

2023

# FALSE HOPE

Over 100,000 Immigrant Youth  
Trapped in the SIJS Backlog



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**I don't think  
about  
the future  
anymore  
because I don't  
want to have  
false hope.**

KASEY

FROM SPAIN/ECUADOR, LIVING IN MASSACHUSETTS,  
CURRENTLY IN THE BACKLOG.

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<sup>1</sup> Organizational affiliation is listed for identification purposes only, as some advocates provided feedback in their personal capacity.

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# About the End SIJS Backlog Coalition

The End SIJS Backlog Coalition is a national group of directly impacted youth and over 150 allied advocate organizations across the country, working to educate Congress, relevant administrative agencies, and the public about the harmful impacts of visa caps on vulnerable immigrant youth with the goal of ending the Special Immigrant Juvenile Status (“SIJS”) backlog and its harms. The coalition aims to center the voices and experiences of SIJS backlog-impacted youth, whose stories are the heartbeat of our work and best illustrate how ending the backlog can restore the purpose of the statute—realizing permanent legal protection in the United States for immigrant youth who have survived abuse, abandonment, and neglect. The coalition is a project of the National Immigration Project, a membership organization of attorneys, advocates, and community members who are driven by the belief that all people should be treated with dignity, live freely, and flourish. Learn more at [www.sijsbacklog.com](http://www.sijsbacklog.com) and follow us on X [@endsijsbacklog](https://twitter.com/endsijsbacklog).

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# About Tulane’s Immigrant Rights Clinic

The Tulane Immigrant Rights Clinic works to advance justice for immigrants, with a focus on immigrant youth, immigrant workers, and detained immigrants, by building a pipeline of immigrant defenders and public-service minded government attorneys, developing pro bono capacity in the private bar, and changing the culture of institutional players in the region through strategic litigation, advocacy, and reporting. The clinic was founded in 2020, just a year after a massive expansion of immigration detention in Louisiana made this state the site of more immigration detention than any other, save Texas. Learn more at <https://law.tulane.edu/content/tulane-immigrants'-rights-law-clinic>.

# Executive Summary

<sup>2</sup> On September 13, 2023, USCIS shared with the coalition a new estimate that there are 93,970 youth with approved SIJS petitions without visa availability and 26,017 youth with pending SIJS petitions without visa availability in the SIJS backlog as of July 7, 2023. According to these numbers, as of July 7, 2023, there are 119,987 youth impacted by the SIJS backlog. USCIS provided this estimate without an accompanying dataset of SIJS petitions, so the estimate has not been independently verified by our data analyst. For these reasons, this number is not included in the analysis of our report.

Special Immigrant Juvenile Status (“SIJS”) is a humanitarian protection created by a bipartisan Congress in 1990 to offer a pathway to lawful permanent resident (“LPR”) status, also known as a “green card,” for immigrant youth who are in need of protection. In all cases, a state court has determined that the youth has survived abuse, abandonment, or neglect by at least one parent and that it would not be in their best interest to return to their country of origin. Once these determinations are made by a state court, the youth then files a petition to USCIS asking the immigration agency to recognize them as a Special Immigrant Juvenile. With SIJS approval, a youth is then eligible to apply for a green card. Despite being a humanitarian status, the pathway to a green card for a SIJS youth is miscategorized under the employment-based immigration visa system, which has country-specific and worldwide annual visa caps, originally designed to limit the number of non-citizen workers seeking permanent status.

Before 2016, no backlog existed and immigrant youth were able to apply for their green cards and work permits concurrently with their SIJS petitions, receiving a decision on their SIJS petition and then shortly thereafter on their work permits and green cards, all within the span of six months to a year. But in 2016 the U.S. Department of State (“DOS”) determined that SIJS youth from certain countries had reached the per-country cap, restricting their ability to apply for green cards and work permits. Due to the limitations imposed by the DOS, many SIJS youth were forced into a years-long limbo merely due to the technical oversight in SIJS’ classification under immigration law. For years the backlog affected primarily youth from El Salvador, Guatemala, Honduras, and Mexico.

In 2021, the size of the SIJS backlog was revealed for the first time in the End SIJS Backlog Coalition’s groundbreaking report, *“Any Day They Could Deport Me”: Over 44,000 Immigrant Children Trapped in the SIJS Backlog*, revealing that at the time 44,868 immigrant youth were trapped in the SIJS backlog. Merely two years later, that number has more than doubled with more than 100,000 youth now waiting to apply for LPR status and gain access to the stability and safety that Congress intended to offer immigrant youth when it created SIJS.

Following the End SIJS Backlog Coalition’s 2021 publication, this report reveals the scope of the SIJS backlog through March 2023.<sup>3</sup> This report explains the SIJS backlog within the paradigm of new policies impacting the lives of SIJS youth. Since the publication of our initial report in 2021, the administrative landscape has shifted significantly including through the Biden administration’s implementation of a much-welcomed deferred action program for SIJS youth, the emergence of a worldwide backlog in December 2022 impacting SIJS youth from all countries, and the announcement in March 2023 of a new DOS interpretation of visa caps. Additionally, this report seeks to offer solutions to the backlog and its harms, which, if implemented, would provide necessary protections to vulnerable youth in alignment with Congress’ intention in creating SIJS.

Through FOIA litigation, we obtained a dataset of more than 200,000 SIJS petitions, filed between October 1, 2010, and February 28, 2023, covering fiscal year 2011 through part of fiscal year 2023. Our report is based on findings from this dataset, analyzed by the Migration Policy Institute, and from interviews of impacted youth.

<sup>3</sup> Protect Vulnerable Immigrant Youth Act, H.R. 4285, 118th Cong. (2023); Protect Vulnerable Immigrant Youth Act, S. 1885, 118th Cong. (2023).

## Key Findings

- The SIJS backlog more than doubled in the last two years. As of March 1, 2023, 107,693 SIJS youth are trapped in a legal limbo, unable to obtain permanent protection even after being granted humanitarian status.
- The SIJS backlog is worldwide, impacting youth from 151 countries, as of March 1, 2023.
- SIJS youth impacted by the backlog live in all 50 states, with the top states being New York, California, Maryland, Massachusetts, Texas, New Jersey, Virginia, Tennessee, Louisiana, and North Carolina. The top 5 cities where youth impacted by the backlog live are New York City, Los Angeles, the greater Washington D.C. metropolitan area, Houston, and Baltimore.
- USCIS continues to disregard the 180-day deadline to decide SIJS petitions mandated by Congress. Between 2018 to 2023, the average time for USCIS to approve a SIJS petition was 337 days, almost twice the legal deadline. More recently, in the 2023 fiscal year, the average time USCIS has taken to approve a case is 263 days, which although an improvement, is still in violation of the law.
- Though the Biden administration offered SIJS youth the ability to work lawfully through a new and very welcomed deferred action program in May 2022, the prolonged adjudication time for SIJS petitions beyond the 180-day mandate hinders youth’s ability to access less exploitative work and protections from deportation because they are not eligible for deferred action and related work permits until their SIJS petitions are approved.

## Key Recommendations

- Congress should pass the amendments included in The Protect Vulnerable Immigrant Youth Act<sup>3</sup> that would exempt thousands of SIJS youth—who are survivors of abuse, abandonment, and neglect—from the employment-based visa caps, ensuring SIJS youth can achieve the permanency in the United States that Congress intended.
- USCIS must adjudicate all SIJS petitions within the 180-day deadline mandated by Congress.

- DHS should codify protections from removal and access to a work permit for any SIJS youth that is unable to seek LPR status because a visa is not immediately available.
- USCIS should allow SIJS youth to seek work permits based on the grant of deferred action concurrently with the SIJS petition to prevent youth from facing a second backlog of lengthy work permit wait times after adjudication of the SIJS petition.
- The Department of Education (“DOE”) should align the FAFSA handbook with the Higher Education Act’s more expansive and governing definition of “eligible non-citizens” to specifically include SIJS youth. Opening access to financial aid and the doors of higher education to SIJS youth would alleviate the anxiety, stress, and uncertainty some SIJS youth have reported due to having to wait years to start their futures.
- The Biden administration and Congress should create avenues for impacted youth to participate in the development of new policies and reforms that will directly impact their lives. We invite Congress and the Administration to seek out the voices of SIJS youth as experts in the costs and consequences of waiting in the backlog, and in developing solutions that truly improve their day-to-day lives.

# Methodology

<sup>4</sup> 1:21-CV-02200 (D.D.C. filed Aug. 18, 2021).

<sup>5</sup> For example, for the March backlog, we looked at all SIJS petitions received by USCIS on or before February 28 that had the case status of approved or pending in the dataset.

<sup>6</sup> The authors selected October because it is the beginning of the fiscal year for USCIS, and April because it was a second point of the year, six months from October.

<sup>7</sup> See Written Statement from Bora, a SIJS youth (2023) (on file with authors); Zoom Interview by Hannah Israel Marie with Claude, a SIJS youth (July 6, 2023); Zoom Interview by Hannah IsraelMarie with Hossen, a SIJS youth (July 10, 2023); Zoom Interview by Karla Partida Castro with Jose, a SIJS youth (July 31, 2023); Zoom Interview by Karla Partida Castro with Kasey, a SIJS youth (July 18, 2023); Zoom Interview by Hannah IsraelMarie with Mia, a SIJS youth (July 12, 2023); Zoom Interview by Maria Huerta Rodriguez with Rachel, a SIJS youth (Aug. 22, 2023); Zoom Interview by Hannah IsraelMarie with Sarah, a SIJS youth (Aug. 3, 2023); Zoom Interview by Karla Partida Castro with Suraya, a SIJS youth (July 17, 2023).

The quantitative analysis in this report is based on data obtained from USCIS through a FOIA request and subsequent litigation, *Hlass et al. v. United States Citizenship and Immigration Services*.<sup>4</sup> USCIS released digital records of SIJS (Form I-360) petitions, containing case-by-case records for each SIJS petition filed between October 1, 2010, and February 28, 2023, covering fiscal year (“FY”) 2011 through part of FY 2023. This file contains 586 records that were exact duplicates of another record. After deleting these duplicates, the file used for analysis includes 203,702 records. This file contains information on each petition’s filing date and latest case status (approved, denied, pending, revoked, or administratively closed). It also contains some information on the characteristics of petitioners, including their country of birth, gender, date of birth, and city and state of residence. To calculate the SIJS backlog for a particular month, we included those with approved or pending I-360 petitions as of the first day of that month,<sup>5</sup> who were not yet eligible for a green card due to their priority date. To determine who was eligible for a green card in a particular month, the authors relied on final action dates listed in the Visa Bulletin. In the preceding analysis, we calculated the size of the backlog at two points in the year, the 1st of April and the 1st of October from 2016 to 2022.<sup>6</sup> Because our dataset only included applications filed through the end of February 2023, the 2023 backlog was calculated using the March 2023 Visa Bulletin. Raw data was analyzed by Julia Gelatt at the Migration Policy Institute. Grace Han designed the associated infographics.

