UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

A.C.R., J.G.V., E.A.R., C.V.R., Y.A.M., B.R.C., J.C.B., L.M.R., S.M.M., on behalf of themselves and all others similarly situated; CENTRAL AMERICAN REFUGEE CENTER (CARECEN-NY); and CENTRO LEGAL DE LA RAZA, Plaintiffs, v. KRISTI NOEM, Secretary, U.S. Department of Homeland Security (official capacity); UNITED STATES DEPARTMENT OF HOMELAND SECURITY; JOSEPH EDLOW, Director, United States Citizenship and Immigration Services (official capacity); UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES; and TERRI ROBINSON, Director, United States Citizenship and Immigration Services National Benefits Center (official capacity), Defendants.	**CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** Civ. Action No. 1:25-cv-3962

INTRODUCTION

1. Plaintiffs[1] bring this class action to challenge the federal government's unlawful rescission of its deferred action policy for young people with Special Immigrant Juvenile Status (the "SIJS Deferred Action Policy"), a program which protected from deportation thousands of vulnerable immigrant children who are already approved to apply for permanent resident status. The government instituted the SIJS Deferred Action Policy in 2022 to effectuate the intent of Congress to provide a pathway to permanent legal immigration status for Special Immigrant

[1] All individual Plaintiffs are referred to in this Complaint using initials to protect their identities, including from retaliation. A motion to proceed under pseudonym and for a protective order accompanies the filing of this Complaint.

Juveniles, noncitizen children and youth who had been subject to abuse, neglect, abandonment, or similar mistreatment by a parent. Under the Policy, the United States Citizenship and Immigration Services ("USCIS") automatically considered for deferred action individuals who were granted Special Immigrant Juvenile Status ("SIJS") and were waiting for a visa to become available so they could apply to become permanent residents. When granted, deferred action protected SIJS beneficiaries from deportation while they waited, often for several years, for a visa to become available so they could apply for status as a lawful permanent resident ("LPR"). During this wait, a grant of deferred action also qualified them to apply for work authorization. Protection from deportation and work authorization were lifelines for these young survivors of parental maltreatment. Many thousands of SIJS beneficiaries have built their lives in the United States around their deferred action status, which allows them to reside, work, and study here pending visa availability.

2. On or after April 7, 2025, the government engaged in an unexplained, sub silentio reversal of the SIJS Deferred Action Policy: USCIS simply stopped adjudicating deferred action for noncitizens who had been granted SIJS. While SIJS approval notices had, since May 2022, typically included a decision on deferred action, SIJS approval notices on or after approximately April 7, 2025, were nearly always silent on deferred action, neither granting nor denying it. Young people approved for SIJS after that date, including named Plaintiffs A.C.R., J.G.V., E.A.R., and C.V.R., therefore lack protection from deportation and have no basis to apply for work authorization while they wait in the long visa backlog for their turn to apply for LPR status.

3. Roughly two months later, on June 6, 2025, USCIS issued a cursory, inadequately reasoned, *post hoc* Policy Alert (the "2025 Policy Alert") stating that the agency "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."[2] Moreover,

[2] USCIS, Policy Alert: *Special Immigrant Juvenile Classification and Deferred Action* (June 6, 2025) ("2025 Policy Alert"), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf.

the agency announced that it would no longer accept applications for work authorization based on SIJS deferred action.[3] This decision affects not only those SIJS beneficiaries who no longer have access to deferred action but also those, like Plaintiffs L.M.R. and S.M.M., who were previously granted deferred action in conjunction with SIJS, and who are therefore eligible for work authorization pursuant to federal regulation[4] but are now excluded from consideration. Finally, those SIJS beneficiaries who have already been granted deferred action, like Plaintiffs Y.A.M., B.R.C., and J.C.B, will not be eligible to renew their deferred action when[5] thousands of them will reach their deferred action expiration dates in and after May 2026. Collectively, these policy changes announced in the 2025 Policy Alert and expanded upon in concurrently issued Policy Manual changes are referred to as the "2025 Rescission Policy" or "Rescission Policy."

4. The government's unreasoned and unlawful rescission of the SIJS Deferred Action Policy has already caused, and will continue to cause, immediate harm to a vulnerable class of young people whom Congress specifically endeavored to protect. Congress created SIJS in 1990 to give noncitizen children who had suffered parental abuse, neglect, abandonment, or similar mistreatment a streamlined pathway to lawful permanent residence and ultimately U.S. citizenship. SIJS has since protected thousands of children from being returned to the families that harmed them. Through the SIJS program, eligible children find a chance to recover from mistreatment and to thrive. Congress designed an expeditious SIJS process to give these children safety and stability in a timely manner.

5. Approved SIJS beneficiaries may apply for adjustment to LPR status only when an immigrant visa is immediately available based on their visa priority date.[6] Since 2016, a visa backlog has prolonged the once-efficient process. Because of this backlog, SIJS beneficiaries must

[3] *Id.*

[4] 8 C.F.R. § 274a.12(c)(14).

[5] 2025 Policy Alert.

[6] A priority date, explained in greater detail below, establishes an applicant's place in line for an immigrant visa. For SIJS beneficiaries, the priority date is the date that USCIS receives the SIJS petition (Form I-360). 8 C.F.R. § 204.5(d).

wait years before becoming eligible even to apply for permanent residence. Unless granted deferred action during this period, they are generally unable to work lawfully while they await their visa priority date, and the government takes the position that they are subject to deportation. This vulnerable population is therefore left in a state of legal limbo that effectively withholds the protections that Congress designed for these young people through SIJS.

6. Defendants' termination of the SIJS Deferred Action Policy through the 2025 Rescission Policy is arbitrary and capricious agency action under the Administrative Procedure Act ("APA") because the government failed to adequately articulate reasons for the sudden reversal; ignored USCIS's prior reasoning for automatically considering SIJS beneficiaries for deferred action; acted contrary to federal regulations governing eligibility for employment authorization documents; and did not address other critical aspects of the problem, including ballooning backlogs and the reliance interests of SIJS petitioners.

7. Moreover, Defendants went further than rescinding the prior policy: the 2025 Policy Alert, while vaguely worded, purports to either categorically exclude all SIJS beneficiaries from eligibility to apply for deferred action, a long-established and otherwise generally available form of prosecutorial discretion, or eliminate SIJ status from consideration as a factor weighing in favor of granting individual applications for deferred action. Either way, this policy change required notice-and-comment rulemaking, which Defendants failed to undertake in violation of the APA.

8. As a result of Defendants' drastic and inadequately explained reversal in policy, SIJS beneficiaries will be subject to imminent immigration enforcement, including pursuit of deportation orders against them, physical deportation from the United States, and detention in pursuit of these immigration enforcement actions. Because of Defendants' Rescission Policy, approximately 150,000 SIJS beneficiaries are or will eventually become vulnerable to deportation from the United States while awaiting the chance to adjust status. This policy change comes as the

government has instituted increasingly large ICE arrest quotas, now at 3,000 arrests daily.[7] Despite congressional intent to provide SIJS beneficiaries with a path to lawful permanent residency, without deferred action, SIJS beneficiaries now experience a growing risk of deportation. This policy change cannot be divorced from this context. Further, SIJS beneficiaries' inability to seek lawful employment leaves these young people without access to employer-based healthcare; the financial means to provide for basic shelter, food, clothing, and other essentials for themselves and their families; the ability to pursue higher education; or the ability to defend themselves adequately from deportation. Lack of access to lawful employment also exposes youth to trafficking and exploitation. And the number of young people harmed by Defendants' policy reversal will grow larger every day, as more and more young people receive SIJS approvals without deferred action adjudications or reach the expiration of their current grants of deferred action.

9. Organizations representing SIJS beneficiaries in their immigration cases, including Plaintiffs Central American Refugee Center ("CARECEN-NY") and Centro Legal de La Raza, will also be forced to restructure their programs and reallocate resources to provide different types of legal services to these clients, and as a result, will be substantially limited in the number of SIJS clients they can represent. This will leave a greater number of SIJS beneficiaries without adequate representation in the deportation efforts the government may reactivate or undertake against them.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and the laws of the United States. This case arises under the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101–1537, regulations implementing the INA, and the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706.

[7] Jennie Taer, *Trump admin's 3,000 ICE arrests per day quota is taking focus off criminals and 'killing morale': insiders*, New York Post (June 17, 2025, 4:02 PM), https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/ (last visited July 16, 2025).

11. This Court has additional remedial authority under 28 U.S.C. § 1331 (federal question), 28 U.S.C. §§ 2201–2202 (declaratory relief), 5 U.S.C. §§ 701–706 (APA), and Federal Rules of Civil Procedure Rule 65 (injunctive relief).

12. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

13. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1) because Defendants are officers or employees of the United States, or agencies thereof, acting in their official capacities; because a substantial part of the events or omissions giving rise to the claims occurred in this district through the withholding of deferred action consideration from the numerous SIJS beneficiaries residing in this district; because Plaintiffs A.C.R., B.R.C., Y.A.M., and S.M.M. reside in this district, as do many putative class members; and because Plaintiff CARECEN-NY, which represents SIJS beneficiaries in their immigration proceedings, is headquartered and has its two offices in this district.

PARTIES

14. **Plaintiff A.C.R.** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). She resides in New York City, New York, with her older brother, whom a family court appointed as her guardian. She came to the United States in February 2024 from Guatemala when she was seventeen years old to escape parental maltreatment and neglect. She attends high school full time and expects to graduate from high school in 2026. She hopes someday to become an astronaut, but her lack of access to work authorization will frustrate her further education and progress toward this goal. USCIS approved Plaintiff A.C.R.'s Form I-360 petition for SIJS on May 1, 2025. USCIS did not consider A.C.R. for deferred action. A.C.R. filed a separate request to USCIS for deferred action via Form G-325A on June 3, 2025, but USCIS has not responded to that application.

15. **Plaintiff J.G.V.** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). He resides in Southern California. He came to the United States in the spring of 2024 from Mexico when he was seventeen years old to escape parental maltreatment. U.S. government authorities placed him in a foster home. He has lived in a foster home in California for about a year and attends high school full time. He expects to graduate from high school in 2026, and his dream is to pursue further education toward a career as a mechanic. USCIS approved Plaintiff J.G.V.'s Form I-360 petition for SIJS on April 7, 2025, but USCIS did not consider J.G.V. for deferred action. J.G.V. filed a separate request to USCIS for deferred action via Form G-325A on April 24, 2025, but USCIS has not responded to that application.

16. **Plaintiff E.A.R.** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). He resides in Houston, Texas. He came to the United States from Honduras in the fall of 2024 when he was 17 years old due to parental neglect and abandonment. He lives with his aunt and extended family, and hopes for a career in construction. USCIS approved Plaintiff E.A.R.'s Form I-360 petition for SIJS on April 17, 2025, but USCIS did not consider E.A.R. for deferred action.

17. **Plaintiff C.V.R.** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). He resides in Houston, Texas. He came to the United States in the fall of 2024 from Honduras when he was 17 years old to escape parental abuse, neglect, and abandonment. He lives with his aunt and extended family. USCIS approved Plaintiff C.V.R.'s Form I-360 petition for SIJS on April 18, 2025, but USCIS did not consider C.V.R. for deferred action.

