted deferred action, become employment authorized, attend school, and obtain a state-issued identification card or driver's license and social security number. Therefore, their petitions may have been submitted in reliance on the existence of the 2022 automatic deferred action policy.

In consideration of the reliance interests of SIJ petitioners, USCIS is providing 30 days' advance notice before this new policy takes effect, eliminating automatic consideration of deferred action. The 30-day notice is intended to provide those who may no longer wish to pursue SIJ classification based on policy changes with sufficient time to take appropriate action. Petitions submitted before the effective date of this policy change will be subject to the current 2022 policy that this memorandum terminates.

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<sup>21</sup> Any putative reliance interest in the availability of deferred action-based employment authorization is diminished by the fact that eligibility for such employment authorization is discretionary; there is no entitlement to it. See 8 CFR 274a.12(c)(14) (providing employment authorization for aliens granted deferred action where alien establishes economic necessity for employment); [8 CFR 274a.13\(a\)\(1\)](#) ("The approval of applications filed under [8 CFR 274a.12\(c\)](#), except for [8 CFR 274a.12\(c\)\(8\)](#), are within the discretion of USCIS.").

<sup>22</sup> For USCIS to consent to classification as an SIJ, the petition must be bona fide, which requires the petitioner establish that a primary reason the juvenile court determinations were sought was to obtain relief from parental maltreatment. See [8 CFR 204.11\(b\)\(5\)](#). To the extent an alien who has not yet petitioned submits a Form I-360, that petition must continue to be bona fide to obtain USCIS consent.

3. Aliens granted SIJ classification.

This policy change is prospective. A petition that is or has been submitted or approved before its effective date will be subject to the policy that this memorandum terminates. Thus, aliens granted SIJ classification before this new policy takes effect do not have a cognizable reliance interest that will be affected.

4. Aliens granted deferred action.

USCIS is not categorically terminating grants of deferred action for those who currently have it, and grants of deferred action will generally be permitted to expire under the terms of the grant. However, USCIS retains discretion to terminate deferred action on a case-by-case basis at any time.<sup>23</sup> SIJs whose deferred action expires may submit a request for a new period of deferred action that would be evaluated under deferred action policy.

USCIS acknowledges that without deferred action and the associated work authorization, such aliens may lack a reliable source of support and income. Nonetheless, deferred action is temporary and discretionary. USCIS, in its public messaging, has consistently stated that deferred action is not intended to provide long-term or permanent relief from removal.

However, SIJs, like any other alien subject to removal, may request deferred action in writing or through the submission of [Form G-325A](#), Biometric Information (for Deferred Action). USCIS retains the authority to exercise prosecutorial discretion to consider and grant requests for deferred action. USCIS will review deferred action requests on an individual case-by-case basis.

5. Indirect, and secondary interests possibly affected.

USCIS considers the reliance interests of external parties apart from the alien petitioner and USCIS, such as state or local governments or employers. Termination of the SIJ deferred action policy will not result in the entry of an alien child who will rely on state or local governments. Generally, under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, “qualified aliens” are eligible for Federal means-tested benefits after 5 years, are not eligible for “specified federal programs,” and states are allowed to determine whether the qualified alien is eligible for “designated federal programs.” Deferred action recipients are not “qualified aliens” to receive Federal means-tested benefits. As such, USCIS determined that state or local governments do not possess direct reliance interests as each state or local government has the authority to determine who receives benefits from them and deferred action recipients are not considered “qualified aliens” for those benefits.

USCIS recognizes employer reliance interest may be impacted by changes in the SIJ policy as certain employers may have made business decisions reliant on continued employment authorization for eligible SIJ workers. USCIS is mindful of the disruption that may occur to employers as a result of this policy. However, this policy is prospective, and current SIJs with deferred action would continue to be employment authorized until the end of the validity period.

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<sup>23</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).

*Alternatives Considered:*

USCIS was unable to identify any alternatives to this policy update that would ensure the integrity of legal immigration, national security, and public safety.

USCIS considered applying this new policy to aliens with a pending Form I-360 requesting SIJ classification but concluded that such an approach could be argued as applying this new policy retroactively.