The report contains excerpts of interviews and written testimonials from eight impacted youth across the country.<sup>7</sup> Rachel Leya Davidson, the Director of the End SIJS Backlog Coalition, sent a call out to coalition membership, recruiting youth newly impacted by the backlog to participate in the creation of this report by sharing their stories. National Immigration Project legal interns spoke to and transcribed the testimonials of impacted youth across the country who responded to the call. Maria, one of our most active impacted youth leaders, re-interviewed some of the young people profiled in our first report in order to understand how new policies and the backlog have impacted their lives since. Each interview was conducted in either English or Spanish based on the preference of the youth. One impacted youth provided written testimony to the project, originally shared directly with members of Congress while they were advocating for an end to the SIJS backlog. Each young person selected a pseudonym to protect their identity.

# Introduction

“[T]he stress is unbearable. And now the waiting game, of like, maybe it will finally come today.... I feel like I’m stuck. And there are so many things I would want to do, and I would be able to do if they fixed this whole thing.”

KASEY

FROM SPAIN/ECUADOR, LIVING IN MASSACHUSETTS, CURRENTLY IN THE BACKLOG.

<sup>8</sup> Zoom Interview by Hannah Israel Marie with Claude, a SIJS youth (July 6, 2023).

<sup>9</sup> As described in depth below, the DOS announced in March 2023 that they had been mistakenly interpreting the per-country cap since 2016, subjecting children from El Salvador, Guatemala, and Honduras to the backlog wrongfully.

**CLAUDE GREW UP** in the country of Georgia, in a home filled with violence, often at the hands of his father. As an LGBTQ+ young person, he also faced violence outside the home. After participating in a Pride celebration, he was attacked and later hospitalized. He dreamed of another future, hoping to escape these dangers, express his LGBTQ+ identity openly and attend a prestigious arts school in New York City. He was accepted and received a small scholarship, but after arriving in New York, he soon realized he couldn’t meet the full financial cost of education. When he couldn’t attend school, he lost his student immigration status. Without immigration status, authorization to work, or any support system, he did not know where to turn. Luckily, he met a pro bono youth lawyer in New York, who told him that he was eligible for SIJS. SIJS is an immigration status designed for youth like him who have been abandoned, abused, or neglected by a parent and whose best interests are not served by returning to their country of origin. He learned that SIJS is a pathway to LPR status and is intended to give youth protection and help launch them into independence. He understood that once his SIJS was approved, he could quickly get his green card and be on a pathway towards stability, security, and future dreams, including college. Unbeknownst to him or to his lawyer at the time, this would not be the case for Claude.<sup>8</sup>

The SIJS backlog has been creating dangerous delays and life-threatening challenges for young people, frustrating the purpose of the law, since 2016. That was the first year the DOS determined that the annual limit on immigrant visas in the employment-based fourth preference category (“EB-4”) had been reached for youth from a handful of countries. These youth then had to wait in the backlog for years to apply for LPR status until immigrant visas became available. As documented in our prior report, youth from El Salvador, Guatemala, Honduras, and Mexico were disparately impacted by the SIJS backlog for years while all other youth were able to access permanency quickly, in the manner that Congress intended.<sup>9</sup> But that all changed in December of 2022 when a worldwide backlog first emerged for all countries. As of the writing of this report in November 2023, USCIS is processing LPR applications for all SIJS youth who filed their SIJS petitions in January 2019, nearly five years ago. Claude is now unexpectedly trapped in that years-long backlog, causing a variety of educational, economic, social, and mental health challenges.

**“[W]ithout knowing when you will be able to obtain your green card, it is difficult to think about the future, when you do not know when that future will arrive.”**

KASEY

FROM SPAIN/ECUADOR, LIVING IN MASSACHUSETTS, CURRENTLY IN THE BACKLOG.



<sup>10</sup> Before the new SIJS deferred action program was implemented, youth impacted by the backlog had to wait until they could apply for their green cards to apply for a work permit, as it had to be filed in connection with the green card application.

<sup>11</sup> *USCIS to Offer Deferred Action for Special Immigrant Juveniles*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Mar. 7, 2022), <https://www.uscis.gov/newsroom/alerts/uscis-to-offer-deferred-action-for-special-immigrant-juveniles>.

<sup>12</sup> Zoom Interview by Hannah Israel Marie with Claude, a SIJS youth (July 6, 2023).

<sup>13</sup> In addition to drastically impacting SIJS youth, the DOS' change affects all immigrants in the EB-4 category, which encompasses special immigrants, including religious workers, certain international organization employees, certain members of the armed forces and their families, and certain physicians, among others. 8 U.S.C. § 1101(a)(27).

Like many SIJS youth, Claude faced obstacles after his arrival to the United States. With no family to support him, unstable housing, and limited access to educational and work opportunities, he found himself alone in a new country in a precarious situation without protection or a safe way to support himself. Without the backlog, SIJS could have helped address these issues by providing Claude a smooth pathway to LPR status, which would have allowed for stable work, access to federal financial aid and college, and entry to more social programs. Claude's first seven months in the United States were particularly rocky, as he had no income and was living in a homeless shelter. Claude notes that:

Finally, last year in August, I managed to rent a room . . . I remember that day because I didn't leave the apartment for an entire week [from] the minute they handed over the keys. I tried to close the main door from the outside and then I tried to open it, and it wasn't doing anything, I couldn't get into the room I rented. I thought the landlord or whoever gave me the keys to the apartment just took my money and that's all I had. I had been putting coins on coins for months and that's all I had. I didn't have anything else, so I got so scared. I started shaking and I had a real bad panic attack. Luckily, he came back. I thought I was defrauded, and it was so scary. I didn't leave the room for an entire week because I couldn't believe I finally had my own space for the first time.

CLAUDE

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG

After Claude got connected to a local youth center, he was provided a pro bono attorney to assist him. In June 2022, the attorney helped him navigate state family court, where a judge found it was not in his best interests to return to his country of origin, Georgia, and that he could not be reunified with his parents due to the harm he suffered. With this important court order, Claude was able to petition USCIS for SIJS. USCIS approved his SIJS petition in November, about five months later. Claude also received permission to work, luckily benefiting from the new deferred action program for SIJS youth. While in the past, SIJS backlog-impacted youth were forced to wait years to access work permits until they could apply for green cards,<sup>10</sup> the Biden administration policy now allows some youth approved for SIJS to receive permission to work based on USCIS's discretionary determination<sup>11</sup> that they should receive deferred action.

Claude felt hopeful after receiving his SIJS approval in November 2022 and thought he would receive his green card within a few months. Then everything changed. He soon learned about the new SIJS backlog impacting youth from around the world.<sup>12</sup> While there had been wait times for Central American and Mexican youth since 2016, the DOS announced worldwide backlogs in December 2022, due to limited immigrant visas in the EB-4 category, which is where SIJS youth are able to access visas to become LPRs. Then a few months later, the DOS made another life-altering announcement. Because the DOS had been misinterpreting a country cap limit for years, it had to readjust the visa bulletin that sets the dates to apply for green cards, moving the priority date to September 2018. With that came a minimum five-year wait for all SIJS youth, and all other visa applicants in the EB-4 category.<sup>13</sup> Claude felt "awful" when he heard the news:

I'm just upset—I don't know who I'm upset with, this system or myself . . . that I would let myself be trapped, or is it that I'm letting myself be stuck? . . . I know inside this is where I have to be. It's just, there is no, I don't know . . . it's a limbo.

CLAUDE

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG

Although he was accepted into college, Claude made the hard decision to put his education on hold because he isn't eligible for federal financial aid until he becomes an LPR under current DOE guidance.

I applied to college, I got into college, but I just couldn't cover my fees anymore so I couldn't attend the school . . . It's been two years and, oh my god, it's really depressing. I don't know how I turned twenty-two, I remember I was nineteen but I don't know how I got here. Having nothing accomplished, in a way, for the past three years.

CLAUDE

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG

The backlog has impacted Claude in other ways, excluding him from professional opportunities and harming his well-being. The uncertainty of the backlog takes a toll on Claude. He hopes for the day when he finally can feel secure:

I used to attend this course, it was sort of job skills development. . . I remember how people who were citizens or certain immigrants with certain status in the country were able to secure \$5,000 of scholarship from the program they were offering at the [youth shelter] Covenant House. But when I met with the same case manager, basically she told me there was nothing that I could do without my documents, I wouldn't be able to get any scholarships. But I was a great student, I was a straight A student for twelve years, I never had anything less than an A throughout twelve years of my life in the school system. . . It felt like everything I invested my entire life in, it's just nothing.

CLAUDE

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG

<sup>14</sup> RACHEL LEYA DAVIDSON & LAILA L. HLASS, "ANY DAY THEY COULD DEPORT ME": OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

<sup>15</sup> *Id.* at 15.

**“[When I get my green card], I can start healing the other things that have been messed up. But the longer it takes, the harder it is going to be for me to fix everything that has been damaged throughout all of these years, especially psychologically. It’s just a lot of stress and I just feel numb.”**

**CLAUDE**

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG

When Congress created SIJS to provide a pathway to LPR status and citizenship for vulnerable immigrant youth, it was never envisioned that those youth would become trapped in a legal limbo for an indeterminate number of years. Yet, over thirty years after the passage of the law, more than 100,000 youth as of March 1, 2023, many in foster care, face this reality. Although they have been approved by USCIS for SIJS, they are stuck in what is known as the SIJS backlog, unable to access the green cards and the permanency Congress intended for them. This number has more than doubled since the publication of our 2021 report on the SIJS backlog, *“Any Day They Could Deport Me.”*<sup>14</sup> And yet these shocking numbers cannot even begin to quantify the harms of the SIJS backlog on immigrant youth, on the child welfare and legal systems, and on the legal services providers working day in and day out to help these young people navigate their lives in limbo.<sup>15</sup> Through the testimony of impacted youth, and never-before-seen data on the SIJS backlog from USCIS, this report seeks to shine light on this harm within the context of the new policies that have emerged over the last two years that govern the backlog and the lives of the youth impacted by it. Ultimately, through the publication of this report, the End SIJS Backlog Coalition seeks to inspire those with the power to change the current status quo to do so, by fixing the SIJS backlog once and for all, and making the lives of SIJS youth more livable in the interim.