18. **Plaintiff L.M.R.** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). She resides in New York City, New York. She came to the United States in 2023 from Honduras when she was 17 years old to escape parental abuse, neglect, and abandonment. She lives in a foster home and attends high school. She hopes to finish high school and one day join the U.S. military. USCIS approved Plaintiff L.M.R.'s Form I-360 petition for SIJS on January 30, 2025, with a four-year grant of deferred action that expires on January 30, 2029. Plaintiff L.M.R. applied for work authorization based on her deferred action grant by filing Form I-765

with USCIS on March 5, 2025. Plaintiff L.M.R.'s work authorization application remains pending. As a result of the 2025 Policy Alert, USCIS no longer considers Plaintiff L.M.R. eligible for work authorization.

19. **Plaintiff S.M.M.** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). He resides in Long Island, New York. He came to the United States in 2021 from Honduras when he was 15 years old to escape parental abuse. He lives with his uncle and recently graduated from high school. His dream is to become a doctor. USCIS approved Plaintiff S.M.M.'s Form I-360 petition for SIJS on January 9, 2025, with a four-year grant of deferred action that expires on January 9, 2029. Plaintiff S.M.M. applied for work authorization based on his deferred action grant by filing Form I-765 with USCIS on February 3, 2025. Plaintiff S.M.M.'s work authorization application remains pending. As a result of the 2025 Policy Alert, USCIS no longer considers Plaintiff S.M.M. eligible for work authorization.

20. **Plaintiff Y.A.M** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). She resides in Long Island, New York. She came to the United States from Honduras when she was about thirteen years old because she was abandoned by her father and had no one to protect her from violence in Honduras, where she was shot at, kidnapped, and assaulted. She now works as a school bus driver assistant and hopes to return to school to someday become a lawyer. She has a three-year-old son who relies on her for care and support. She has medical conditions and relies on her employer-provided health insurance to receive the care she needs. USCIS approved Plaintiff Y.A.M.'s SIJS deferred action on May 12, 2022, and it expires on May 12, 2026. She will not be able to renew her deferred action or work authorization because of USCIS's rescission of the SIJS Deferred Action Policy.

21. **Plaintiff B.R.C.** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). She resides in New York City, New York. She came to the United States from Honduras when she was about 14 years old years old because her father abandoned her and her mother neglected and abandoned her and there was no one who could care for her. She is currently studying to become a lab technician at a local community college and working at a salad store to

pay her tuition. Her dream is to transfer to a four-year college and become either a dental hygienist or another medical professional. USCIS approved Plaintiff B.R.C.'s SIJS deferred action on October 27, 2022, and it expires on October 27, 2026. She will not be able to renew her deferred action or work authorization because of USCIS's rescission of the SIJS Deferred Action Policy.

22. **Plaintiff J.C.B** is a Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J). He resides in Michigan. He came to the United States from Honduras when he was around 15 years old because his father passed away and his mother could not protect him from the physical abuse of his stepbrother. He was in long term foster care for a number of years. He graduated high school and is currently working in a factory that manufactures car parts. His dream is to go to college and become a mechanic. USCIS approved Plaintiff J.C.B's SIJS deferred action on May 12, 2022, and it expires on May 12, 2026. He will not be able to renew his deferred action or work authorization because of USCIS's rescission of the SIJS Deferred Action Policy.

23. **Plaintiff Central American Refugee Center** ("**CARECEN-NY**") is a Long Island-based nonprofit organization with offices in Hempstead, New York, and Brentwood, New York, whose mission is to empower immigrants in Long Island, New York, through legal services, community education, and advocacy. CARECEN-NY is the largest immigration legal services provider on Long Island. Its immigration practice aims to serve the needs of the most vulnerable immigrants in Long Island, including impoverished youth, victims of violent crime, those fleeing violence in their country of origin, and long-term undocumented residents. Since its founding in 1983, CARECEN-NY has assisted thousands of individuals with family and humanitarian immigration benefits as well as deportation defense cases; in 2024, CARECEN-NY provided legal representation to 1,773 clients and 486 legal consultations. Its Youth Immigration Project (YIP) was established in 2023 to address the particular needs of immigrant children and young adults through a specialized team of legal representatives.

24. CARECEN-NY's social services team helps support its clients as they proceed through the immigration system and acclimate to the United States. Their services are critical for immigrant youth clients (in particular, unaccompanied minors) as they work towards financial

stability and independence. CARECEN-NY's social workers help them navigate school enrollment, requests for individualized education programs, school transfers, GED programs, college applications, job placement, financial aid services, health care enrollment, mental health referrals, connection to food pantries and, in dire situations, help advocate for victim services and locate housing through a scarce and difficult unhoused shelter system on Long Island. The social workers also provide support groups and individualized counseling.

25. Among its immigrant clients, CARECEN-NY represents approximately 80 individuals who have approved SIJS petitions. The overwhelming majority of these clients have been granted deferred action and hold work authorization based on deferred action. Because of the government's abrupt rescission of the SIJS Deferred Action Policy, these young survivors of parental abuse, neglect, and abandonment will begin losing protection from deportation and work authorization as their deferred action grants expire. Fifteen of CARECEN-NY's clients have currently pending applications for work authorization based on their deferred action grants. In the 2025 Policy Alert, USCIS stated that it will not adjudicate these applications, and the clients will not be allowed to work lawfully in the United States. Moreover, CARECEN-NY represents at least forty clients with currently pending SIJS petitions. Approximately forty more clients have begun the state court phase of the SIJS process. In accordance with the 2025 Policy Alert, if and when these clients' SIJS petitions are granted in the future, they will not become eligible for deferred action or work authorization.

26. **Plaintiff Centro Legal de la Raza** ("**Centro Legal**") is a nonprofit organization headquartered in Oakland, California, whose mission is to protect and advance the rights of low-income individuals through legal representation, education, and advocacy. Centro Legal's immigration practice aims to serve the needs of the most vulnerable immigrants, including impoverished youth, victims of violent crime, those fleeing violence in their country of origin, long-term undocumented residents, and monolingual Indigenous-language-speaking immigrants whose pressing need for interpretation Centro Legal has built the capacity to meet.

27. Among its immigrant clients, Centro Legal represents approximately 100 individuals with approved SIJS petitions. The overwhelming majority of these clients have been granted deferred action and hold work authorization based on deferred action. Because of the government's abrupt rescission of the SIJS Deferred Action Policy, these young survivors of parental abuse, neglect, and abandonment will begin losing protection from deportation and work authorization as their deferred action grants expire.

28. Two of Centro Legal's clients have currently pending applications for work authorization based on their deferred action grants, and Centro Legal is preparing three additional such applications for filing. In the 2025 Policy Alert, USCIS stated that it will not adjudicate these applications, and the clients will not be allowed to work lawfully in the United States. Moreover, Centro Legal represents at least four clients with currently pending SIJS petitions. In accordance with the 2025 Policy Alert, these clients will not become eligible for deferred action or work authorization.

29. **Defendant U.S. Department of Homeland Security** ("DHS") is a cabinet-level department of the Executive Branch of the federal government and is an "agency" within the meaning of 5 U.S.C. § 551(f)(1). Its components include USCIS and U.S. Immigration and Customs Enforcement ("ICE"). DHS, together with its component agency USCIS, is responsible for administering and implementing the SIJS program. USCIS reviews and adjudicates SIJS petitions, and by statute the Secretary of Homeland Security consents to each grant of SIJS. 8 U.S.C. § 1101(a)(27)(J)(iii).

30. **Defendant Kristi Noem**, sued in her official capacity, is the Secretary of Homeland Security. Defendant Noem directs and oversees DHS and each of the component agencies within DHS, including USCIS. She is the highest-ranking officer for DHS, including USCIS, which has exclusive jurisdiction to adjudicate petitions for SIJS and to consider granting deferred action. Defendant Noem is responsible for implementing and enforcing immigration laws. Defendant Noem has ultimate authority over the termination of the SIJS Deferred Action Policy.

31. **Defendant USCIS** is the component of DHS that administers the adjudication of SIJS petitions, deferred action, and applications for Employment Authorization Documents ("EAD"). USCIS administers immigration benefits and is an agency within the meaning of 5 U.S.C. § 551(f)(1).

32. **Defendant Joseph Edlow**, sued in his official capacity, is the Director of USCIS.

33. **Defendant Terri Robinson**, sued in her official capacity, is the Director of USCIS National Benefits Center, which adjudicates SIJS petitions and previously conducted SIJS deferred action adjudications.

STATUTORY AND REGULATORY BACKGROUND

A. The History of the SIJS Statute

34. In 1990, Congress amended the Immigration and Nationality Act ("INA") to add a new form of immigration relief called Special Immigrant Juvenile Status.[8] The purpose of SIJS is to provide immigration relief for foreign-born children living in the United States who have been abused, neglected, abandoned, or similarly mistreated by a parent and who meet other criteria, including having a state court determination that return to their country of origin would not be in their best interest.[9]

35. In 1991, Congress amended the INA to prevent the broad disqualification of SIJS beneficiaries from adjustment of status, by providing that they "shall be deemed, for purposes of [adjustment of status], to have been paroled into the United States," and exempting them from bars to adjustment based on failure to maintain status or unauthorized employment.[10] Congress also

[8] Immigration Act of 1990 ("1990 Act"), Pub. L. 101–649, § 153, 104 Stat. 4978 5005–06 (1990) (codified at 8 U.S.C. § 1101(a)(27)(J)).

[9] *Id.*

[10] Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 ("MTINA"), Pub. L. No. 102–232, § 302(d)(2)(A), (B), 105 Stat. 1733, 1744 (1991) (codified at 8 U.S.C. § 1255(h)(1), (2)).

exempted SIJS beneficiaries from specified grounds of excludability, now called grounds of inadmissibility.[11]

36. In 1994, Congress expanded the SIJS statute's reach to encompass otherwise qualified children whom a court "has legally committed to, or placed under the custody of, a[] [state] agency or department."[12] This amendment increased the range of children eligible under the statute to include not only those in the foster system and other court dependents, but also children in juvenile facilities. Additionally, the Immigration and Naturalization Service ("INS"), which then administered the INA, adopted regulations providing that eligibility for SIJS extends to individuals under the age of 21.[13]

37. In 2008, Congress unanimously passed the Trafficking Victims Protection Reauthorization Act ("TVPRA"), which expressly codified a longstanding policy whereby SIJS eligibility may be supported by either dependency on a state juvenile court or placement in the custody of an individual or entity appointed by a state or juvenile court.[14] This includes children in custody and guardianship arrangements. Additionally, Congress conditioned SIJS eligibility on the non-viability of reunification with a parent and eliminated language requiring children seeking SIJS to demonstrate that they were "eligible for long-term foster care."[15]

38. The 2008 TVPRA also explicitly exempted SIJS beneficiaries from inadmissibility based on having entered the United States without admission or parole or at an unauthorized time

[11] *See* 1990 Act.

[12] Immigration and Nationality Technical Corrections Act of 1994 ("INTCA"), Pub. L. No. 103-416, § 219, 108 Stat. 4305 (1994) (codified at 8 U.S.C. §§ 101–225).

[13] *See* Special Immigrant Status, 58 Fed. Reg. 42843-01, 42850 (Aug. 12, 1993) (codified at 8 C.F.R. § 204.11).

[14] William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), Pub. L. 110-457, § 235(d)(1)(A), 122 Stat. 5044, 5079–80 (2008) (codified at 8 U.S.C. § 1101(a)(27)(J)).

[15] *Id.*

or place, making SIJS beneficiaries eligible to adjust status even if they had entered the country without inspection or without the necessary travel documents.[16]

B. Statutory Requirements to Qualify for SIJ Status

39. Noncitizens seeking SIJS must file a Form I-360 petition with USCIS, supported by evidence of age and evidence that a state juvenile court has made the requisite findings.

