



Executive Summary

“Any Day They Could Deport Me”: Over 44,000 Immigrant Children Trapped in the SIJS Backlog

This report is a collaborative project of [The End SIJS Backlog Coalition](#) and [The Door](#).

In 1990 Congress created “Special Immigrant Juvenile Status (SIJS),” to protect immigrant children who have been abandoned, abused or neglected—creating a pathway to achieving lawful permanent residence or a “green card,” and eventually citizenship. First, a state court must place the child into the care of an adult or foster care system and issue a finding on the harm she experienced, stating that it is not in the child’s best interests to return to their country of origin. Next, the child must file a petition to U.S. Citizen & Immigration Services (USCIS), asking the immigration agency to recognize them as a Special Immigrant Juvenile. Historically, immigrant children have been able to apply for their green cards and work permits concurrently with their SIJS petitions, receiving a decision on their Special Immigrant Juvenile Status and then shortly thereafter, on their work permits and green cards, all within the span of six months to a year. But that all changed in 2016 when the SIJS backlog emerged. Due to an oddity in how SIJS children are classified under immigration law, children from countries that have reached their visa limits are barred from applying for their green cards and work permits for years. Strangely, the pathway to a green card for a SIJS child is categorized under the “employment-based” immigration visa system, despite being a humanitarian status, which has country-specific and world-wide annual visa limits.

Currently, the backlog impacts children from El Salvador, Guatemala, Honduras and Mexico with these children waiting anywhere from two to five years for their green cards. Each month, wait times to apply for a green card may vary depending on the vagaries of larger immigration trends. During this time, children with approved SIJS cannot attain the permanency or stability that Congress intended. They cannot work lawfully, cannot access federal financial aid for college, struggle to age out of foster care into independent adulthood, and often find themselves at risk of homelessness, trafficking, wage theft and deportation—the exact harms that SIJS was created to protect these children from.

To quantify the harms of the SIJS backlog, we obtained a dataset of nearly 140,000 SIJS petitions, as well as 26,000 SIJS-based green card applications, after suing USCIS under the Freedom of Information Act. This is the first time that data on the SIJS backlog has been made available to the public. Our report is based on findings from this data set, analyzed by the Migration Policy Institute, and from first-hand peer interviews of impacted youth conducted by Maria Huerta Rodriguez and Ivonne Silva, our youth researchers, as well as interviews with legal services providers and child welfare agencies across the country.

Key Findings:

- The SIJS backlog grew to more than 63,000 youth by April 2020, and more than 44,000 children from El Salvador, Guatemala, Honduras and Mexico remain in the backlog as of April 2021.
- On average, children in the SIJS backlog wait twice as long as other children to receive their green cards. For example, children from El Salvador, Honduras and Guatemala waited more than four years on average from applying for SIJS to receiving a green card in fiscal year 2020 through April 2021. Mexican children waited 2.6 years while children from other countries waited an average of 1.4 years.
- Children experience a variety of harms while in the backlog, including vulnerability to deportation, an inability to work lawfully, and at times are unable to access medical care or higher education. Children in the SIJS backlog are forced to make difficult decisions to survive, dropping out of school, working for exploitative employers, and struggling with hunger and homelessness.
- The data shows how extended time waiting to obtain a green card may subject children to political whims and abrupt policy changes. We found a disturbing trend during the Trump administration: the rate of issuing “Notices of Intent to Deny” increased eight-fold from 2016 to 2018—from 2% of all adjudicated applications receiving these notices to 16%. Similarly, the rate of requiring applicants to send in additional information through formal “Request for Evidence” notices rose to 35% of all adjudicated cases in 2018, from only 2% in 2016.
- The SIJS backlog also puts a strain on the foster care system, resulting in social workers and child welfare representatives focusing more time and resources to resolving backlog-specific issues, as well as extending placements of youth in the SIJS backlog who might otherwise have achieved independence.
- Many SIJS children have already faced trauma in their country of origin, as well as on their journey to the U.S., and the threat of deportation, along other challenges stemming from the SIJS backlog, further harms children’s mental health.
- SIJS backlog cases are unnecessarily burdening the immigration court system. 92% of Honduran SIJS children who applied for green cards in or after May 2016 were in

immigration court deportation proceedings. 90% of Guatemala SIJS children with pending green card applications and 84% of Salvadoran SIJS children with pending green card applications were in deportation proceedings. This is as compared to only 27% of SIJS children with pending green card applications from non-backlogged countries.

- The SIJS backlog has a negative impact on access to representation for immigrant youth. Legal service providers capacity is strained due to the added resources needed to represent children in the backlog and law firms are hesitant to represent SIJS children from backlogged countries as part of their pro bono docket because of the extended length of time that it takes to complete the cases.

Key Recommendations:

- **Congress** should act to end the SIJS backlog by amending the Immigration and Nationality Act to exempt SIJS children from the per-country and world-wide employment-based visa limitations that are the cause of the backlog.
- **The Biden Administration** should take measures to lessen the harms of the backlog on immigrant children while Congress enacts these amendments by issuing a formal statement of support. The Biden Administration should direct USCIS to create a new Employment Authorization Document category for SIJS youth and to issue proposed regulations, with an opportunity for public comment, providing work authorization and protections from deportation for SIJS children.
- **Immigration and Customs Enforcement (ICE)** should issue final guidance to ensure that SIJS children are not deported before being permitted to seek a green card. While there is interim guidance on joining motions to dismiss deportation proceedings and policy regarding prosecutorial discretion for SIJS beneficiaries, final guidance should be issued indicating that ICE should join motions to dismiss deportation proceedings, join motions to reopen in previously concluded deportations proceedings, and grant stays of deportation for SIJS children, including those in the backlog.¹
- **The Department of Justice (DOJ) and Executive Office for Immigration Review (EOIR)** should fully restore immigration judges' (IJs) authority to use the full range of docket management tools to ensure SIJS children in the backlog are not ordered deported merely because they are waiting for their priority date to become current.

¹ U.S. Immigration and Customs Enforcement, Interim Guidance to OPLA Attorneys Regarding Civil Immigration Enforcement and Removal Policies and Priorities (May 27, 2021) (“it generally will be appropriate to move to dismiss such proceedings without prejudice so that the noncitizen can pursue that relief before the appropriate adjudicatory body... [including] a child who appears prima facie eligible to pursue special immigrant juvenile status.”)