<sup>16</sup> 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(a) (2022).

<sup>17</sup> U.S. CITIZENSHIP & IMMIGR. SERVS. U.S. DHS, POLICY ALERT: SPECIAL IMMIGRANT JUVENILE CLASSIFICATION AND DEFERRED ACTION 1 (Mar. 7, 2022), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf>; USCIS Announces Policies to Better Protect Immigrant Children Who Have Been Abused, Neglected, or Abandoned, U.S. CITIZENSHIP & IMMIGR. SERVS. (Mar. 7, 2022) <https://www.uscis.gov/newsroom/news-releases/uscis-announces-policies-to-better-protect-immigrant-children-who-have-been-abused-neglected-or>.

<sup>18</sup> See USCIS Pol’y Manual, Volume 6, Part J, Ch. 4, Adjudication, Deferred Action (2023), <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>; END SIJS BACKLOG COALITION, FREQUENTLY ASKED QUESTIONS ABOUT USCIS’S SIJS DEFERRED ACTION POLICY 4 (June 28, 2023), [https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/649c98e3ed6caf7c/5e825291/1687984355344/2023\\_USCIS-SIJS-DA-policy.pdf](https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/649c98e3ed6caf7c/5e825291/1687984355344/2023_USCIS-SIJS-DA-policy.pdf).

## How Does the SIJS Program Work?

In 1990, Congress created SIJS to protect youth in the United States who have faced parental abuse, abandonment, or neglect by providing a pathway to LPR status and eventually citizenship. Youth may petition for SIJS if they are unmarried, under the age of 21, and have been through a state court proceeding where the court makes three specific findings. First, the court must make a determination regarding the child’s dependency or custody. This means that the court must make a decision about the life and care of the child by placing the child in the custody of an appropriate caregiver, either under the guardianship or custody of a safe adult or in foster care, or by providing other child welfare services. Second, the court must determine that the child cannot be reunified with at least one parent due to abuse, abandonment, neglect, or a similar basis under state law. Lastly, the court must determine that it is not in the child’s best interest to be returned to their country of origin.<sup>16</sup>

Youth that are successful in obtaining a valid state court order must then submit Form I-360, Petition for Special Immigrant Juvenile Status, along with proof of age and a copy of the court order to USCIS. They must then wait for approval of their SIJS petition. Once approved, all youth are now forced to wait for years in the SIJS backlog before they can apply for a green card.

Until recently, SIJS youth were not able to seek work permits while they waited in the backlog, forcing them into the unregulated labor economy where they were often exploited. In response to this issue, the Biden administration issued a policy in May 2022 allowing some approved SIJS petitioners to receive a discretionary grant of deferred action while awaiting a visa, which allows them to seek permission to work and temporarily defers their removal.<sup>17</sup> A grant of deferred action has many positive impacts on SIJS youth. It provides some protection from deportation, access to Social Security numbers, and work permits which in turn gives SIJS youth access to the regulated labor market and a better chance to avoid exploitation and to receive better wages. Nonetheless, the discretionary nature of the deferred action program does present some problems, particularly because the “negative factors” that USCIS may consider are less than clear and denials are not appealable.<sup>18</sup> As a result, not all SIJS youth benefit from this policy, leaving some still facing uncertain work circumstances and in fear of removal. Though this policy represents an important step forward, it has not solved the larger issue of visa unavailability, which remains the biggest issue for SIJS youth today.

Without permanent status, SIJS recipients will continue to be vulnerable to instability and the dangers that come along with it, including lack of access to federal financial aid for college, uncertain access to safe and stable housing, health care, and work, and fear of removal. Absent some change, a growing number of immigrant youth will be impacted by the SIJS backlog and its harms. But this was not always the case and is not the way Congress intended the process to go when it created the SIJS program.



19 8 U.S.C. §§ 1101(a)(27)(J), 1153(b)(4).

20 *Id.* § 1151(b)(1).

21 RACHEL LEYA DAVIDSON & LAILA L. HLASS, “ANY DAY THEY COULD DEPORT ME”: OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 15 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

22 Employment-Based Preference Immigrant Visa Final Action Dates and Dates for Filing for El Salvador, Guatemala, and Honduras, 88 Fed. Reg. 18252 (Mar. 28, 2023); *Employment-Based Fourth Preference (EB-4) Announcement*, U.S. DEP’T OF STATE (last updated Mar. 28, 2023), <https://travel.state.gov/content/travel/en/News/visas-news/employment-based-fourth-preference-eb4-announcement.html>; see also END SIJS BACKLOG COALITION, PRACTICE ALERT: APRIL 2023 VISA BULLETIN UPDATES IMPACTING SIJS RECIPIENTS (Mar. 24, 2023), [https://nipnl.org/sites/default/files/2023-04/2023\\_24March-visa-bulletin-changes-alert.pdf](https://nipnl.org/sites/default/files/2023-04/2023_24March-visa-bulletin-changes-alert.pdf).

23 *Visa Bulletin for April 2016*, U.S. DEP’T OF STATE (Mar. 9, 2016), <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2016/visa-bulletin-for-april-2016.html>.

## How Does the SIJS Backlog Operate?

When Congress created SIJS, it assigned SIJS youth to share the immigrant visas in what is called the EB-4 visa category, alongside religious workers, U.S. government employees, and employees of international organizations who are all called “special immigrant” workers. Annually, there are typically less than 10,000 visas shared between all immigrants seeking green cards through the EB-4 category.<sup>19</sup> Yet, other forms of humanitarian relief, such as asylum or refugee status, are not subject to such caps.<sup>20</sup> While it is unclear why SIJS youth, whose protection is humanitarian, were placed in this category, it is now clear that this placement has far-reaching negative implications for SIJS youth.

From 1990 to 2016, youth were able to petition for SIJS classification and their green card at the same time, or in quick succession, allowing youth to access work permits and permanent protection, oftentimes within six months to a year. The SIJS backlog began in 2016 when the DOS determined that the annual limit on “immigrant visas” had been reached for certain countries, creating a waitlist for green cards for SIJS youth that continues to this day. The “waitlist” undermines the congressional intent in creating SIJS as a pathway to expeditious permanent protection for vulnerable immigrant youth.<sup>21</sup>

In 2016, the DOS explained that the backlog was caused by a per-country cap that had been reached in the EB-4 category for petitioners from El Salvador, Guatemala, and Honduras. What we now know is that from 2016 until April 2023, the DOS unlawfully restricted available EB-4 visas of applicants from these countries, because it misapplied the country caps. Those caps bar any one country from receiving more than seven percent of all employment-based and all family-based visas in a given year. Instead of combining all employment and family visa categories to determine if any country exceeded its seven percent cap, the DOS erroneously applied the country limit to each sub-category.<sup>22</sup>

At the same time, the DOS decided to group youth from El Salvador, Guatemala, and Honduras together as one regional block for visa allocation, instead of counting each country separately. This resulted in years-long wait times for SIJS youth from those three countries, while youth from almost all other countries, except Mexico and at times India, had no wait times. For example, before the backlog began, a youth from Honduras could concurrently apply for a green card with their SIJS petition,<sup>23</sup> but after the backlog began in May 2016, a Honduran youth suddenly could not apply for a green card unless they

**“I really do not understand why special immigrant juveniles have to be assigned to the work visa class. . . . [W]e have completely different stories.”**

**CLAUDE**

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

24 The priority date is the date that USCIS received a SIJS petition. On the DOS visa bulletin, priority dates are published to indicate a person’s place in line to apply for a green card.

25 *Visa Bulletin for May 2016*, U.S. DEP’T OF STATE (Apr. 12, 2016), <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2016/visa-bulletin-for-may-2016.html>.

26 Petitioners from Mexico and on occasion India also found themselves in a backlog but this was likely because these countries were oversubscribed based on the worldwide 7.1% percent cap and not due to the DOS error.

27 See, e.g., Dalia Castillo-Granados, *A Long Wait for Special Immigrant Juveniles Means a Risk of Deportation*, AM. BAR ASS’N (Feb. 23, 2021), [https://www.americanbar.org/groups/public\\_interest/immigration/generating\\_justice\\_blog/a-long-wait-for-special-immigrant-juveniles-means-a-risk-of-depo/](https://www.americanbar.org/groups/public_interest/immigration/generating_justice_blog/a-long-wait-for-special-immigrant-juveniles-means-a-risk-of-depo/) (describing an attorney’s fight against deportation of a SIJS youth impacted by the backlog).

28 See *Employment-Based Preference Immigrant Visa Final Action Dates and Dates for Filing for El Salvador, Guatemala, and Honduras*, 88 Fed. Reg. 18252 (Mar. 28, 2023); *Employment-Based Fourth Preference (EB-4) Announcement*, U.S. DEP’T OF STATE (last updated Mar. 28, 2023), <https://travel.state.gov/content/travel/en/News/visas-news/employment-based-fourth-preference-eb4-announcement.html>; see also END SIJS BACKLOG COALITION, PRACTICE ALERT: APRIL 2023 VISA BULLETIN UPDATES IMPACTING SIJS RECIPIENTS (Mar. 24, 2023), [https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/641df0443273dd2fb2ca245a/1679683652530/2023\\_24March-visa-bulletin-changes-alert.pdf](https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/641df0443273dd2fb2ca245a/1679683652530/2023_24March-visa-bulletin-changes-alert.pdf).

29 RACHEL LEYA DAVIDSON & LAILA L. HLASS, “ANY DAY THEY COULD DEPORT ME”: OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 8 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>; Laila Hlass, Rachel Leya Davidson, & Austin Kocher, *Double Exclusion of Immigrant Youth*, 111 Geo. L. J. 1407, 1483 (2023).

had submitted their SIJS petition six years prior, meaning their priority date<sup>24</sup> was on or before January 1, 2010.<sup>25</sup> Youth from El Salvador, Guatemala, and Honduras languished in a dangerous legal limbo for years. Meanwhile, youth from most other countries remained unaffected and could still petition at the same time for SIJS and LPR status, often obtaining permanent status within six months to a year.