40. To qualify for SIJS, petitioners must be under the age of 21, unmarried, and physically present in the United States.[17] A state court of competent jurisdiction must have issued an order either (1) declaring the petitioner dependent upon the court, or (2) committing the petitioner to the custody of a state agency or department, or placing the petitioner under the custody of an individual or entity appointed by the state or court.[18] Petitioners must also submit to USCIS a predicate state court order making specific findings that (1) it is not viable for the petitioner to reunify with their parent or parents due to abuse, neglect, abandonment, or a similar basis under state law, and (2) it would not be in the petitioner's best interest to be returned to their or their parent's country of nationality or last habitual residence.[19]

41. The SIJS statute authorizes the Secretary of Homeland Security to consent to the grant of SIJS. 8 U.S.C. § 1101(a)(27)(J)(iii). In practice, USCIS exercises this delegated authority by ensuring that "the request for SIJ classification [is] bona fide," meaning that the petitioner has established that a primary reason the predicate state court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law.[20]

42. An approved SIJS petition is revoked automatically if certain circumstances occur before USCIS issues a decision on the SIJS beneficiary's green card application: (1) reunification with one or both parents by virtue of a court order, where the court had previously determined that

[16] *Id.* at 5080 (codified at 8 U.S.C. § 1255(h)(2)).
[17] 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11.
[18] *See* 8 C.F.R. § 204.11(c).
[19] *Id.*
[20] *Id.*

reunification with that parent or parents was not viable due to abuse, neglect, abandonment, or a similar basis; or (2) the juvenile court reverses the determination that it would not be in the child's best interest to be returned to their country of origin.[21] In such circumstances, USCIS issues a notice of automatic revocation. After providing notice and an opportunity to respond, USCIS can also revoke SIJS classification "for good and sufficient cause," such as a finding of fraud or a determination that the petition had been approved in error.[22]

C. SIJS Beneficiaries Are Eligible to Adjust to LPR Status Upon Visa Availability

43. In 1991, Congress amended the INA to enable SIJS beneficiaries to apply to obtain LPR status (also known as a "green card").[23] Adjustment of status refers to the process of obtaining LPR status while remaining in the United States; in contrast, many noncitizens who seek LPR status must do so from outside the United States, via a sometimes years-long procedure known as "consular processing."[24] In amending the statute to create a pathway for SIJS beneficiaries to adjust to LPR status without having to leave the United States, Congress evinced its intent that SIJS beneficiaries receive permanent legal protection and consequently, that the SIJS process is not complete unless and until a SIJS beneficiary can apply for and be considered for LPR status, and that SIJS beneficiaries should be afforded the opportunity to do so. SIJS beneficiaries can apply to adjust to LPR status by filing a Form I-485 Adjustment of Status Application, but they may file that application only when an immigrant visa is immediately available.[25]

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[21] 8 C.F.R. § 204.11(j); *see also* USCIS Policy Manual Vol. 6, Part J, ch. 4.F.3., https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4. (last visited July 16, 2025).

[22] *Id.*

[23] MTINA (as codified at 8 U.S.C. § 1153(b)(4), governing the allocation of employment-based immigrant visas to "Certain special immigrants" defined by subsection 101(a)(27) of the INA).

[24] USCIS Pol'y Manual vol. 7, pt. F, ch. 7.C (stating that SIJS beneficiaries must be "physically present in the United States at the time of filing and adjudication of an adjustment application"), https://www.uscis.gov/policy-manual/volume-7-part-f-chapter-7 (last visited July 17, 2025); *id.* Vol. 7, pt. A, ch. 1.B, ("Adjustment of status to lawful permanent residence describes the process by which an alien obtains U.S. LPR status while physically present in the United States."), https://www.uscis.gov/policy-manual/volume-7-part-a-chapter-1(last visited July 17, 2025); 22 C.F.R. pt. 42.11 (denoting SIJS as an "adjustment-only" category).

[25] 8 U.S.C. § 1255(a).

44. The immigrant visa category under which SIJS beneficiaries may seek to adjust status is the employment-based fourth preference special immigrant category ("EB-4").[26] Immigrant visa availability for SIJS beneficiaries, as for other applicants in the EB-4 category, is subject to annual numerical limits established by Congress.[27] Congress set the annual allotment of EB-4 visas at 7.1 percent of the annual worldwide level of available employment-based visas, which amounts to about 9,940 available EB-4 visas in a typical year.[28] To manage the limited supply of visas, the United States Department of State (the "State Department") issues the Visa Bulletin, a monthly publication that tracks visa availability in each category, based on applicant priority date and country of nationality.[29] The "priority date" is defined as the date when the applicant filed the underlying petition or application—such as the petition for SIJ status. Dates listed in each month's Visa Bulletin are used to determine when a visa is available for issuance to a given applicant, and thus when an applicant may submit an application for adjustment of status.

45. A SIJS beneficiary may file an adjustment of status application only if the applicant's priority date is earlier than the "final action" date listed in the current month's Visa Bulletin for the EB-4 category for the applicant's country of nationality.[30]

46. Notwithstanding Congress's intent to protect SIJS beneficiaries from deportation and provide them with a pathway to permanent residency, the government has taken the position that it can deport SIJS beneficiaries who do not yet have an available visa, and so have not yet

[26] 8 U.S.C. § 1153(b)(4).

[27] 8 U.S.C. § 1151(a).

[28] 8 U.S.C. § 1153(b)(4) (setting 7.1 percent allocation for EB-4); *id.* § 1151(d)(1)(A) (establishing minimum yearly threshold of 140,000 employment-based visas).

[29] *See* The Visa Bulletin (U.S. Dep't of State), https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html (last visited July 16, 2025); *see also* Adjustment of Status Filing Charts from the Visa Bulletin (USCIS), https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin (last visited July 16, 2025).

[30] 8 C.F.R. § 245.1(g).

been able to apply to adjust their status, based on grounds that Congress has expressly waived for SIJS beneficiaries to protect their opportunity to become LPRs.[31]

47. If the government removes a SIJS beneficiary, the young person loses the opportunity to become a lawful permanent resident because adjustment of status is possible only when an applicant is physically present in the United States.[32]

48. The approval of a SIJS petition in itself does not allow the SIJS beneficiary to apply for work authorization. SIJS beneficiaries may apply for work authorization once their adjustment of status application is pending, but they cannot file an adjustment application until a visa is available, now after a waiting period of several years. Accordingly, without deferred action, most SIJS beneficiaries are unable to lawfully work while they await their visa priority date.[33]

THE SIJS VISA BACKLOG

49. Before 2016, the supply of EB-4 visas was sufficient to allow SIJS petitioners to apply to adjust status and apply for work permits at the same time they applied for SIJS.[34] Petitioners would typically first receive a decision on their SIJS petition, and USCIS usually issued

[31] The putative class does not concede that its members are generally removable while they wait for a chance to become LPRs. On the contrary, members of the class expressly reserve the right to argue that they are not subject to deportation during this waiting period based on the charges that usually underlie their removal proceedings (if any). This view is grounded in the statutes that create SIJ status, the analysis of which has led courts to characterize "a successful applicant as a ward of the United States with the approval of both state and federal authorities," and to recognize "a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status." *Osorio-Martinez v. Att'y Gen. U.S.*, 893 F.3d 153, 168 (3d Cir. 2018) (quoting *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011)). This Court need not decide this question in order to decide the issues presented here.

[32] *See* USCIS Pol'y Manual vol. 7, pt. F, ch. 7.C (stating that SIJS beneficiaries must be "physically present in the United States at the time of filing and adjudication of an adjustment application"), https://www.uscis.gov/policy-manual/volume-7-part-f-chapter-7https://www.uscis.gov/policy-manual/volume-7-part-f-chapter-7 (last visited July 17, 2025).

[33] Some putative class members may have work authorization based on their applications for other forms of immigration relief, such as asylum.

[34] *See* R. Davidson et al., *False Hopes: Over 100,000 Immigrant Youth Trapped in the SIJS Backlog* 22, THE END SIJS BACKLOG COAL. (Dec. 2023) [hereinafter *"False Hopes" Report*], https://bit.ly/42Ha2N8. Having a pending application for adjustment of status creates eligibility for work authorization.

decisions on work permits and LPR status within six months to 1 year of approval of the I-360 SIJS petition.[35]

50. In 2016, the State Department determined for the first time that the annual limit on immigrant visas in the EB-4 category had been exhausted for prospective adjustment applicants from certain countries.[36] As a result, SIJS beneficiaries from those countries were unable to immediately apply for green cards and work permits, despite having been granted SIJ status and otherwise being eligible to adjust status. Since 2016, the visa backlog has ballooned, and with it, the number of SIJS beneficiaries who have been granted SIJ status but are unable to apply for adjustment of status.

51. In December 2022, the State Department announced worldwide visa backlogs in the EB-4 category.[37] Whereas only SIJS beneficiaries from El Salvador, Guatemala, Honduras, and Mexico had been subject to visa backlogs between 2016 and 2022, since 2022 this period of limbo has impacted SIJS beneficiaries from all countries.

52. While USCIS does not directly report the number of SIJS beneficiaries in the visa backlog, it is possible to derive an estimate from other published numbers. USCIS data shows that as of March 31, 2025, there were 214,771 individuals with approved EB-4 petitions of all kinds (not only SIJS petitions) awaiting a visa.[38] In 2023, the most recent year for which public data is available, SIJS beneficiaries made up 70 percent of EB-4 visa recipients.[39] Seventy percent of

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[35] *Id.*

[36] *Id.* at 14; Visa Bulletin for December 2016, U.S. Dep't of State, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2017/visa-bulletin-for-december-2016.html (last visited July 16, 2025).

[37] *See* Visa Bulletin for December 2022, U.S. Dep't of State, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2023/visa-bulletin-for-december-2022.html (last visited July 16, 2025).

[38] USCIS, Number of Form I-140, I-360, I-526/E Approved Petitions Awaiting Visa Availability, https://www.uscis.gov/sites/default/files/document/data/eb_i140_i360_i526_performancedata_fy2025_q2.xlsx (last visited July 16, 2025).

[39] DHS Yearbook of Immigr. Stats., Table 7 (EB-4 category) (2023), https://ohss.dhs.gov/topics/immigration/yearbook/2023/table7 (showing that of 14,600 total EB-4 visas issued, 10,370 of them, or 71 percent, were to SIJS beneficiaries).

214,771 is 150,339. Thus, it is reasonable to estimate that more than 150,000 SIJS beneficiaries are stuck in the backlog, waiting for a visa.

2022 FINAL RULE ON SPECIAL IMMIGRANT JUVENILE PETITIONS

53. On March 8, 2022, after comment periods in 2011 and 2019, USCIS issued a Final Rule on Special Immigrant Juvenile Petitions.[40] The Final Rule amended outdated regulations to align with intervening changes to the SIJS statute and to "further align SIJ classification with the statutory purpose of providing humanitarian protection to eligible child survivors of parental abuse, abandonment, or neglect."[41]

54. During the 2019 comment period, several commenters noted the harms of the ever-growing SIJS visa backlog and urged USCIS to provide SIJS beneficiaries awaiting a visa with deferred action to protect them from deportation and allow them to work lawfully.

55. After the close of the 2019 comment period and before USCIS issued the Final Rule in March 2022, stakeholders continued to urge USCIS to create protection from deportation and issue employment authorization for SIJS beneficiaries awaiting visas. For example, in April 2021 the American Bar Association sent a letter to the Secretary of DHS noting the harms of the SIJS visa backlog and urging USCIS to grant deferred action to SIJS beneficiaries.[42]

56. In May 2021, the End SIJS Backlog Coalition sent a letter to DHS signed by hundreds of organizations, academics, and individuals, urging, inter alia, that the agency promulgate regulations to codify protections from deportation and work authorization for SIJS beneficiaries in the backlog.[43] And in February 2022, the New York City Bar Association wrote to DHS, again asking that the agency issue regulations providing work authorization and protection

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[40] Special Immigr. Juv. Petitions, 87 Fed. Reg. 13066 (Mar. 8, 2022).