USCIS considered continuing automatic consideration of deferred action for SIJs and requiring biometrics-based background checks for each before granting deferred action. However, automatic consideration for deferred action is not a process for which USCIS has established a fee,<sup>24</sup> the costs of administering a large automatic deferred action process were not considered in the study on which the current USCIS fee schedule was established,<sup>25</sup> and the agency does not believe that it would be able to recover sufficient fee revenue to cover these costs even if it were to establish a new fee through rulemaking.<sup>26</sup> USCIS fee modeling takes into account the requestors' ability to pay to ensure full cost recovery for immigration and naturalization services, but SIJs, unlike individuals seeking standard immigration petitions and applications, have less ability to pay for immigration services due to the vulnerability of the population. Adding interviews, biometrics services, and increased vetting to the screening procedures for SIJ deferred action would result in increased costs to USCIS and deplete its fee revenue reserves and divert its resources to a population that pays no fees.<sup>27</sup>

USCIS considered requiring biometrics submission for all approved SIJ grants before considering or granting deferred action. However, USCIS decided not to mandate biometrics and issue this memorandum and policy for several reasons. First, mandating biometrics for an entire sub-population is a new information collection under [5 CFR 1320.3\(c\)](#) and thus it would require compliance with the Paperwork Reduction Act and the public notices required to add a significant population of respondents to a currently approved information collection.<sup>28</sup> Second, while Form I-360 is an approved information collection for petitioning for SIJ classification, and Form G-325A is approved for requesting an extension of deferred action, USCIS currently has no form or approved information collection instrument for requesting deferred action. Thus, a new form would need to be created or a current form revised. Third, biometrics are currently optional under [8 CFR 103.2\(b\)\(9\)](#), and USCIS regulations at [8 CFR 103.16\(a\)](#) provide requirements for mandating biometrics submission from groups of applicants. Therefore, although USCIS has determined that this memorandum is necessary as soon as possible, we are not requesting an emergency approval from the Office of Management and Budget under [5 CFR 1320.13](#). USCIS will provide that

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<sup>24</sup> USCIS has established a fee of \$85 for *Consideration of Deferred Action for Childhood Arrivals*, [Form I-821D](#). See [8 CFR 106.2\(a\)\(51\)](#).

<sup>25</sup> See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 89 Fed. Reg 6194 (Jan. 31, 2024) (study details are in the supporting document in docket number USCIS-2021-0010 on the Federal eRulemaking Portal at <https://www.regulations.gov>).

<sup>26</sup> Adjustment to USCIS fees, including establishing a new fee, requires a comprehensive fee review and notice and comment rulemaking proposed by DHS. See [INA 286\(m\)](#).

<sup>27</sup> The SIJ fee collected pursuant to [8 U.S.C. 1805](#) is deposited into the general fund of the Treasury and not available for USCIS to cover its processing costs.

<sup>28</sup> See, e.g., [5 CFR 1320.8\(d\)\(1\)](#) (60-days).

biometrics may be required under [8 CFR 103.2\(b\)\(9\)](#), and issue guidelines for when they should be requested. USCIS will consider requiring biometrics in a future action.<sup>29</sup>

Any additional alternatives would be antithetical to USCIS' determination that automatic deferred action considerations for large populations of aliens is contrary to a genuine case-by-case scrutiny.

### **Implementation**

This guidance confirms that USCIS will no longer automatically consider granting deferred action for aliens classified as SIJs who are ineligible to apply for adjustment of status solely due to unavailable immigrant visas.

This guidance is effective 30 days after publication and applies to requests filed on or after that date. This policy change is prospective. A petition that is or has been submitted or approved before this policy is effective will be subject to the policy that this memorandum terminates.

### **Use**

This policy memorandum is intended solely for the guidance of USCIS personnel in the performance of their official duties, but it does not remove their discretion in making adjudicatory decisions. It may not be relied upon to create any right or benefit, substantive or procedural, enforceable under law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

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<sup>29</sup> Note that DHS recently proposed regulations that would require submission of biometrics by any individual associated with an immigration benefit request. See 90 Fed. Reg. 49063 (Nov. 3, 2025).