Over the years, with the DOS using this unlawful interpretation of the country limit, the backlog continued to grow for petitioners from El Salvador, Guatemala, and Honduras.<sup>26</sup> The Department’s unlawful interpretation of visa allocation continued for nearly seven years. This resulted in grave harm to youth, including being ordered removed and the actual deportation of some young people who had SIJS approvals but no visa availability.<sup>27</sup> The backlog also harms youth with years of uncertainty, halting transitions from foster care, access to safe work, and higher education. In March 2023, the DOS issued a public notice admitting the agency’s misinterpretation of the per-country caps, and announcing that starting in April 2023, the Department would correct it.<sup>28</sup> While this interpretation stopped the unlawful restriction of visas for youth from El Salvador, Guatemala, and Honduras, allowing these youth to move forward in line by a few months, it also resulted in a generalized jump backwards of priority dates for all other countries, also known as a retrogression, creating a years-long worldwide backlog for all EB-4 applicants from all countries. Although there is no longer a disparate impact of the visa restriction process on youth from El Salvador, Guatemala, and Honduras, the reality of a generalized years-long backlog for every SIJS youth has created shockwaves in the legal community. And this impact was particularly unnerving for youth who, on March 30, 2023, had been eligible to apply for a green card, and the next day, based on the DOS announcement regarding the April visa bulletin, found themselves facing years of uncertainty.

## Priority Dates for Employment-Based Fourth Preference Cases

	ALL COUNTRIES EXCEPT THOSE LISTED INDIVIDUALLY	CHINA-MAINLAND BORN	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES
MARCH 2023	FEBRUARY 1, 2022	FEBRUARY 1, 2022	MARCH 15, 2018	MARCH 1, 2021	AUGUST 1, 2020	FEBRUARY 1, 2022
APRIL 2023	SEPTEMBER 1, 2018 **NOW INCLUDES INDIVIDUALS FROM EL SALVADOR, GUATEMALA, HONDURAS**	SEPTEMBER 1, 2018	[CATEGORY ELIMINATED]	SEPTEMBER 1, 2018	SEPTEMBER 1, 2018	SEPTEMBER 1, 2018

The priority date is the date that USCIS received a SIJS petition. On the DOS visa bulletin, priority dates are published to indicate a person’s place in line to apply for a green card.

Until recently, the size of the SIJS backlog was not publicly available. In 2021 co-authors Rachel Davidson, while working at The Door, and Laila Hlass, a law professor, obtained public records from USCIS through FOIA litigation. These records revealed a huge increase in the SIJS backlog from its start in 2016 to 2021. In April 2020, the backlog had grown to more than 63,000 youth. One year later, by April 2021, due to COVID-related border closures and stalled overseas processing, SIJS youth were able to access unused visas, which caused the backlog to dip down to about 44,000 youth.<sup>29</sup>

<sup>30</sup> Calculations may differ from those reported in "ANY DAY THEY COULD DEPART ME": OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG, since those backlog calculations included a small number of administratively closed cases, whereas these calculations exclude those from the backlog.

<sup>31</sup> Laila Hlass, Rachel Leya Davidson, & Austin Kochev, *Double Exclusion of Immigrant Youth*, 111 GEO. L. J. 1407, 1483 (2023).

# New Findings About the SIJS Backlog

As of March 1, 2023, 107,693 youth are stuck in a years-long legal limbo, even after being granted SIJS. The backlog has a broad impact—affecting youth from 151 countries, who live in all fifty states, and across major cities in the United States. While many youth will receive work permits and protections from removal while in the backlog under the Biden administration's deferred action policy, they may experience delays in receiving that protection and those work permits due to USCIS taking well over the 180-day deadline in deciding SIJS cases.

MONTH/YEAR	# OF CASES IN SIJS BACKLOG
APRIL 2016	0
OCTOBER 2016	18,162
APRIL 2017	27,618
OCTOBER 2017	32,843
APRIL 2018	39,872
OCTOBER 2018	46,703
APRIL 2019	52,163
OCTOBER 2019	57,242
APRIL 2020	64,950
OCTOBER 2020	53,907
APRIL 2021	44,868
OCTOBER 2021	43,577
APRIL 2022	86,129
OCTOBER 2022	84,319
MARCH 2023	107,693

## Growing Numbers of Backlog-Impacted Youth

The SIJS backlog has steadily increased since May 2016, and is showing no signs of stopping. By April 2021, due to COVID-related border closures and stalled overseas processing, SIJS youth were able to access unused visas, which caused the backlog to dip down to about 44,000 youth.<sup>31</sup> As of March 1, 2023, the backlog included 107,693 youth from around the world.

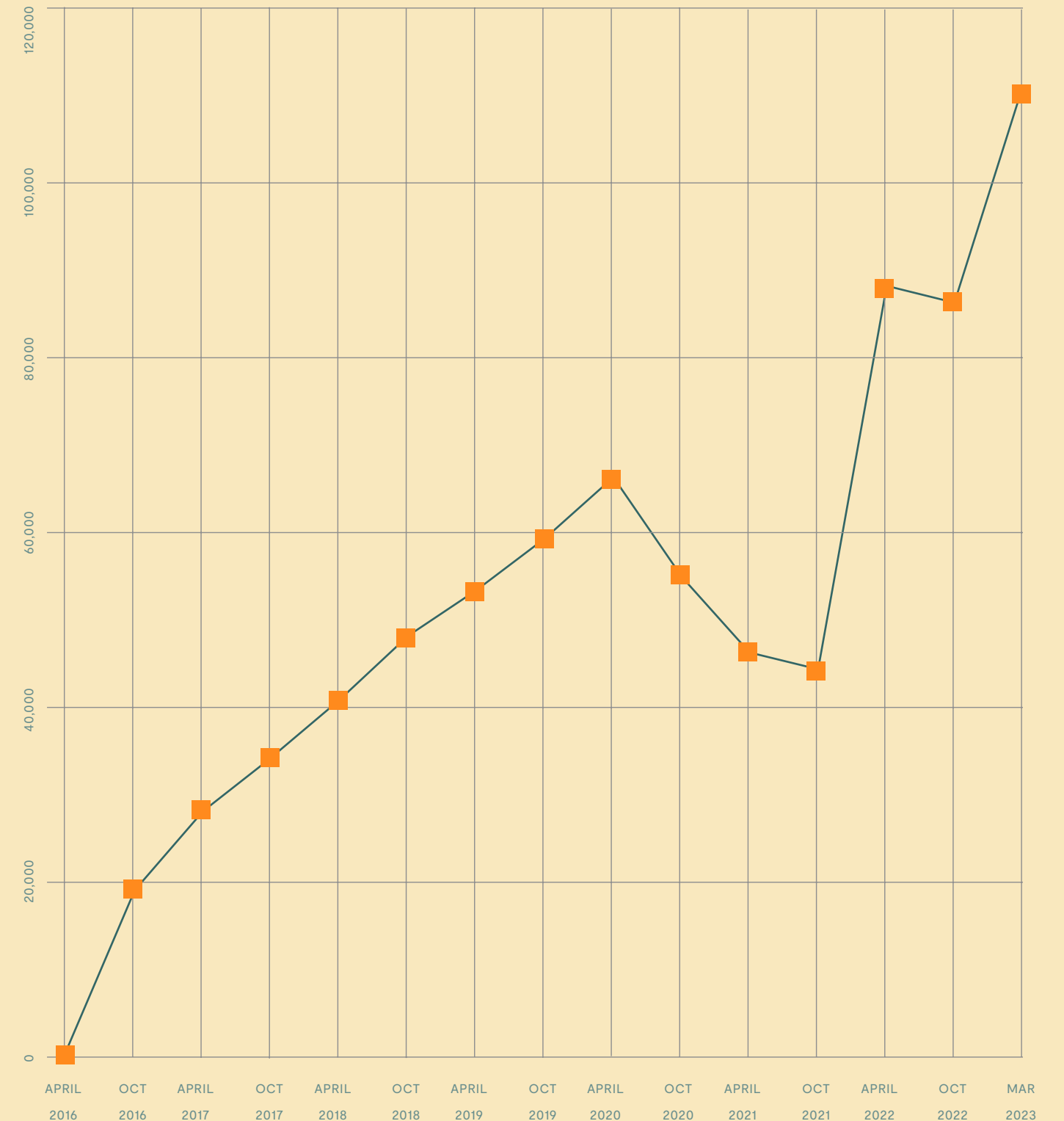
## Backlog-Impacted Youth Come From 151 Countries

Youth from 151 different countries are impacted by the SIJS Backlog as of March 1, 2023.

## Impacted Youth Live in All Fifty States

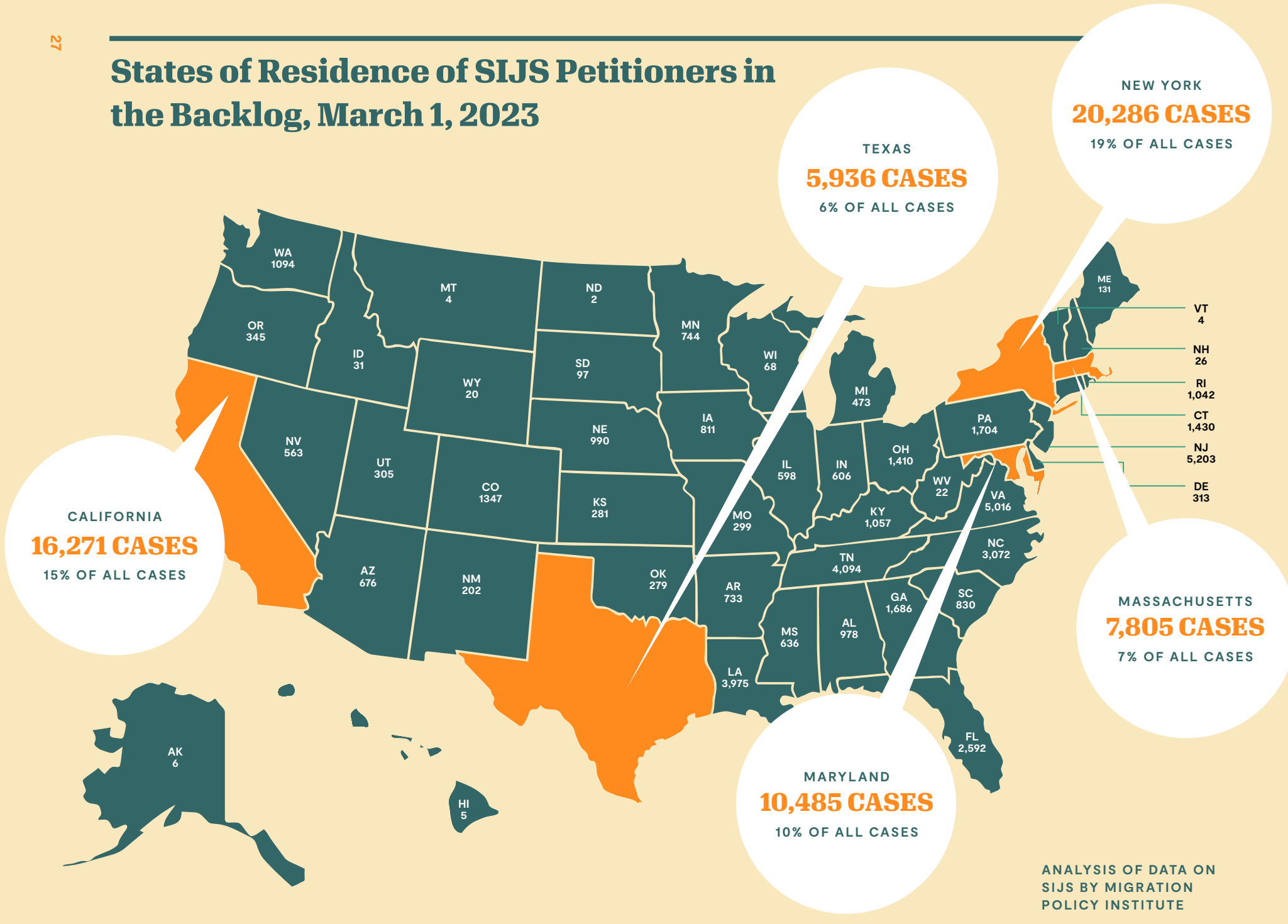
Backlog-impacted youth live in all fifty states, the District of Columbia, and Puerto Rico. Almost two dozen states are home to more than 1,000 youth impacted by the SIJS backlog. For example, New York is home to 19%, or 20,294 youth impacted by the SIJS backlog, as of March 1, 2023. The states with the next highest numbers of SIJS youth impacted by the backlog are California (16,279), Maryland (10,488), Massachusetts (7,811), and Texas (5,943). Although about half of SIJS youth are concentrated in New York, California, Maryland, and Massachusetts, there are states like Louisiana and Tennessee that do not have an overall population that would land in the top ten states of the United States, but whose SIJS population is in the top ten.