[41] *Id.*

[42] ABA, Letter to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec., Re: Deferred Action for Children with Approved Petitions for Special Immigrant Juvenile Status (Apr. 8, 2021), https://www.uscis.gov/sites/default/files/document/foia/Special_Immigrant_Juvenile_SIJ_-_Refo.pdf.

[43] End SIJS Backlog Coal., Letter: Calling on the Government to End the Harms of the SIJS Backlog (May 20, 2021), https://www.sijsbacklog.com/public-comments-letters.

from deportation for SIJS beneficiaries. The letter described the harmful impacts on New York City and State caused by the absence of the proposed policies.[44]

57. In March 2022, USCIS promulgated the Final Rule on SIJS in tandem with the creation of a separate SIJS Deferred Action Policy, choosing to respond to the clear need for work authorization and protection from deportation for SIJS beneficiaries through a policy memo rather than rulemaking. The commentary accompanying the March 7, 2022, Final Rule acknowledged commenters' recommendation that "DHS should create a process for approved SIJs awaiting adjustment to receive deferred action and work authorization to ensure that vulnerable children's rights are being adequately protected."[45]

58. In response to that recommendation, USCIS's commentary stated:

> DHS did not propose to codify regulations that provide for a grant of deferred action and work authorization while the SIJ's Form I-485 is pending, and we are declining to create a deferred action process for approved SIJs awaiting adjustment in this final rule. Deferred action (DA) is a longstanding practice by which DHS may exercise discretion to forbear or assign lower priority to removal action in certain cases for humanitarian reasons, administrative convenience, or in the interest of the Department's overall enforcement mission. DHS may grant DA to individuals with SIJ classification, as in all DA determinations, through an individualized, case-by-case, discretionary determination based on the totality of the evidence. DA is generally not an immigration benefit or program as those terms are known. If DHS decides to implement a DA process, it may be implemented via policy guidance using DHS' inherent authority to exercise DA without rulemaking. Thus DHS is not including DA in this final rule.[46]

THE 2022 SIJS DEFERRED ACTION POLICY

[44] N.Y.C. Bar Ass'n, Letter to the Biden Administration Urging Reforms Needed to Safeguard Vulnerable Youth Applying for Special Immigrant Juvenile Status (SIJS) (Feb. 1, 2022), https://www.nycbar.org/reports/letter-to-the-biden-administration-urging-reforms-needed-to-safeguard-vulnerable-youth-applying-for-special-immigrant-juvenile-status-sijs/.

[45] 87 Fed. Reg. at 13095.

[46] *Id.*

59. On March 7, 2022, to address the visa backlog and effectuate "the protection that Congress intended to afford SIJs through adjustment of status," USCIS announced a policy of considering all SIJS beneficiaries for deferred action (the "SIJS Deferred Action Policy").[47]

60. In announcing the SIJS Deferred Action Policy, USCIS acknowledged that "Congress likely did not envision that SIJ petitioners would have to wait years before a visa became available," which had caused an "especially vulnerable population [to be left] in limbo."[48] It noted that "[d]eferred action and related employment authorization will help to protect SIJs who cannot apply for adjustment of status solely because they are waiting for a visa number to become available" and that the new Policy "furthers congressional intent to provide humanitarian protection for abused, neglected, or abandoned noncitizen children for whom a juvenile court has determined that it is in their best interest to remain in the United States."[49] USCIS also reasoned that the SIJS Deferred Action Policy "conserves DHS resources by focusing on the enforcement of higher priority cases, such as noncitizens who pose a threat to national security, public safety, and border security," noting that "[a]pproved SIJs already reside in the United States and are unlikely to be enforcement priorities." USCIS stated that it was issuing the SIJS Deferred Action Policy "based on our interpretation of the applicable terms in the Code of Federal Regulations and the Immigration and Nationality Act."[50]

61. In a press release accompanying the SIJS Deferred Action Policy announcement and issuance of the 2022 Final Rule, the Director of USCIS stated that the Policy would "help immigrant children in the U.S. who have been abused, neglected, or abandoned and offer them

[47] *See* USCIS, Policy Alert: Special Immigrant Juvenile Classification and Deferred Action (March 7, 2022) ("2022 Policy Alert"), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf. A true and correct copy of the March 7, 2022 Policy Alert is attached hereto as **Exhibit A.**

[48] *Id.* at 1.

[49] *Id.*

[50] *Id.* at 3.

protection to help rebuild their lives."[51] The press release noted that "[d]eferred action and employment authorization will provide invaluable assistance to these vulnerable noncitizens who have limited financial and other support systems in the United States while they await an available visa number."[52]

62. Under the SIJS Deferred Action Policy, USCIS was required to automatically evaluate whether an individual approved for SIJS "warrant[ed] a favorable exercise of discretion" through a grant of deferred action.[53] USCIS was to automatically consider for deferred action all approved SIJS beneficiaries who were not eligible to apply for adjustment of status solely because, due to the backlog, an immigrant visa number was not available. Such determinations were made on a case-by-case basis, and USCIS granted deferred action to SIJS beneficiaries for renewable four-year periods.[54] Thus, the first grants of deferred action issued under the SIJS Deferred Action Policy in May 2022 will expire in May 2026.

63. Under this Policy, noncitizens whom Defendants had approved for SIJS were neither required nor permitted to submit separate requests for deferred action; their Form I-360 Petition for SIJS was sufficient for consideration for deferred action.[55]

64. SIJS beneficiaries who received deferred action were also eligible to apply for employment authorization under 8 C.F.R. § 274a.12(c)(14), which makes deferred action a basis for EAD eligibility, by filing a Form I-765 Application for Employment Authorization.[56] The SIJS Deferred Action Policy recognized that "[e]mployment authorization will provide invaluable assistance to these vulnerable noncitizens who are children or young adults, and have limited

[51] USCIS Press Release, *USCIS Announces Policies to Better Protect Immigrant Children Who Have Been Abused, Neglected, or Abandoned* (Mar. 7, 2022), https://content.govdelivery.com/accounts/USDHSCIS/bulletins/30db601.

[52] *Id.*

[53] 2022 Policy Alert at 2.

[54] *Id.*

[55] *Id.*

[56] *Id.*

financial support systems in the United States, especially as they age out of care, while they await an immigrant visa number."[57] It further reasoned that the SIJS Deferred Action Policy "provides significant benefits to the U.S. labor pool and the economy in general compared to delaying such status," and that, "[t]o the extent this policy will result in any increased expenditures by any state for schools, services, or driver's licenses, USCIS anticipates such costs will be exceeded by the benefits to those states from the person being employed and contributing to the economy." USCIS further concluded that "approved SIJ petitioners have a reliance interest in being provided with employment authorization consistent with the congressional intent in creating the SIJ program to protect vulnerable children by providing them with a pathway to LPR status, without having to wait years before a visa is available."[58]

65. Apart from the SIJS Deferred Action Policy, no other regulation or policy grants either deferred action or employment authorization to SIJS beneficiaries until a visa becomes available and they are able to apply for work authorization in conjunction with applying for adjustment of status.[59] Despite congressional intent, it is the government's position that during this time, "[n]oncitizens without lawful status who have an approved SIJ petition remain subject to removal" absent a grant of deferred action.[60]

66. USCIS concurrently updated its Policy Manual to reflect the SIJS Deferred Action Policy.[61] The updated Policy Manual confirmed that deferred action determinations would be automatic upon approval of the SIJS petition, and that "a separate request for deferred action [wa]s not required" and would not be accepted.[62] The Policy Manual as revised provided that "USCIS

[57] *Id*. at 2.

[58] *Id*. at 3.

[59] *See L.F.O.P. v. Mayorkas*, 656 F. Supp. 3d 274, 276 (D. Mass. 2023).

[60] 2022 Policy Alert at 2.

[61] *See* USCIS Pol'y Manual vol. 6, pt. J, ch. 4.G. (archived Apr. 18, 2025), available at https://web.archive.org/web/20250418205752/https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4.

[62] *Id.* subd. (G)(1).

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."[63] USCIS identified an approved as a "particularly strong positive factor that weighs heavily in favor of granting deferred action," and the "eligibility for SIJ classification, including that a juvenile court determined that it was in the best interest of the SIJ not to be returned" to their country of origin, as "generally strong positive factors."[64]

67. As part of USCIS's case-by-case deferred action analysis, the adjudicating officer would update, when necessary, biographic background checks performed as part of the SIJS petition adjudication.[65] When circumstances warranted, USCIS could also request that the SIJS beneficiary submit biometrics for a background check or attend an interview.[66] If background checks revealed that a SIJS beneficiary was subject to an unwaivable inadmissibility ground that would render them ineligible for adjustment of status, that fact "would generally be a strong negative factor weighing against" a grant of deferred action.[67] However, USCIS policy guidance stated that "[w]e may also grant deferred action despite these concerns if case specific circumstances warrant it."[68]

68. SIJS beneficiaries were eligible for consideration for deferred action under the Policy regardless of their immigration court posture, as long as they were not in adult immigration detention at the time of the deferred action adjudication.[69] USCIS issued a Form I-797 Notice of

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[63] *Id.* subd. (G)(2).

[64] *Id.*

[65] *Id.* subd. (G)(2) n.27.

[66] *Id.*

[67] USCIS, Special Immigr. Juv. Pol'y Updates, Q&A, A14 (Apr. 27, 2022), https://www.uscis.gov/sites/default/files/document/outreach-engagements/National_Engagement-Special_Immigrant_Juvenile_Policy_Updates-Q%26A.pdf.

[68] USCIS, SIJ Frequently Asked Questions Webpage, A7 (Jan. 6, 2025), https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles/special-immigrant-juvenile-sij-frequently-asked-questions.

[69] *See supra* note 61, at subd. (G)(2) n.15; *supra* note 67, at A20.

Action to inform a SIJS petitioner whether their I-360 petition for SIJS had been approved. Under the SIJS Deferred Action Policy, the I-797 nearly always included USCIS's decision on deferred action. The deferred action decision confirmed in the Form I-797 then provided a basis to apply for an EAD through a Form I-765. Individuals were eligible to seek an EAD based on their SIJS deferred action grant, with economic necessity presumed due to their age. USCIS recognized that even those too young to work could benefit from EADs, since the EAD "may serve other purposes beyond granting authorization to work lawfully, including as a form of government issued identification."[70]

69. The Policy Manual provided that deferred action grants would be renewable for those SIJS beneficiaries who continued to lack an available visa at the end of the initial four-year deferred action period.[71] USCIS explained that individuals could submit a deferred action renewal request to USCIS 150 days before the expiration of their deferred action.[72] Renewal requests would be adjudicated according to the same guidance that applied to initial SIJS deferred action adjudications.[73] At the time of the SIJS Deferred Action Policy's creation, USCIS stated that additional information about the renewal process would be forthcoming.[74]

70. In the fall of 2024, USCIS created a process by which those whose SIJS deferred action grants were within 150 days of expiring could renew their deferred action, via Form G-325A.[75] USCIS also allowed SIJS beneficiaries to use Form G-325A to request consideration of deferred action if for some reason they had not received a deferred action adjudication at the time of their SIJS petition approval.