# Number of Young People Impacted by the SIJS Backlog, 2023<sup>30</sup>





**States of Residence of SIJS Petitioners in the Backlog, March 1, 2023**



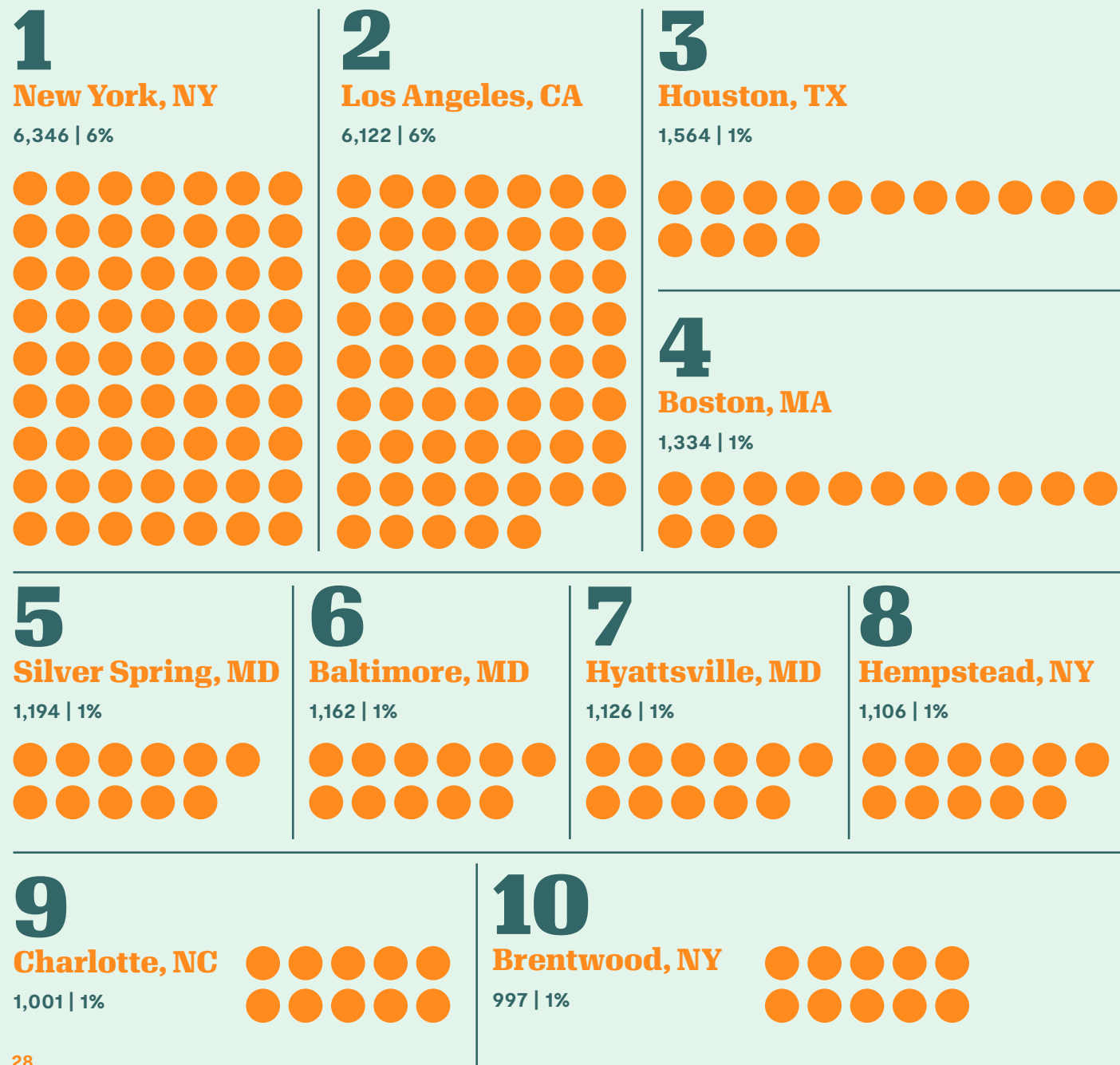
<sup>32</sup> See generally Laila L. Hlass, *States and Status: A Study of Geographical Disparities for Immigrant Youth*, 46 COLUM. HUM. RTS. L. REV. 266 (2014) (analyzing state-by-state SIJS trends and identifying disparities among state resources for SIJS youth).

## Many Backlog-Impacted Youth Live in Major Metropolitan Areas

While SIJS youth impacted by the backlog are spread across hundreds of cities and counties, the largest concentrations are in major metropolitan areas. Notably, access to lawyers and social services may vary significantly depending on the state and city that youth are living in.<sup>32</sup> The ten cities with the highest number of youth impacted by the SIJS backlog as of March 1, 2023 are New York, NY; Los Angeles, CA; Houston, TX; Boston, MA; Silver Spring, MD; Hyattsville, MD; Hempstead, NY; Charlotte, NC; and Brentwood, NY.

## Top 10 Cities of SIJS Backlog as of March 1, 2023

● = 100 people



<sup>33</sup> 8 U.S.C. § 1232(d)(2).

<sup>34</sup> Laila Hlass, Rachel Leya Davidson, & Austin Kochev, *Double Exclusion of Immigrant Youth*, 111 GEO L.J. 1407, 1483 (2023) (citing Muzaffar Chishti & Julia Gelatt, *After a Slump, Legal Immigration to the United States Is Returning to Pre-Pandemic Levels*, Migration Pol’y Inst. (Nov. 30, 2022), <https://www.migrationpolicy.org/article/legal-immigration-us-returns-prepandemiclevels>).

<sup>35</sup> *Casa Libre/Freedom House v. Mayorkas*, No. 222CV01510ODWJPRX, 2023 WL 4872892 (C.D. Cal. July 31, 2023).

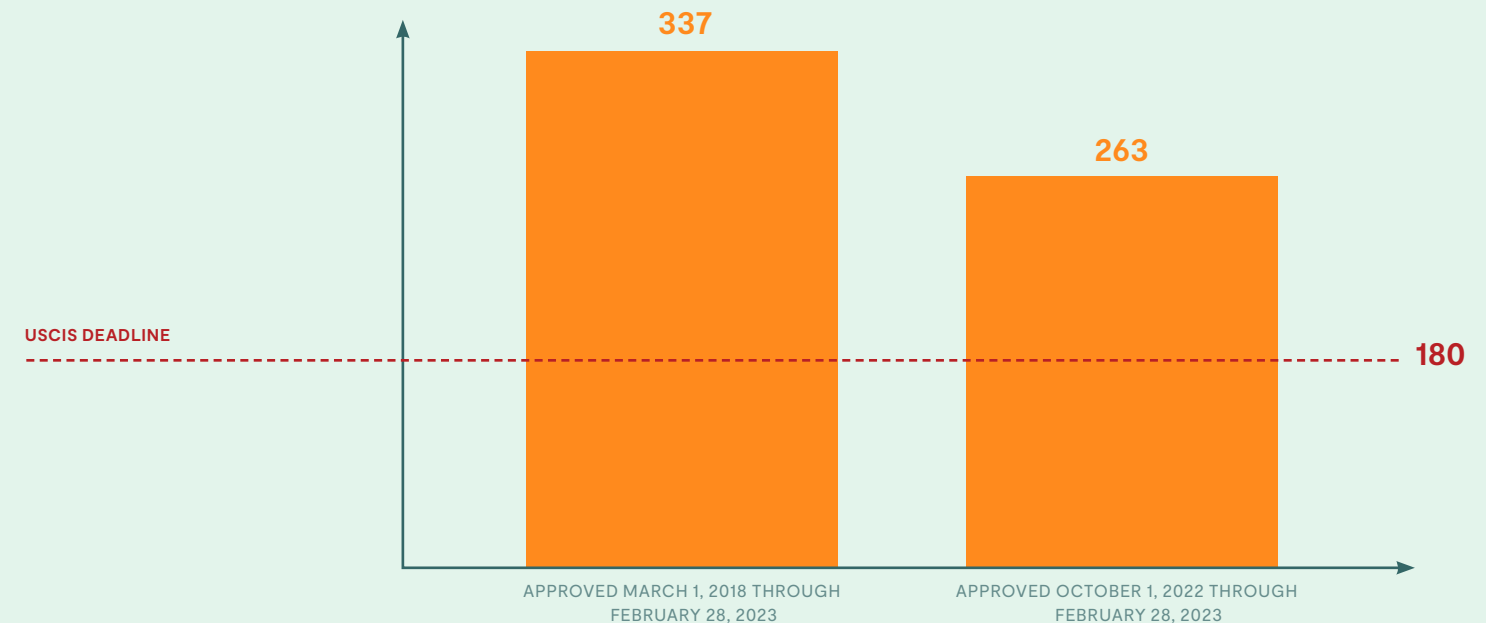
<sup>36</sup> Zoom Interview by Hannah IsraelMarie with Mia, a SIJS youth (July 12, 2023).

## Processing Times Violate the Law and Extend the Harms of the Backlog

Beyond the actual time spent waiting in the SIJS backlog, there are several periods of forced waiting that harm impacted youth. Some of this wait time comes in the form of USCIS processing delays, which are in fact a violation of the law, are completely avoidable, and can likely be remedied with more staffing and training. This is compounded by wait times that begin even before a youth enters into the immigration process including waitlists for pro bono representation and waits for court dates in state juvenile court. These extended periods of waiting contribute to the mental health challenges and other harms backlog-impacted youth face.

Congress set a 180-day deadline for USCIS to make decisions on SIJS to ensure youth’s cases are adjudicated in a timely manner,<sup>33</sup> yet USCIS has regularly prolonged youth’s wait times beyond this legal limit.<sup>34</sup> Our analysis shows that over the last five years, the average time for USCIS to approve a SIJS petition was 337 days, approaching double the 180-day legal limit for issuing a decision. More recently, in the 2023 fiscal year, the average time USCIS has taken to approve a case is 263 days, which, although an improvement, is still in violation of the law. In July 2023, a federal court in California found that USCIS’s tolling provisions, or the manner in which USCIS stops the 180-day clock upon issuance of a request for evidence or notice of intent to deny, violates the 180-day mandate in the SIJS statute and the Administrative Procedures Act.<sup>35</sup> This unlawful administration of the SIJS program has far-reaching consequences. As the agency regularly fails to adjudicate SIJS petitions within the 180-day statutory timeframe, youth find themselves without options, despite the Biden administration’s deferred action program. SIJS youth are not eligible to apply for permission to work under deferred action until their SIJS petition is approved, leaving them vulnerable to exploitative work situations in the interim.

## The Average Number of Days USCIS Took to Approve SIJS Petitions



37 RACHEL LEYA DAVIDSON & LAILA L. HLASS, "ANY DAY THEY COULD DEPORT ME": OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 15 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me--+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

38 See, e.g., LAILA H. HLASS & LINDSAY M. HARRIS, *A Child-Centred Approach to Representing Children in Immigration Legal Systems*, in THE OXFORD HANDBOOK OF MIGRANT CHILDREN AND CHILD-CENTRED APPROACH (Barbara Gornik, Zorana Medarić & Mateja Sedmak eds., forthcoming 2024) (manuscript at 10) (on file with authors); Dalia Castillo-Granados et al., *The Racial Justice Imperative to Reimagine Immigrant Children's Rights: Special Immigrant Juveniles as a Case Study*, 71 AM. U. L. REV. 1779, 1782-83 (2022).

39 See RACHEL LEYA DAVIDSON & LAILA L. HLASS, "ANY DAY THEY COULD DEPORT ME": OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 15 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me--+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

40 See Laila Hlass, Rachel Leya Davidson, & Austin Kocher, *Double Exclusion of Immigrant Youth*, 111 GEO. L. J. 1407, 1458, 1485 (2023).

41 See RACHEL LEYA DAVIDSON & LAILA L. HLASS, "ANY DAY THEY COULD DEPORT ME": OVER

Even after youth are approved for SIJS, they will then have to wait years to be eligible to seek LPR status, and then USCIS often takes years to approve those LPR cases as well. Young people report feeling anxiety regarding the uncertainty. For example, Mia, a trafficking survivor, describes challenge after challenge she has faced, feeling like she is still surrounded by locked doors, despite escaping her abusers. To Mia, not being able to apply for a green card is “like taking [away] the master key to every lock you can see in front of you . . . .”<sup>36</sup>

For Claude, waiting in the backlog makes him feel like planning for the future is impossible:

I used to be a plan-maker, but I mean, it's not that I couldn't live without having certain plans but having them made me comfortable. I would follow those plans, but after all I had to go through the past few years, it just showed me that no matter what plans I make, I'm always interrupted by something. I don't have security of a job itself, I don't have security of any form in general, it's just, I'm going in circles and circles, it's depressing. I don't have much friends, I don't have friends at all because I have to work all the time. In order to commit to socialize, first you have to have the time or sometimes a financial commitment, and I cannot concentrate on that while I'm trying to get myself together.

CLAUDE  
FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

### Harms SIJS Youth Face in the Backlog

The result of the SIJS backlog is that, for years, despite obtaining SIJS approval, many youth are kept in a form of legal limbo waiting to apply for their green cards until there is an available visa. This makes youth's lives harder by creating obstacles to leaving foster care, obtaining financial aid to enroll in college, accessing health insurance, finding safe and stable housing, joining the military, and generally moving forward in their transition to adulthood.<sup>37</sup> Even worse, immigrant youth may navigate this prolonged uncertainty while being confronted with racism and other forms of discrimination. For example, Black, Brown, and Indigenous immigrant youth have historically been the targets of punitive immigration and criminal laws, subjecting them to detention, deportation, and denial of immigration benefits.<sup>38</sup> Most profoundly, youth impacted by the backlog may fear the possibility of removal while awaiting their green card, even with the implementation of the deferred action policy.<sup>39</sup> These barriers keep SIJS youth in perpetual uncertainty with no sense of permanency, exacerbating the anxiety and stress already faced by many immigrant youth.<sup>40</sup>

Up until the implementation of the deferred action policy in May 2022, SIJS youth impacted by the backlog were unable to obtain work permits, leaving them vulnerable to labor trafficking and exploitation. This policy change has had a tremendously positive impact on the lives of youth trapped in the SIJS backlog but does not solve all of the other intersecting challenges youth face. These challenges, alongside the long and uncertain amount of time they will remain in limbo contribute to anxiety, depression, and other mental health challenges.

Rachel, who benefited from deferred action, described the change in her life:

[Before I received my work permit], I was not working a good job and it was under the table. So [the work permit] helped me so much. With my work permit and social security number, I was more open to applying to different jobs because it gave me opportunities and security. So the truth is that it helped me so so so so much. I was able to get an apartment and everything.

RACHEL  
FROM HONDURAS, LIVING IN NEW YORK, SPENT ABOUT 6 YEARS IN THE BACKLOG.

Although youth from El Salvador, Guatemala, Honduras, and Mexico have had years-long backlog waits since May 2016, youth from all other countries became subjected to the backlog in December 2022. By April 2023, the worldwide backlog jumped from a number of months to more than five years. When these newly backlog impacted youth learned that their expected wait time of months turned into more than five years, youth reported feeling shocked, saddened, and hopeless:

“Honestly, it felt like I was back to square one . . . I feel like I'm stuck . . .”

MIA  
FROM POLAND, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

“I felt more depressed, I currently take antidepressants and with that news I felt horrible.”

KASEY  
FROM SPAIN/ECUADOR, LIVING IN MASSACHUSETTS, CURRENTLY IN THE BACKLOG.

“To be honest, I'm speechless. It's a big backlog. It's not about one or two years, it's about five years.”

HOSSEN  
FROM BANGLADESH, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.



44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 15 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me-+Ove+r+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPO+RT%29.pdf>.

42 *Id.* at 27-29.

43 *Id.* at 33.

44 *Id.* at 33.

45 20 U.S.C. § 1091(a); 34 C.F.R. § 668.33 (2023).

46 See 2023-2024 Federal Student Aid Handbook, Vol. 1, Ch. 2 (Apr. 12, 2023), <https://fsapartners.ed.gov/knowledge-center/fsa-handbook/2023-2024/vol1/ch2-us-citizenship-eligible-noncitizens>.

47 20 U.S.C. § 1001 *et seq.*; *Eligibility for Non-U.S. Citizens*, FEDERAL STUDENT AID (last visited Sep. 16, 2023), <https://studentaid.gov/understand-aid/eligibility/requirements/non-us-citizens>.

48 The End SIJS Backlog Coalition, Comment

The backlog has also created far-reaching systemic problems beyond the impact on the lives of immigrant youth, creating a domino effect that harms child welfare agencies, the legal system, and legal services providers charged with representing SIJS youth.<sup>41</sup> Foster systems are overloaded and legal service providers are overburdened.<sup>42</sup> Additionally, immigration court dockets are increasingly backlogged, resulting in delays for hearing dates and decisions for all immigrants in removal proceedings.<sup>43</sup>

## DEFERRING HIGHER EDUCATION, EXCLUDED FROM FEDERAL FINANCIAL AID

Like Claude, many SIJS youth must defer college for years while trapped in the backlog. This is largely because SIJS youth have been treated as if they are ineligible for federal financial aid, and some struggle to obtain work authorization due to USCIS delay or the discretionary nature of the policy.<sup>44</sup> Under the Higher Education Act, in addition to LPRs, other immigrant students are eligible for federal aid if they are “in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident.”<sup>45</sup> The core protection of SIJS is to create a pathway to permanent residence and eventual citizenship. It is the sole reason the status exists. Yet, despite fitting squarely into the Higher Education Act’s definition of “eligible non-citizen” for the purposes of access to federal financial aid, the DOE interprets eligibility more narrowly to only explicitly include refugees, asylees, survivors of trafficking who have T visas, and battered children and spouses under the Violence Against Women Act.<sup>46</sup> The failure to grant youth with approved SIJS access to federal financial aid, despite clearly being on a path to permanent residence and eventual citizenship, and therefore fitting into the Higher Education Act’s definition of eligible non-citizen, effectively bars SIJS youth from higher education.<sup>47</sup>

**“I was also planning on going to law school and I’ve heard you have to take a bunch of loans . . . Looking at the federal loan requirements and knowing I’m not eligible makes me worry about the financial aspect of that route.”**

**SARAH**

FROM MEXICO, LIVING IN CALIFORNIA, CURRENTLY IN THE BACKLOG.

**“I haven’t had the option to apply [for college] . . . . And well, almost none of us have that option unless they give us a scholarship.”**

**JOSÉ**

FROM HONDURAS, LIVING IN LOUISIANA, CURRENTLY IN THE BACKLOG.

Letter on Proposed Rule Clarifying Eligibility for a Qualified Health Plan 2 (June 23, 2023), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/64960cf00475923baab5121c/1687555313032/End+SIJS+Backlog+Coalition+Comment.+CMS+NPRM+on+Eligibility+for+Federal+Healthcare+Programs.+6.23.2023.pdf>

49 45 C.F.R. § 152.2 (2012).

50 Clarifying Eligibility for a Qualified Health Plan Through an Exchange, Advance Payments of the Premium Tax Credit, Cost-Sharing Reductions, a Basic Health Program, and for Some Medicaid and Children’s Health Insurance Programs, 88 Fed. Reg. 25313 (proposed Apr. 26, 2023), <https://www.federalregister.gov/documents/2023/04/26/2023-08635/clarifying-eligibility-for-a-qualified-health-plan-through-an-exchange-advance-payments-of-the>.