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[70] *Supra* note 67, at A29.

[71] *Id.* subd. (G)(3).

[72] *Supra* note 67 at 7, A18.

[73] *Id.*

[74] *Id.*

[75] USCIS, Form G-325A Instructions 1, 3 (Jan. 20, 2025) https://www.uscis.gov/sites/default/files/document/forms/g-325ainstr.pdf; *supra* note 68, at A7.

71. Between May 2022 and July 2023, 92,499 SIJS beneficiaries were granted deferred action from among 92,592 eligible individuals who had received a deferred action decision—reflecting a deferred action grant rate of more than 99 percent.[76] Between July 1, 2023, and March 31, 2025, USCIS approved 120,258 additional SIJS petitions.[77] While USCIS has not made deferred action adjudication data available for this period, if the grant rate during the more recent period was comparable to that at the beginning of the program, then approximately 119,000 additional young people were granted SIJS deferred action, bringing the total number of SIJS deferred action grantees to more than 200,000.

72. Thus, the SIJS Deferred Action Policy has allowed at least 200,000 vulnerable young noncitizens to live, study, and work in the United States without fear that they could be arrested and deported at any time. SIJS deferred action beneficiaries have been able to pursue opportunities in higher education, to more readily obtain driver's licenses and access lines of credit, to obtain jobs and access to employer-based healthcare and certain Social Security benefits, and to contribute to their communities and to American society in countless ways.

DEFENDANTS SECRETLY RESCIND THE SIJS DEFERRED ACTION POLICY WITHOUT EXPLANATION

73. Upon information and belief, the deferred action approval rate for SIJS beneficiaries stayed at around 99 percent from the onset of the program until April 2025.

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[76] USCIS Pub. Engagement Div., USCIS Responses to Questions Submitted by the End SIJS Backlog Coalition Follow Up Questions 4 (March 2023), https://www.uscis.gov/sites/default/files/document/questions-and-answers/USCISResponsetoEndSIJSBacklogCoalition-FollowUpQuestions.pdf.

[77] USCIS Immigr. & Citizenship Data, *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 2010-2025*, https://www.uscis.gov/sites/default/files/document/data/i360_sij_performancedata_fy2025_q2.xlsx (last visited July 16, 2025) (showing 70,859 SIJS petitions approved in FY 2024 and 31,183 SIJS petitions approved in the first two quarters of FY 2025, through March); USCIS, *I-360, Petition for Amerasian, Widow(er), or Special Immigrant*, https://www.uscis.gov/sites/default/files/document/data/i360_sij_adjudications_fy23q4.csv (last visited July 16, 2025) (showing 18,216 SIJS petitions approved in the last quarter of Fiscal Year 2023—between July 1 and September 30)(70,859 + 31,183 + 18,216 = 120,258).

74. Upon information and belief, the adjudication rate for SIJS deferred action plummeted to close to zero percent after approximately April 7, 2025, when USCIS began issuing Notices of Action approving beneficiaries for SIJS without any mention of a deferred action adjudication. Upon information and belief, close to zero SIJS approval notices issued after April 7, 2025, have included a decision on deferred action.

75. Upon information and belief, on or about April 7, 2025, Defendants adopted an unannounced policy change rescinding the SIJS Deferred Action Policy, and on that date, ceased considering SIJS beneficiaries for deferred action.

76. Defendants made this change without publicly rescinding the SIJS Deferred Action Policy, which remained active and visible on USCIS's website. Moreover, during this period, USCIS continued to make available on its website a Form G-325A, which explicitly provided a means for SIJS beneficiaries to apply for deferred action on the basis of their SIJ status, a filing type referred to on the Form as "SIJ DA."[78]

77. As a result, many young people, like Plaintiffs A.C.R. and J.G.V., who received a SIJS petition approval on or after April 7, 2025, but did not receive a concurrent deferred action adjudication, then separately filed a G-325A application under the Form's "SIJ DA" category. They did not know that USCIS had secretly reversed its policy of considering these SIJS beneficiaries for deferred action.

78. As of the time of the filing of this complaint, the Form G-325A published on USCIS's website continues to list "SIJ DA" as a basis for applying for deferred action.[79] On

[78] USCIS, G-325A, Biographic Information (for Deferred Action) 3, https://www.uscis.gov/sites/default/files/document/forms/g-325a.pdf (Jan. 20, 2025 ed.).

[79] On May 29, 2025, USCIS published a proposed amended Form G-325A that would eliminate the SIJS-based deferred action category on the form, with a 60-day public comment period. 90 Fed. Reg. 22752. Meanwhile, the January 20, 2025 edition of Form G-325A on the USCIS website continues to contain the SIJS category, and the instructions continue to inform applicants that they can use the form, inter alia, "[t]o request an initial grant of SIJ deferred action if you have an approved SIJ-based Form I-360 …, a visa is not immediately available to file Form I-485, … and you did not previously receive a notice that you were considered for SIJ deferred action."

information and belief, some SIJS beneficiaries continue to apply for deferred action using Form G-325A, under the form's "SIJ DA" category.

79. Upon information and belief, USCIS has not approved any Forms G-325A filed by SIJS beneficiaries on or after April 7, 2025. During this time, USCIS has continued to issue receipt notices for these applications, and many SIJS beneficiary applicants, like J.G.V., have completed biometrics appointments scheduled by USCIS related to their G-325A applications.

80. Upon information and belief, USCIS has not considered, adjudicated, or approved more than a handful of applications for EADs based on category (c)(14) filed by SIJS beneficiaries with deferred action that were pending as of April 7, 2025 or filed after that date.

DEFENDANTS ANNOUNCE THEIR ARBITRARY AND CAPRICIOUS RESCISSION OF THE SIJS DEFERRED ACTION POLICY

81. On June 6, 2025, USCIS confirmed the rescission of the SIJS Deferred Action Policy, announcing via Policy Alert published online its decision "to eliminate automatic consideration of deferred action (and related employment authorization) for [SIJS beneficiaries] who are ineligible to apply for adjustment of status" due to visa unavailability (the "2025 Policy Alert").[80]

82. In the 2025 Policy Alert, USCIS announced that, effective immediately, it "will no longer consider granting deferred action on a case-by-case basis" for SIJS beneficiaries awaiting available visas. The 2025 Policy Alert further established that USCIS will no longer accept applications for employment authorization based on SIJS deferred action.[81]

[80] Policy Alert: Special Immigrant Juvenile Classification and Deferred Action, USCIS (June 6, 2025) ("2025 Policy Alert"), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf. A true and correct copy of the June 6, 2025 Rescission Policy Alert is attached hereto as **Exhibit B.**

[81] Agency regulations contemplate the availability of deferred action to noncitizens. *See* 8 C.F.R. § 274a.12(c)(14); *see also* USCIS Pol'y Manual, vol. 10, pt. A, ch. 2.C, https://www.uscis.gov/policy-manual/volume-10-part-a-chapter-2 (listing noncitizens "granted deferred action" among those eligible to apply for employment authorization).

83. Under the new policy, SIJS beneficiaries previously granted deferred action under the March 2022 SIJS Deferred Action Policy will "generally retain this deferred action" and their related employment authorization for the remainder of the current validity period. However, the 2025 Policy Alert states that there will be no renewal of these deferred action and employment authorization grants. Subsequent to the release of the 2025 Policy Alert, USCIS updated its Policy Manual to reflect the rescission of the SIJS Deferred Action Policy.[82]

84. Defendants' two-page 2025 Policy Alert offers no reasoned explanation of its decision to terminate the SIJS Deferred Action Policy. Rather it offers only vague and conclusory assertions. It observes that Congress "did not expressly permit" deferred action and work authorization for SIJS beneficiaries. It states further that neither USCIS's approval of SIJS nor a state court determination that it would not be in the child's best interest to be returned to their country of origin constitutes a "sufficiently compelling reason[] … to continue to provide a deferred action process for this immigrant category."[83] The 2025 Policy Alert further asserts that the new policy is "necessary to more closely align agency policies and procedures with statutory requirements and authorities," that it is consistent with Executive Order 14161 "Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats," and that it is "in the national and public interest."[84]

85. To the limited extent the 2025 Policy Alert provides reasons for the policy reversal, those reasons make no sense on their face and are inadequate to support Defendants' dramatic and sudden change in policy. The 2025 Policy Alert states that deferred action for SIJS beneficiaries is not "supported by any existing statute or regulation"—but that is true of almost all exercises of deferred action and other forms of prosecutorial discretion. Indeed, in March 2022, DHS affirmatively decided *not* "to codify regulations that provide for a grant of deferred action and

[82] USCIS, Pol'y Manual, vol. 6, pt. J, ch. 4.G., https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4.

[83] 2025 Policy Alert at 1.

[84] *Id.* at 1-2.

work authorization while the SIJ's Form I-485 is pending" precisely because those cases could be addressed through a deferred action policy. The 2025 Policy Alert also claims that it promotes "vet[ting] and screen[ing]" of noncitizens 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," but nothing in the SIJS Deferred Action Policy restricts such vetting—and in fact, such information is necessarily considered in adjudicating deferred action applications.

86. The 2025 Policy Alert does not indicate that the agency, in terminating the SIJS Deferred Action Policy, undertook any evaluation of its benefits or of the serious reliance interests it engendered. SIJS beneficiaries, with and without deferred action, have relied on the ability to await visa availability without fear of deportation or labor exploitation and have structured their lives against the background understanding that they would be eligible for deferred action. Many SIJS beneficiaries rely on SIJS deferred action to continue their studies; to work to support themselves; and to receive healthcare.

87. The 2025 Policy Alert also fails to consider numerous relevant factors. It does not consider the reasoning and circumstances underlaying the SIJS Deferred Action Policy that it rescinds. It does not acknowledge or consider the benefits conferred by the SIJS Deferred Action Policy or the impact of the rescission on SIJS beneficiaries with and without deferred action. It does not consider the harms caused by the growing visa backlog on SIJS beneficiaries without deferred action, who live without deferred action's protection from deportation or ability to legally work. Nor does it consider the importance of employment authorization, which aids in protecting SIJS beneficiaries from labor exploitation.

88. In addition to reversing the SIJS Deferred Action Policy, under which approved SIJS beneficiaries who were unable to apply for lawful permanent residence solely because there was no available visa would *automatically* be considered for deferred action, the 2025 Policy Alert introduces a new policy 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." The exact meaning of this policy is unclear: either it categorically bars SIJS beneficiaries from applying for deferred action *at all*, or it bars SIJS beneficiaries from applying for deferred action individually on the basis of their SIJ status.

89. In addition to being arbitrary and capricious, this new policy also required notice-and-comment rulemaking. Whether it bars SIJS beneficiaries from individually applying for deferred action at all, or bars SIJS beneficiaries from individually applying for deferred action, both "substantively change[] the framework associated with [deferred action] determinations" and "embod[y] a conscious change in policy" from which "legal consequences flow." *Make the Road N.Y. v. Pompeo*, 475 F. Supp. 3d 232, 256-57 (S.D.N.Y. 2020). As such, the new policy announced in the 2025 Policy Alert does not merely interpret existing law but constitutes a legislative rule subject to Section 553 notice-and-comment procedures. 5 U.S.C. § 553.