51 Proposed 42 C.F.R. § 435.4(13); Proposed 45 C.F.R. § 155.2(13) (stating that “lawfully present” includes a non-citizen who “[h]as a pending or approved petition for Special Immigrant Juvenile classification as described in 8 U.S.C. 1101(a)(27)(J)”).

52 Zoom Interview by Hannah IsraelMarie with Mia, a SIJS youth (July 12, 2023).

53 *Id.*

54 Zoom Interview by Hannah IsraelMarie with Sarah, a SIJS youth (Aug. 3, 2023).

55 U.S. CITIZENSHIP & IMMIGR. SERVS., U.S. DHS,

## ACCESS TO HEALTH CARE

Youth impacted by the backlog also face challenges in accessing health care—access varies by state, and youth may age out of children’s health insurance programs while waiting in the backlog. At present, SIJS youth with a pending, rather than an approved, petition qualify as “lawfully present,”<sup>48</sup> for the purposes of federal health care eligibility but SIJS youth who have been approved for SIJS but are trapped in the backlog do not.<sup>49</sup> Thus, SIJS youth waiting to apply for LPR status are left without access to federal healthcare for years at a time. In May 2023, the Biden administration issued a new proposed regulation that would expand access to federal healthcare programs for SIJS youth impacted by the backlog.<sup>50</sup> The Proposed Rule would positively affect SIJS youth impacted by the backlog by including them all in the “lawfully present” definition, closing the eligibility gap and permitting them to seek federal healthcare coverage through the marketplace.<sup>51</sup> This expansion would promote health equity and address some of the precarity faced by SIJS youth. In the meantime, SIJS youth may continue to delay care and have unmet physical and mental health needs.

Mia reported that the last time she ever went to a health clinic she was denied health care due to her status in the SIJS backlog and because she was without proof of income. Staff was “completely dismissive and really disrespectful.”<sup>52</sup> She was so upset, she reports:

[H]onestly, I gave up after that. Every time something starts hurting, like right now I literally can’t go to work because I’m sick but, every time something goes wrong, I just have this fear, what if my tooth hurts or I have a cavity? I don’t have \$5,000 to spend on a cavity . . . it’s scary, it’s really scary.

**MIA**

FROM POLAND, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

## INABILITY TO TRAVEL ABROAD

Youth also report feeling isolated—unable to travel outside of the United States to visit dying relatives or take advantage of opportunities only available to youth with certain status. Mia expressed her dream of being able to travel the world one day, but at this time she knows leaving the United States could mean permanent exile: “I don’t want to feel like I’m being held hostage. I don’t want to leave and never be able to come back.”<sup>53</sup>

Sarah laments never being able to visit her father’s grave, as well as other lost opportunities: “I always wanted to study abroad and go outside of the country and experience different cultures but obviously that was never an option.”<sup>54</sup>

POLICY ALERT: SPECIAL IMMIGRANT JUVENILE CLASSIFICATION AND DEFERRED ACTION 1 (Mar. 7, 2022), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf>; USCIS Announces Policies to Better Protect Immigrant Children Who Have Been Abused, Neglected, or Abandoned, U.S. CITIZENSHIP & IMMIGR. SERVS. (Mar. 7, 2022) <https://www.uscis.gov/newsroom/news-releases/uscis-announces-policies-to-better-protect-immigrant-children-who-have-been-abused-neglected-or>.

<sup>56</sup> 8 U.S.C. § 1232(d)(2).

<sup>57</sup> See 8 C.F.R. § 274a.13(a)(1) (2022).

<sup>58</sup> Zoom Interview by Hannah IsraelMarie with Hossen, a SIJS youth (July 10, 2023).

<sup>59</sup> Zoom Interview by Karla Partida Castro

## DELAYS IN WORK PERMITS

As a result of the May 2022 Biden administration deferred action program, many SIJS youth are now able to seek permission to work after they have been approved for SIJS.<sup>55</sup> Under law, USCIS is required to decide SIJS cases within 180 days. As described above, USCIS routinely takes much longer than that, and USCIS will not grant deferred action and connected work permits until after the initial SIJS approval.<sup>56</sup> Moreover, the decision to grant deferred action is discretionary and not all petitioners are approved, despite being approved for SIJS.<sup>57</sup> Without deferred action, a young person impacted by the backlog cannot apply for a work permit until they make it out of the backlog and can apply for LPR status. Even for those youth who receive deferred action and can therefore submit a work permit application, significant USCIS processing delays hinder youth's access to work permits under deferred action.

**“Obviously the dream is to be able to find a job I really love and move to a different city to explore but those are things I can't prioritize at the moment because of the uncertainty around still not being able to work.”**

SARAH

FROM MEXICO, LIVING IN CALIFORNIA, CURRENTLY IN THE BACKLOG.

## EXCLUDED FROM PROFESSIONAL OPPORTUNITIES

SIJS youth stuck in the backlog are also cut off from certain professions, like joining the military, that require LPR status or citizenship. Hossen, now age 20, is one of the many young people whose lives were upended by news of the worldwide backlog in December 2022 and extensive waiting times.<sup>58</sup> He reports feeling depressed when he found out about the wait time for his green card because his dreams were put on hold:

“I originally intended to join the US army after the green card. But now, I'm stuck with the backlog. Sometimes when I think, in five years I can't move anywhere or can't find a good job for me, whether I graduated from college or not, it makes me depressed.”

HOSSEN

FROM BANGLADESH, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

with José, a SIJS youth (July 31, 2023).

<sup>60</sup> Zoom Interview by Hannah IsraelMarie with Mia, a SIJS youth (July 12, 2023).

<sup>61</sup> Zoom Interview by Maria Huerta Rodriguez with Rachel, a SIJS youth (Aug. 22, 2023).

<sup>62</sup> See generally Mina Fazel et al., *Mental*

José expressed having to give up on his aspiration of joining the military while he waits in the backlog<sup>59</sup>:

“I had the idea of signing up for the army, but I spoke with the lawyer, and . . . she told me that it would take a long time for the residency. . . I couldn't sign up because I need the residency to enroll in the army.”

JOSÉ

FROM HONDURAS, LIVING IN LOUISIANA, CURRENTLY IN THE BACKLOG.

Mia reported that she was living in a shelter that helped transition youth into careers—one program would have paid for her to attend one of the best beauty schools in New York, but because of her immigration status she wasn't allowed to participate.<sup>60</sup> Mia shares her pain on deferring her dreams and fears for the future:

“[The SIJS backlog] majorly put breaks on me when I normally don't have breaks. I always just keep going. So, it pushed my plans back, because if it was my way, I would be in school right now. I really want to be an aesthetician, and I want my own clinic and everything. There are numerous certifications I have to get even after school, there are just so many things I have to learn. It scares me the thought of having to wait for so long because I won't be twenty-one forever.”

MIA

FROM POLAND, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

Rachel, who recently received her green card after years in the backlog describes how being an LPR has improved her professional career<sup>61</sup>:

“[After getting my green card], I started working in a good job and I am now studying . . . I am a Personal Care Assistant and Home Health Aid. I am even going to a university too. These are things that I would not be able to do before that I now can do.”

RACHEL

FROM HONDURAS, LIVING IN NEW YORK, SPENT ABOUT 6 YEARS IN THE BACKLOG.

health of displaced and refugee children resettled in high-income countries: risk and protective factors, 379 LANCET 266 (Jan. 21, 2012) (review of risk and protective factors affecting mental health of forcibly displaced children).

<sup>63</sup> See RACHEL LEYA DAVIDSON & LAILA L. HLIASS, “ANY DAY THEY COULD DEPORT ME”: OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 24–25 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

<sup>64</sup> See *id.* at 18.

<sup>65</sup> Zoom Interview by Maria Huerta Rodriguez

## MOUNTING MENTAL HEALTH IMPACTS

Immigrant youth who have experienced traumatic events, including during their migration journeys, may face high rates of post-traumatic stress disorder, anxiety, and depression.<sup>62</sup> Prolonged uncertainty throughout the SIJS process and while waiting in the backlog, alongside lack of permanent immigrant status may further harm youth’s mental health and wellbeing.<sup>63</sup> Young people eligible for SIJS have already experienced abuse, neglect, and abandonment, and often trauma related to their migration and arrival to the United States. While they are stuck in the SIJS backlog, they may be pushed into economically exploitative work settings, unstable housing, and face deteriorating mental health from the anxiety related to their lack of status and fears around deportation.<sup>64</sup> Impacted youth share that the waiting and uncertainty inflicts a heavy toll in lost opportunities and mounting anxiety:

**“With the wait, I can’t do anything right now. When I realize this, I get frustrated, I can’t sleep well at all . . . As you are here in this country for now without documentation, it makes you depressed every single night.”**

HOSSEN

FROM BANGLADESH, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

**“[W]ithout knowing when you will be able to obtain your green card, it is difficult to think about the future, when you do not know when that future will arrive.”**

KASEY

FROM SPAIN/ECUADOR, LIVING IN MASSACHUSETTS, CURRENTLY IN THE BACKLOG.

**“It’s been like three years now that I haven’t had a chance even to study anything anymore. I mean, I’m scared that I’m losing my motivation or I’m losing the person I was before. It’s scary, the thought.”**

CLAUDE

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

with Rachel, a SIJS youth (Aug. 22, 2023).

<sup>66</sup> *Immigration Court Backlog Now Growing Faster Than Ever, Burying Judges in an Avalanche of Cases*, TRAC IMMIGR. (Jan. 18, 2022) <https://trac.syr.edu/immigration/reports/675/>.

<sup>67</sup> While there has been guidance from the Office of the Principal Legal Advisor (“OPLA”) to ICE attorneys to deprioritize removal of SIJS youth and to join motions to terminate, advocates report that this has not been applied uniformly to individual cases.