90. The new policy of no longer accepting new Applications for Employment Authorization (Form I-765) from SIJS beneficiaries with deferred action also required notice-and-comment rulemaking. This policy is directly contrary to 8 C.F.R. § 274a.12(c)(14), which was passed through notice-and-comment rulemaking and provides that "an alien who has been granted deferred action" "may apply for work authorization" upon a showing of "economic necessity." Specifically barring individuals who receive deferred action pursuant to SIJ status would amend § 274a.12(c)(14) by ingrafting a new exception to the general availability of employment authorization documents to deferred action recipients upon a showing of economic necessity. An agency may not amend a regulation passed through notice-and-comment without that amendment itself passing through notice-and-comment. *Env't Integrity Project v. E.P.A.*, 425 F.3d 992, 997 (D.C. Cir. 2005).

91. Defendants did not provide the public with notice or an opportunity to comment on any proposed rule change.

THE RESCISSION OF THE SIJS DEFERRED ACTION POLICY WILL CAUSE IRREPARABLE HARM TO PLAINTIFFS AND CLASS MEMBERS

92. As of March 31, 2025, 25,046 petitions for SIJS were pending with USCIS.[85] In 2024, USCIS approved 70,859 SIJS petitions; in 2023, USCIS approved 53,205 SIJS petitions; and in 2022, USCIS approved 18,681 SIJS petitions.[86] Thus, tens of thousands of SIJS beneficiaries stand to be harmed by Defendants' rescission of the SIJS Deferred Action Policy, either immediately or when their current deferred action expires.

93. Defendants' sudden and unexplained reversal in policy has already caused significant harm to Plaintiffs and putative class members and will continue to cause them significant and irreparable harm each day. SIJS beneficiaries face a years-long delay while they await their visa priority date. During this period, the deprivation of deferred action exposes them to the possibility of being deported and to detention incident to the government's pursuit of deportation. Even for SIJS beneficiaries who are not actually deported from the United States, the prospect of an extended period of uncertainty, and the vulnerability to detention and deportation, creates or contributes to mental health challenges including heightened anxiety, insomnia, and depression. This level of mental anguish and distress causes irreparable harm to children and youth. The deportation of SIJS beneficiaries before they even have an opportunity to apply for adjustment of status also frustrates the entire congressional intent of SIJS in providing these young people a pathway to permanent protection and stability in the United States.

94. During this prolonged waiting period, SIJS beneficiaries will also not be given the opportunity to apply for employment authorization, leaving them unable to work legally while awaiting their visa priority date. This in turn will stymie their opportunities to find stable, long-term employment at a decent wage; expose them to labor abuses and exploitation, including human

[85] USCIS, *I-360, Petition for Amerasian, Widow(er), or Special Immigrant Pending as of March 31, 2025*, https://www.uscis.gov/sites/default/files/document/data/i360_sij_congressional_fy2025_q2.xlsx.

[86] USCIS, Immigr. & Citizenship Data, *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 2010-2025*, https://www.uscis.gov/sites/default/files/document/data/i360_sij_performancedata_fy2025_q2.xlsx.

trafficking; jeopardize their ability to support themselves and their families or contribute to their support; and block their access to certain internship or vocational programs. Without access to employer-based healthcare, they will either forgo comprehensive medical insurance coverage or pay hundreds or thousands of dollars in monthly premiums or to secure out-of-pocket healthcare. Further, the lack of work authorization will limit their access to continued education by placing even relatively reasonable tuition costs out of reach, as SIJS beneficiaries are not eligible for Federal Student Aid until they can obtain lawful permanent resident status. Without work authorization, SIJS beneficiaries also lose the ability to obtain government-issued identification and Social Security numbers, which help them file taxes from their lawful employment, open bank accounts, and access emergency housing assistance. Together, the lack of work authorization ensures that SIJS beneficiaries continue to live in uncertainty, and many experience increasing anxiety, depression, insomnia, or instability. They will also face significant hurdles to full participation in their immigration cases as they struggle just to survive.

95. For example, the lack of deferred action means that Plaintiff A.C.R. cannot get a part-time job, and her dream of attending university and becoming an astronaut is on hold. Without protection from deportation, she fears being deported to Guatemala, where she fears violence and abuse from her parents.

96. Plaintiff J.G.V., who has a year of high school remaining, was counting on deferred action to be able to work part-time while attending school, and to pay for post-secondary education toward a career as a mechanic after his high school graduation. Without deferred action, Plaintiff J.G.V. has no means to work lawfully and afford further education.

97. Plaintiff E.A.R. is in ongoing removal proceedings in immigration court. Instead of seeking dismissal of those proceedings based on deferred action, he must continue to navigate the pending proceedings and remains at risk of being deported to the unsafe conditions he left behind. Now 18 years old, Plaintiff E.A.R. cannot get a work permit nor a driver's license without deferred action. His hopes of one day working in construction and affording his own place to live are on hold, and he feels stuck.

98. Plaintiff C.V.R. is in ongoing removal proceedings. Without deferred action, he faces future hearings in immigration court and the anxiety of knowing that the immigration judge can issue a deportation order at any time. Being able to work part-time would help Plaintiff C.V.R. work toward independence, but without deferred action, Plaintiff C.V.R. cannot apply for a work permit.

99. Plaintiff L.M.R. was placed in foster care by a New York court after being found to be a "destitute child." She was counting on a work permit to get a part-time job while she completes high school so she could save money to pay for housing, health care, and other necessities when she ages out of foster care in fewer than two years. Learning that, due to the 2025 Policy Alert, she is no longer able to get a work permit or renew her deferred action has caused L.M.R.—who has a history of depression and anxiety—fear and worry. L.M.R.'s most powerful fear is that she would have to return to Honduras, where she was abused, neglected, and abandoned.

100. Plaintiff S.M.M. recently graduated from high school, and his dream is to become a doctor. He had begun preparing his college application to attend a New York college, but when his work permit and Social Security number did not materialize this spring, he abandoned his college application. Without a work permit and a Social Security number, S.M.M. has no way to afford college. The prospect of being deported back to Honduras, where he suffered severe physical abuse at the hands of his parents, is painful and scary for S.M.M.

101. Plaintiff Y.A.M was kidnapped and assaulted in her country of origin. She has a scar on her leg from where she was shot. She has no one in her country of origin to protect her. She is terrified that if she cannot renew her deferred action, her life will be at risk, and her child will be left alone without anyone to support him. She worries that if she cannot renew her deferred action, she will lose her job and her employer-provided health insurance. She has a heart condition and also recently had surgery to remove a tumor in her breast. She will not be able to afford the medical care she needs without her health insurance. All of this has her fearing for her future and that of her child.

102. Plaintiff B.R.AC relies on her deferred action to work to pay for her studies at a community college where she is studying to become a lab technician. Without the ability to renew her deferred action and to work lawfully, she fears she will not be able to continue her education. She has no one in Honduras and is afraid of being deported to a place where she is all alone and there is so much violence.

103. Plaintiff J.C.B recently became independent from long-term foster care. He has a good job at a factory where he is treated with dignity and is able to progress. He loves working with cars. He relies on his employment to pay his rent. His employer has a program that covers tuition for employees to go to college and other training programs. J.C.B is planning on starting college in the spring with the help of this program. Without the ability to work or his job at the factory, he will have to forego his plans to start college and will not be able to support himself. Both of his parents are now deceased and he has no one in Honduras to care for him. He has been suffering from nightmares about being deported back to a place where he was abused as a child.

104. The loss of deferred action and work authorization will dramatically increase the scope of work that Plaintiff **CARECEN-NY** is required to perform for each client. To advance its mission and make meaningful its representation of youth, CARECEN-NY typically continues to represent SIJS clients through adjustment of status, meaning that the organization represents the client throughout the long waiting period before a visa becomes available and then assists the client in applying for LPR status before USCIS or the immigration court. Some of CARECEN-NY's SIJS clients are in removal proceedings in immigration court; others have had their proceedings dismissed, terminated, or "administratively closed" (temporarily placed on hold); and still others have never been in proceedings. The government takes the position that, absent a grant of deferred action, all of them are subject to deportation. CARECEN-NY anticipates that their need for deportation defense will rise dramatically as Defendants initiate, revive, and aggressively pursue removal proceedings against a growing number of SIJS beneficiaries. After all, deportation is the point of the rescission of deferred action. Lawyers for the DHS will be less likely to join, and the immigration courts will be far less likely to grant, motions to terminate or dismiss removal

proceedings for SIJS beneficiaries without deferred action. And, during removal proceedings, DHS may take SIJS clients into immigration detention and advocate before the immigration court against the issuance of a bond. All the while, the DHS attorneys may try to persuade the immigration court to issue deportation orders against CARECEN-NY's SIJS clients because they lack an immediately available visa.

105. To adequately defend SIJS clients in removal proceedings, CARECEN-NY will have to expend an additional estimated dozens to hundreds of hours per client—including to prepare and argue bond motions; to draft and file motions arguing for postponement of the case to await a visa; and, for clients who have a back-up form of immigration relief available such as asylum, to file applications for relief and supporting evidence and to prepare for merits hearings in immigration court.

106. In addition to managing increased workload from deportation defense, CARECEN-NY will need to offer its SIJS clients legal assistance and support from its social services team to address the many issues that arise from lack of access to legal work and the deepening poverty that results. For example, falling incomes typically lead to more transient housing, meaning additional filings of address changes with the immigration agencies and increasing need for other social services CARECEN-NY provides, such as help obtaining food security and navigating transient housing on Long Island.

107. As the representation of SIJS beneficiaries becomes exponentially more difficult, CARECEN-NY will be forced to limit the scope of representation, the number of clients it represents in immigration cases, and the time and resources that the social services team can devote to each client. The shortfall will cause harm, not only to those clients eligible for SIJS, but also to those eligible for other forms of relief, such as asylum or protection under the Convention Against Torture, as CARECEN-NY reallocates resources. This, in turn, diminishes CARECEN-NY’s ability to meet a core goal of its immigration practice, which is to offer high-quality and full representation throughout the entirety of the immigration process (even through citizenship) to the many individuals in need on Long Island where there are scarce – and often no – resources.

108. The loss of deferred action and work authorization will dramatically increase the scope of work that Plaintiff **Centro Legal** is required to perform for each client. To advance its mission and make meaningful its representation of youth, Centro Legal typically continues to represent SIJS clients through adjustment of status, meaning that the organization represents the client throughout the long waiting period before a visa becomes available and then assists the client in applying for LPR status before USCIS or the immigration court. Some of Centro Legal's SIJS clients are in removal proceedings in immigration court; others have had their proceedings dismissed, terminated, or "administratively closed" (temporarily placed on hold); and still others have never been in proceedings. The government takes the position that, absent a grant of deferred action, all of them are subject to deportation. Centro Legal anticipates that their need for deportation defense will rise dramatically as Defendants initiate, revive, and aggressively pursue removal proceedings against a growing number of SIJS beneficiaries. After all, deportation is the point of the rescission of deferred action. Lawyers for DHS will be less likely to join, and the immigration courts will be far less likely to grant, motions to terminate or dismiss removal proceedings for SIJS beneficiaries without deferred action. On the contrary, DHS lawyers have already sought to re-calendar proceedings of more than 60 SIJS beneficiary clients that were administratively closed. And, during removal proceedings, DHS may take SIJS clients into immigration detention and advocate before the immigration court against the issuance of a bond. All the while, the DHS attorneys may try to persuade the immigration court to issue deportation orders against Centro Legal's SIJS clients because they lack an immediately available visa.

109. To adequately defend SIJS clients in removal proceedings, Centro Legal will have to expend hundreds of hours per client—including to prepare and argue bond motions; to draft and file motions arguing for postponement of the case to await a visa; and, for clients who have a back-up form of immigration relief available such as asylum, to file applications for relief and supporting evidence and to prepare for merits hearings in immigration court.

110. In addition to managing increased workload from deportation defense, Centro Legal will need to offer its SIJS clients legal assistance with the many issues that arise from lack

of access to legal work and the deepening poverty that results. For example, falling incomes typically lead to more transient housing, meaning additional filings of address changes with the immigration agencies and increasing need for other services Centro Legal provides, such as eviction defense.

111. As Centro Legal's clients struggle more with basic survival due to their lack of employment authorization, they are also less able to participate meaningfully in their immigration cases. Some will be forced to double up on underpaid jobs, with little to no opportunity for time off for meetings with counsel or court appearances. These hurdles, too, undermine Centro Legal's mission to provide the best possible advocacy for its clients.

112. As the representation of SIJS beneficiaries becomes exponentially more difficult, Centro Legal will be forced to limit the number of clients it represents in immigration cases. The shortfall will cause harm, not only to those clients eligible for SIJS, but also to those eligible for other forms of relief, such as asylum or protection under the Convention Against Torture, as Centro Legal reallocates resources. This reduction in Centro Legal's client base diminishes Centro Legal's ability to meet a core goal of its immigration practice, which is to serve the needs of low-income individuals and vulnerable immigrants through high-quality immigration representation.

CLASS ACTION ALLEGATIONS

113. Plaintiffs A.C.R., J.G.V., E.A.R., C.V.R., Y.A.M., B.R.C., J.C.B., L.M.R., and S.M.M. (the "Individual Plaintiffs") bring this action on behalf of themselves and all others who are similarly situated pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2). Plaintiffs seek certification of two proposed classes and one subclass, defined as follows:

> **Deferred Action Class:** All individuals whose SIJS petitions were or will be approved on or after April 7, 2025, and who will no longer be considered for deferred action based on SIJS because of Defendants' 2025 Rescission Policy.
>
> **Renewal Class:** All individuals who were granted deferred action based on SIJS but who are no longer eligible to renew their deferred action while they await a visa because of Defendants' 2025 Rescission Policy.
>
> **EAD Subclass:** All members of the Renewal Class who have applied for or are eligible to apply for an Employment Authorization Document under 8 C.F.R. § 274a.12(c)(14) ("(c)(14) EAD") but whose applications for a (c)(14) EAD have

not been or will not be adjudicated pursuant to Defendants' June 6, 2025 Policy Alert.

114. The proposed Deferred Action Class includes at least hundreds of members; the proposed Renewal Class includes tens of thousands of members; and the proposed EAD Subclass includes at least hundreds of members. All proposed classes are therefore so numerous pursuant to Federal Rule of Civil Procedure 23(a)(1) that joinder of all members is impractical.

115. Whether the 2025 Rescission Policy was lawful presents questions of fact and law common to all class and subclass members, satisfying the commonality requirements of Federal Rule of Civil Procedure 23(a)(2). All members of the proposed classes and subclass are or will be deprived of the benefits of deferred action as the result of the unlawful termination of the SIJS Deferred Action Policy.

116. The proposed classes and subclass meet the typicality requirements of Federal Rule of Civil Procedure 23(a)(3) because the claims of the representative Plaintiffs are typical of each class. Like named Plaintiffs A.C.R., J.G.V., E.A.R., and C.V.R., each of the members of the proposed Deferred Action Class has been denied or will be denied a deferred action adjudication and access to work authorization because of Defendants' unlawful change in policy. Like named Plaintiffs Y.A.M., B.R.C., and J.C.B, each of the members of the proposed Renewal Class will be denied the opportunity to renew their deferred action and work authorization based on their SIJS approvals. Like named Plaintiffs L.M.R. and S.M.M., each of the members of the Proposed EAD Subclass has applied for or is eligible to apply for work authorization based on their deferred action but cannot obtain work authorization because of Defendants' Rescission Policy. The legal claims raised by the Individual Plaintiffs are identical to the claims of each class and subclass.

117. The Individual Plaintiffs are adequate class representatives pursuant to Federal Rule of Civil Procedure 23(a)(4) because the relief they seek will protect other members of the class. Plaintiffs do not have any interests adverse to those of the class as a whole.

118. The proposed classes and subclass also satisfy Federal Rule of Civil Procedure 23(b)(2). Defendants have acted on grounds generally applicable to the proposed classes and

subclass by refusing to adjudicate deferred action, refusing to renew deferred action and work authorization, and refusing to adjudicate applications for work authorization from class members with deferred action. Injunctive and declaratory relief is thus appropriate with respect to the classes and subclass as a whole.

119. The proposed classes and subclass are represented by counsel from the National Immigration Project, Kids in Need of Defense (KIND), Public Counsel, Davis Wright Tremaine LLP, and Lowenstein Sandler LLP. Counsel have extensive experience litigating class action lawsuits and other complex cases in federal court, including civil rights class actions on behalf of noncitizens. Counsel also have significant legal expertise on Special Immigrant Juvenile Status.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

5 U.S.C. § 706(2)(A) — Arbitrary and Capricious Agency Action

(All Plaintiffs and All Proposed Classes Against All Defendants)

120. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

121. Under the APA, 5 U.S.C § 706(2)(A), courts shall hold unlawful and set aside agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations; or without observance of procedure required by law.

122. To engage in procedurally appropriate decision-making, an agency must ordinarily "display awareness that it is changing position." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). Agencies "may not … depart from a prior policy sub silentio or simply disregard rules that are still on the books." *Id.* The APA requires a "more detailed justification … for disregarding facts and circumstances that underlay … the prior policy." *Id.* at 515–16.

123. Defendants' rescission of the SIJS Deferred Action Policy constitutes "final agency action for which there is no other adequate remedy in a court" pursuant to 5 U.S.C. § 704. This final agency action is reviewable by this Court because it marks the consummation of the

Defendants' decision-making process and is one "from which 'legal consequences will flow."' *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (citation omitted).

124. The actions taken by Defendants to terminate the automatic consideration of SIJS beneficiaries for deferred action; the adjudication of individual deferred actions applications filed by SIJS beneficiaries in the Deferred Action Class; the ability to renew deferred action for SIJS beneficiaries in the Renewal Class, and the ability of SIJS beneficiaries with deferred action in the EAD Subclass to obtain EADs are "arbitrary and capricious, an abuse of discretion, and not in accordance with law" in violation of 5 U.S.C § 706(2)(A). To the extent Defendants engaged in any process when rescinding the SIJS Deferred Action Policy, it was so deficient as to amount to no process at all.

125. **Defendants failed to articulate a reasonable explanation for the rescission of the SIJS Deferred Action Policy**. From April 7, 2025, to June 6, 2025, Defendants sub silentio ceased adjudication of SIJS deferred action without any public acknowledgement, let alone any explanation for their rescission of the SIJS Deferred Action Policy. Once Defendants finally acknowledged the abrupt policy change two months later in the 2025 Policy Alert, they still failed to provide an explanation for the rescission of the SIJS Deferred Action Policy, let alone a "reasonable explanation" as required by the APA. The only reasons offered by the Agency–that deferred action for SIJS beneficiaries is not codified in regulation or statute and that deferred action may "restrict[]" noncitizen "vet[ting]"–are facially incoherent and unreasonable.

126. **Defendants failed to consider important aspects of the issues associated with the rescission of the SIJS Deferred Action Policy**. The Defendants' rescission of the SIJS Deferred Action Policy disregards the rationale underlying its previous policy to secure the protections Congress has afforded to SIJS beneficiaries. Actions taken by Defendants do not reflect consideration of the benefits of deferred action for SIJS beneficiaries, the costs of its termination, or impacts on the hundreds of thousands of impacted immigrant youth. Nor do they reflect consideration of the impact of rescission on family members, employers, academic institutions of

those SIJS beneficiaries, legal service providers, state and local child welfare systems, or the public at large.

127. **Defendants failed to offer a reasoned explanation for their *reversal* of policy.** Defendants have also disregarded the serious reliance interests resulting from the SIJS Deferred Action Policy that was in effect for three years, including that many SIJS beneficiaries rely on their deferred action to continue their studies; to work to support themselves; and to receive healthcare. Where, as here, significant reliance interests are at stake, Defendants must, in addition to demonstrating that "there are good reasons" for the new policy, offer "a reasoned explanation … for disregarding facts and circumstances that underlay or were engendered by the prior policy." *Fox*, 519 U.S. at 516.

128. Defendants' actions have injured Individual Plaintiffs and putative class members by depriving them of access to deferred action and, for those who have deferred action, the ability to renew their deferred action and obtain either initial or renewed EADs based on category (c)(14). Defendants' actions will subject the Individual Plaintiffs and putative class members to possible deportation from the United States and deprive them of access to EADs and the ability to secure lawful employment in the United States.

129. In addition, Defendants have irreparably injured Organizational Plaintiffs CARECEN-NY and Centro Legal by impairing their ability to provide legal services and other programming that benefit SIJS beneficiaries, and thus directly interfering with and hindering these organizations' core programs and services.

SECOND CLAIM FOR RELIEF

5 U.S.C. § 706(2)(A) — Agency Action Arbitrary, Capricious, and Not in Accordance with Law
(Individual Plaintiffs L.M.R. and S.M.M., Organizational Plaintiffs, and Proposed EAD Subclass Against All Defendants)

130. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

131. The actions taken by Defendants to make Individual Plaintiffs L.M.R. and S.M.M. and the proposed EAD Subclass ineligible for EADs based on category (c)(14), even though they have deferred action, are arbitrary and capricious, an abuse of discretion, and not in accordance with law, in violation of 5 U.S.C § 706(2)(A).

132. As announced in the 2025 Policy Alert, SIJS beneficiaries with deferred action are no longer able to have their Form I-765 applications for EADs based on category (c)(14) adjudicated by USCIS. This includes individuals who have pending applications that have not yet been adjudicated and those with deferred action who may wish to apply for EADs in the future. This policy contravenes federal law.

133. 8 C.F.R. § 274a.12(c)(14) provides eligibility for work authorization to "an alien who has been granted deferred action [except for DACA recipients], an act of administrative convenience to the government that gives some cases lower priority, if the alien establishes an economic necessity for employment."

134. The 2025 Policy Alert "[r]emoves 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." 2025 Alert Policy at 2. In enacting and implementing a policy that precludes USCIS from adjudicating pending Form I-765s, or to-be-filed Form I-765s, from those who currently have deferred action, USCIS's new policy violates 8 C.F.R. § 274a.12(c)(14), which explicitly makes anyone with deferred action status eligible to apply for work authorization (aside from DACA recipients, who are separately covered by (c)(33)).

135. Defendants decision to no longer adjudicate Form I-765 employment authorization applications from individuals granted SIJS deferred action is also arbitrary and capricious, as Defendants failed to articulate a reasonable explanation for the policy change and failed to consider important aspects of the issues associated with the policy, including reliance interests, or the effect of the policy change on family members, employers, academic institutions of those SIJS beneficiaries, legal service providers, state and local child welfare systems, or the public at large.

136. Defendants' actions have irreparably injured Individual Plaintiffs L.M.R. and S.M.M. and the proposed EAD Subclass by depriving them of access to EADs based on category (c)(14) and the ability to secure lawful employment in the United States.

137. In addition, Defendants have irreparably injured Organizational Plaintiffs CARECEN-NY and Centro Legal. The loss of the ability of SIJS beneficiaries with deferred action to obtain work authorization will dramatically increase the scope of work that the Organizational Plaintiffs perform for each client including, for example, providing counsel and representation on the legal issues that arise from lack of access to legal work and the deepening poverty that results, as well as increasing the need for intervention from the organizations' social services staff. As the representation of SIJS beneficiaries becomes exponentially more difficult, the Organizational Plaintiffs will be forced to limit the number of clients they represent in immigration cases, which directly interferes with and hinders the organizations' core programs and services.

THIRD CLAIM FOR RELIEF
5 U.S.C. § 706(2)(A) – Violation of* Accardi *Doctrine
(Individual Plaintiffs A.C.R., J.G.V., E.A.R., and C.V.R., Organizational Plaintiffs, and Proposed Deferred Action Class Against All Defendants)

138. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

139. "Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This principle is known as the *Accardi* doctrine. *See United States Ex Rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004).

140. The "procedures" that agencies are required to follow include both formal agency regulations and informal operating procedures and guidance. *Church of Scientology of Cal. v. United States*, 920 F.2d 1481, 1487 (9th Cir. 1990). The *Accardi* doctrine applies "even where the internal procedures are possibly more rigorous than otherwise would be required." *Alcaraz*, 384 F.3d at 1162 (quoting *Morton*, 415 U.S. at 235).

141. The March 7, 2022, Policy Alert establishing the SIJS Deferred Action Policy constituted USCIS's binding internal guidance governing the consideration and processing of deferred action for SIJS beneficiaries. Defendants failed to comply with the SIJS Deferred Action Policy beginning on approximately April 7, 2025, when they ceased conducting deferred action adjudications for SIJS beneficiaries. Instead, they adopted and implemented an unannounced, sub silentio policy or practice of declining to automatically consider SIJS beneficiaries for deferred actions. Meanwhile, young people including J.G.V. and A.C.R. who received SIJS approvals without deferred action adjudications during this period relied on USCIS's public-facing guidance to submit applications for SIJS-based deferred action using Form G-325A, which includes a specific category for SIJS deferred action. Defendants did not attempt to rescind or otherwise change the 2022 SIJS Deferred Action Policy until the inadequate and legally ineffective 2025 Policy Alert.

142. Defendants' failure to comply with the SIJS Deferred Action Policy represents a sudden and unexplained departure from the agency's own binding internal guidance in violation of the *Accardi* doctrine.

143. In violating the *Accardi* doctrine, Defendants have irreparably injured Individual Plaintiffs A.C.R., J.G.V., E.A.R., and C.V.R. and similarly-situated members of the Deferred Action Class whose SIJS petitions were granted between April 7, 2025 and June 6, 2025 by depriving them of access to deferred action under Defendants' unannounced and unlawful sub silentio policy or practice; depriving them of protection from possible deportation; and depriving them of access to EADs and the ability to secure lawful employment in the United States.

144. In addition, by violating the *Accardi* doctrine, Defendants have irreparably injured Organizational Plaintiffs CARECEN-NY and Centro Legal by hindering their missions and forcing them to divert substantial resources away from their core programs.

FOURTH CLAIM FOR RELIEF
5 U.S.C. § 553 – Failure to Follow APA Rulemaking Procedure
(All Plaintiffs against All Defendants)

145. Plaintiffs incorporate by reference the preceding allegations of this Complaint as if fully set forth herein.

146. Under the APA, an agency must provide "[g]eneral notice of proposed rule making … published in the Federal Register" whenever the agency seeks to promulgate a rule. 5 U.S.C. § 553(b). Exempt from this requirement are "interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice." *Id.* After the agency has published the required notice, "the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments." *Id.* § 553(c).

147. The categorical decision 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" is a legislative rule regardless of how it is interpreted: either it categorically bars SIJS beneficiaries from applying for deferred action *at all*, regardless of the basis of their application, or it bars the agency from considering SIJ status as a factor weighing in favor of granting deferred action applications. Respectively, these interpretations categorically (and arbitrarily) exclude either (1) a class of applicants (SIJS beneficiaries) individually applying for deferred action on the basis of SIJ status or (2) a class of applicants from individual consideration for deferred action *on any basis*. In either case, the rule narrowly constrains DHS and/or its officials in the exercise of prosecutorial discretion.

148. Defendants did not provide notice of proposed rulemaking, nor did they invite comments from interested persons before rescinding the SIJS Deferred Action Policy.

149. None of the statutory exceptions to the requirement of notice-and-comment rulemaking is applicable here. *See* 5 U.S.C. § 553(b).

FIFTH CLAIM FOR RELIEF
5 U.S.C. § 553 – Failure to Follow APA Rulemaking Procedure
(Individual Plaintiffs L.M.R. and S.M.M., Organizational Plaintiffs, and Proposed EAD Subclass Against All Defendants)

150. Plaintiffs incorporate by reference the preceding allegations of this Complaint as if fully set forth herein.

151. Under the APA, agencies must "use the same procedures when they amend or repeal a rule as they used to issue the rule in the first instance." *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 101 (2015). When a rule has been promulgated through notice-and-comment rulemaking, it can only be modified or amended by through additional notice-and-comment under 5 U.S.C. § 553.

152. As announced in 2025 Policy Alert, SIJS beneficiaries with deferred action are no longer able to have their Form I-765 applications for EADs based on category (c)(14) adjudicated by USCIS. This includes individuals who have pending applications that have not yet been adjudicated and those with deferred action who may wish to apply for EADs in the future.

153. This policy improperly attempts to modify 8 C.F.R. § 274a.12(c)(14)—which was promulgated through notice-and-comment rulemaking, Employment of Aliens, 52 Fed. Reg. 16221 (May 1, 1987)—*without* using the notice-and-comment rulemaking process. Section § 274a.12(c)(14) provides eligibility for work authorization to "an alien who has been granted deferred action [except for DACA recipients], an act of administrative convenience to the government that gives some cases lower priority, if the alien establishes an economic necessity for employment." It expressly makes anyone with deferred action status eligible to apply for work authorization (aside from DACA recipients, who are separately covered by (c)(33)). By excluding SIJS deferred action recipients from eligibility for work authorization, the 2025 Policy Alert would modify or amend § 274a.12(c)(14).

154. Defendants did not provide notice of proposed rulemaking, nor did they invite comments from interested persons before announcing this policy.

155. None of the statutory exceptions to the requirement of notice-and-comment rulemaking is applicable here. *See* 5 U.S.C. § 553(b).

SIXTH CLAIM FOR RELIEF
28 U.S.C. §§ 2201 and 2202 – Declaratory Judgment
(All Plaintiffs Against All Defendants)

156. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

157. The Declaratory Judgment Act, 28 U.S.C. § 2201, allows the court, "[i]n a case of actual controversy within its jurisdiction," to "declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. § 2201(a).

158. Plaintiffs seek a declaration that Defendants' rescission of or departure from the SIJS Deferred Action Policy set forth in the March 7, 2022 Policy Alert was unlawful; that Defendants' rescission of or departure from the March 7, 2022 Policy Alert establishing a process for SIJS beneficiaries awaiting their visa priority date to be automatically considered for deferred action and, if granted, become eligible to apply for EADs is arbitrary and capricious and contrary to law; that the Policy Manual update denying SIJS beneficiaries with current approved deferred action the ability to renew their deferred action is arbitrary and capricious; that the policy of excluding SIJS beneficiaries from consideration for deferred action was arbitrary and capricious and violated 5 U.S.C. § 553; and that the 2022 SIJS Deferred Action Policy and corresponding Policy Manual sections remain in effect.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court grant the following relief:

1. Issue an order certifying the classes and subclass defined in this Complaint pursuant to Fed. R. Civ. P. 23(a), 23(b)(1), and 23(b)(2);

2. Appoint the undersigned counsel to serve as class counsel pursuant to Fed. R. Civ. P. 23(g);

3. Declare that Defendants' departure from the SIJS Deferred Action Policy set forth in the March 7, 2022, Policy Alert is arbitrary and capricious, an abuse of discretion, and contrary to law in violation of the APA;

4. Declare that Defendants' rescission of the March 7, 2022, Policy Alert establishing a process for SIJS beneficiaries awaiting a visa to apply for deferred action is arbitrary and capricious, an abuse of discretion, and contrary to law in violation of the APA;

5. Declare that Defendants' unannounced sub silentio policy or practice of not following the SIJS Deferred Action Policy between April 7, 2025, and the issuance of the 2025 Policy Alert was unlawful because it violated the *Accardi* Doctrine;

6. Declare that Defendants' 2025 Policy Alert and Policy Manual update denying SIJS beneficiaries with current approved deferred action the ability to renew their deferred action is arbitrary and capricious, an abuse of discretion, and contrary to law in violation of the APA;

7. Declare that Defendants' 2025 Policy Alert and Policy Manual update denying SIJS beneficiaries with deferred action the ability to have their Form I-765 applications for EADs based on category (c)(14) adjudicated by USCIS contravene 8 C.F.R. § 274a.12(c)(14) and are therefore contrary to law and in violation of the APA;

8. Declare that Defendants' 2025 Policy Alert and Policy Manual update denying SIJS beneficiaries with deferred action the ability to have their Form I-765 applications for EADs based on category (c)(14) adjudicated by USCIS is a legislative rule improperly promulgated without notice-and-comment rulemaking under 5 U.S.C. § 553(b), and so lacks force of law;

9. Declare that Defendants' categorical decision to no longer have USCIS "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" is arbitrary and capricious, an abuse of discretion, and contrary to law in violation of the APA;

10. Declare that Defendants' categorical decision to no longer have USCIS "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" is a legislative rule improperly promulgated without notice-and-comment rulemaking under 5 U.S.C. § 553(b), and so lacks force of law;

11. Declare that the SIJS Deferred Action Policy and corresponding Policy Manual sections remain in effect;

12. Preliminarily and permanently enjoin the 2025 Policy Alert and corresponding changes to USCIS's Policy Manual update;

13. Preliminarily and permanently enjoin Defendants to:

a. rescind the 2025 Policy Alert and corresponding changes to USCIS's Policy Manual Update;

b. take all steps necessary to ensure that the SIJS Deferred Action Policy and corresponding guidance in the USCIS Policy Manual remain in full force and effect;

c. take all steps necessary to conduct deferred action determinations for Individual Plaintiffs A.C.R., J.G.V., E.A.R., and C.V.R. within 30 days of the Court's Order, and to provide the Individual Plaintiffs and Appointed Class Counsel the grounds for any denials of deferred action in writing within 10 days of the adjudications;

d. take all steps necessary to adjudicate the EAD applications submitted by Plaintiffs L.M.R. and S.M.M. within 30 days of the Court's Order;

e. take all steps necessary to conduct deferred action determinations for members of the proposed Deferred Action Class within 90 days of the Court's Order, and to provide the class members and Appointed Class Counsel the grounds for any denials of deferred action in writing within 14 days of the adjudications;

f. resume within 30 days of the Court's Order timely adjudications of any I-765 applications for EAD based on category (c)(14) submitted by members of the proposed EAD Subclass; and

g. take all steps necessary to reinstitute a clear renewal process for SIJS deferred action and associated work authorization;

14. Enjoin Defendants from removing the Individual Plaintiffs from the continental United States during the pendency of this litigation, pursuant to the All Writs Act, 28 U.S.C. § 1651, in order to ensure that Plaintiffs are able to participate in the adjudication of this action, including having access to legal counsel for such purpose; and to ensure that the Court is able to evaluate their respective claims for relief; and to ensure the Government has a fulsome opportunity to present a defense;

15. Preliminarily and permanently enjoin Defendants from taking retaliatory action against the Plaintiffs due to their participation in this lawsuit;

16. Grant Plaintiffs reasonable attorneys' fees, costs, and other disbursements pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

17. Grant any other and further relief that this Court may deem just and proper.

Dated: New York, New York
July 17, 2025

Respectfully submitted,

/s/ John Magliery

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