<sup>68</sup> RACHEL LEYA DAVIDSON & LAILA L. HLIASS, “ANY DAY THEY COULD DEPORT ME”: OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 15 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

<sup>69</sup> The Refugee Act formally introduced

Rachel, a Honduran youth, who recently obtained her green card after almost six years in the backlog reports that it has made a world of difference in her mental health and security. Before she felt very scared, but now, she says, “I feel more secure in the country . . . You never know when you might encounter one of those people who will ask you questions about your immigration status and now having this [green card and driver’s license], one feels more secure and safe . . .”<sup>65</sup>

## HARMS TO THE IMMIGRATION AND CHILD WELFARE SYSTEMS

As the number of youth impacted by the SIJS backlog grows, the systemic impacts of the SIJS backlog on the broader immigration and child welfare systems grow too. The immigration court system suffers from a years-long backlog of its own.<sup>66</sup> As more SIJS youth in removal proceedings are required to wait years for their permanent status, the immigration court dockets are further strained. Whereas before the worldwide backlog began in December of 2022, youth from the vast majority of countries could get their LPR status relatively quickly, the worldwide backlog now means that more youth are trapped in the immigration court system for more years.<sup>67</sup>

Similarly, many SIJS youth are in foster care administered by states and localities across the country, and the SIJS backlog takes a toll on their operations. When young people are unable to obtain permanent status and associated benefits that allow for a successful transition to independence, many agencies will keep youth in care beyond their twenty-first birthdays. That in turn puts a strain on their capacity and resources.<sup>68</sup>

**“[I]t’s physically impossible for me to do anything right now. Even if you know, I have a little job or whatever and I’m trying to do everything that I can, but it’s really hard, it’s really really hard. And it’s so unfair.”**

MIA

FROM POLAND, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

**“I guess it makes me stressed a lot about my future and I don’t know what it holds for me. And I know I always find a way to support myself and get my goals to come true, but it just takes so much more from me. It’s stressful and definitely adds a lot to my plate.”**

SARAH

FROM MEXICO, LIVING IN CALIFORNIA, CURRENTLY IN THE BACKLOG.

# Recommendations to End the SIJS Backlog and its Harms

“First of all, we are youth. We have a future ahead of us. Please don’t make light of our lives. As you have the power, you can help us with this situation.”

**HOSSEN**

FROM BANGLADESH, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

asylum into federal law and specifically left the asylum category without a numerical cap. In 2005, the Real ID Act of 2005 eliminated the 10,000 annual cap on the number of asylees who could adjust status to LPRs. See Pub. L. 109-13, 119 Stat. 302. Currently, (i) there are no geographic constraints on asylum grants, (ii) there are no numerical limitations on asylum grants or adjustment of status for asylees, and (iii) asylum applicants are generally eligible to apply for a work permit while their application is pending.

<sup>70</sup> Protect Vulnerable Immigrant Youth Act, H.R. 4285, 118th Cong. (2023); Protect Vulnerable Immigrant Youth Act, S. 1885, 118th Cong. (2023); Working for Immigrant Safety and Empowerment Act, H.R. 5145, 118th Cong. (2023).

<sup>71</sup> See U.S. IMMIGRATION AND CUSTOMS

“People like me, we’re really smart and really driven, and we want to do things, but we’re limited because of the backlog now, and we can’t.”

**MIA**

FROM POLAND, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.

**THE SOLUTION** to the SIJS backlog is clear and requires Congressional action. A small technical fix is all it takes. A bipartisan Congress alongside a Republican administration created SIJS, and a bipartisan coalition in Congress should now correct the technical oversight in the status’ categorization, protecting the youth it was concerned for at the outset. In the meantime, the End SIJS Backlog Coalition recommends the following administrative policy changes, as well as ways to integrate impacted youth into the reform process, to lessen the harms of the SIJS backlog in the day-to-day lives of impacted youth and on the advocates and systems they interact with.

## Legislative Solutions

The inclusion of SIJS within the employment-based visa system was a technical oversight that needs to be fixed. Youth with approved humanitarian status should not be competing for visas with immigrants coming to the United States to work. As a result of the April 2023 shift in how the DOS is interpreting visa caps, the entire EB-4 category, which includes religious workers, U.S. government employees, and employees of international organizations, is unnecessarily backlogged. Congress could fix the SIJS backlog, and the entire EB-4 backlog, immediately by exempting SIJS youth from the visa limits of the employment-based system. With minor textual amendments, Congress could bring SIJS in line with other humanitarian classes of noncitizens, like asylees, and with Congressional intent to provide a streamlined pathway to permanent protection for youth who have survived abuse, abandonment, and neglect.<sup>69</sup> The Protect Vulnerable Immigrant Youth Act and the Working for Immigrant Safety and Empowerment (WISE) Act propose to fix the backlog by doing just that.<sup>70</sup> Congress must act fast to pass legislation that would exempt SIJS youth from the EB visa caps so that SIJS youth can receive the protection created for them, go to college, transition into adulthood, reach toward their dreams, and further contribute to their communities.

<sup>72</sup> KERRY E. DOYLE, U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT, GUIDANCE TO OPLA  
ATTORNEYS REGARDING THE ENFORCEMENT OF  
CIVIL IMMIGRATION LAWS AND THE EXERCISE OF  
PROSECUTORIAL DISCRETION 4 n.8 (Apr. 3, 2022),  
[https://www.ice.gov/doclib/about/offices/  
opla/OPLA-immigration-enforcement\\_  
guidanceApr2022.pdf](https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement-guidanceApr2022.pdf).

<sup>73</sup> See USCIS Pol’y Manual, Volume 6, Part J,  
Ch. 4, Adjudication, Deferred Action (2023),  
[https://www.uscis.gov/policy-manual/  
volume-6-part-j-chapter-4](https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4).

<sup>74</sup> *National Engagement – U Visa and Bona  
Fide Determination Process – Frequently  
Asked Question*, U.S. CITIZENSHIP & IMMIGR.  
SERVS. (Sept. 23, 2021), [https://www.uscis.  
gov/records/electronic-reading-room/  
national-engagement-u-visa-and-bona-  
fide-determination-process-frequently-  
asked-questions](https://www.uscis.gov/records/electronic-reading-room/national-engagement-u-visa-and-bona-fide-determination-process-frequently-asked-questions).

<sup>75</sup> See 8 C.F.R. § 214.14(c)(5)(i) (2020) (DHS-  
issued orders are “deemed canceled by  
operation of law as of the date of USCIS’  
approval of Form I-918”); *id.* § 214.11(d)(9)(i)  
(2020) (same with respect to Form I-914).

## Administrative Solutions

While legislative action is the only way to permanently resolve the SIJS backlog, the Administration can implement several policy reforms to mitigate the harmful effects of the backlog on immigrant youth.

Since the publication of our last report, there have been several positive administrative reforms to help SIJS youth impacted by the backlog. In August 2021, when ICE issued guidance on when and how to use its prosecutorial discretion, the agency specifically recognized youth with pending or approved SIJS petitions as candidates for favorable discretion.<sup>71</sup> This directive was further clarified in a policy guidance memo to ICE attorneys, stating explicitly that if a youth has a pending, seemingly approvable SIJS petition, ICE “should treat the case as a nonpriority matter” to prosecute, while waiting for a final decision from USCIS.<sup>72</sup> On May 6, 2022, USCIS implemented a policy of discretionary deferred action which grants protections from removal and the ability to apply for a work permit to some immigrant youth who have approved SIJS but who cannot apply to become LPRs due to the SIJS backlog.<sup>73</sup> The Administration has also taken steps to expand healthcare access to youth awaiting adjudication of their SIJS petitions. However, there remains much to be done.

- **USCIS must adjudicate all SIJS petitions within the 180-day deadline mandated by Congress.**
- **DHS should codify protections from removal and access to work permits for all SIJS youth who are unable to seek LPR status because a visa is not immediately available.**
- **USCIS should allow SIJS youth to file an application for a work permit, based on deferred action, concurrently with the SIJS petition to reduce delays. We encourage USCIS to implement a policy that would mirror USCIS’s policy for work permit applications filed by U visa petitioners to prevent these youth from facing a second backlog of lengthy work permit wait times after adjudication of the SIJS petition.<sup>74</sup>**
- **DHS should facilitate rescission of removal orders of SIJS youth, regardless of current priority date or whether the order was issued by DHS or EOIR. This robust policy implementation would allow vulnerable youth to become permanent residents without the barriers of an unresolved removal order in their background.<sup>75</sup>**
- **USCIS should consider re-introducing the SIJS National Benefits Center (“NBC”) email address to facilitate communication between USCIS and the legal representatives of SIJS youth.**

<sup>76</sup> See 2023–2024 Federal Student Aid  
Handbook, Vol. 1, Ch. 2 (Apr. 12, 2023),  
[https://fsapartners.ed.gov/knowledge-  
center/fsa-handbook/2023-2024/vol1/  
ch2-us-citizenship-eligible-noncitizens](https://fsapartners.ed.gov/knowledge-center/fsa-handbook/2023-2024/vol1/ch2-us-citizenship-eligible-noncitizens). The  
DOE handbook is more narrow than the  
statute and regulations. 20 U.S.C. § 1091(a);  
34 C.F.R. § 668.33 (2009).

<sup>77</sup> 20 U.S.C. § 1091(a).

- **The Department of Education should align their federal student aid handbook with the HEA definition of “eligible non-citizen” to include students with approved SIJS petitions as eligible for federal student aid.<sup>76</sup> They should then instruct the department to immediately begin accepting applications for federal student aid from youth with approved SIJS, in accordance with the HEA definition of “eligible non-citizen.”<sup>77</sup>**

## Youth-Centered Solutions

There are more than 100,000 youth living all over the country impacted by the SIJS backlog. As described in this report and in these young people’s own words, young people may be living in precarious situations due to their inability to obtain permanent legal protection while trapped in the SIJS backlog. Many of these youth are not connected to each other and feel alone in their struggles. Agencies and legislators making policy decisions that impact the lives of SIJS youth do not consult impacted youth.

Law and policy makers should consider the voices of impacted youth when they are deliberating, creating, and enacting new policies or immigration reforms that impact youth’s lives, not as an afterthought to remedy ill-informed policy, but as partners in the creation of a more just immigration system. We call upon members of Congress and the Administration to welcome youth into these conversations, and to turn to youth as experts in their experiences of the impacts of the SIJS backlog. We also call upon the media to highlight the stories of impacted youth and to seek their commentary when reporting on immigration issues.

It is also essential that impacted youth have spaces where they can build community with one another, to share resources and strength as they endure the challenges of years of limbo. The End SIJS Backlog Coalition is dedicated to creating spaces where youth can build community amongst one another. The coalition is committed to training and empowering impacted youth to develop our advocacy priorities and strategy and to lead in our advocacy efforts alongside lawyers and child welfare experts.

It is important that youth receive continuity of care and legal representation throughout the extended life cycle of their cases and until they are able to obtain the permanency Congress intended for them. The federal government should specifically fund youth services organizations, including legal services providers, to continue offering services to backlog-impacted youth as their cases drag on, even as they age out of foster care or other age-limited legal and social services. Young people should not be left houseless and without support or representation because the backlog needlessly leaves them in limbo for so many years.

# Conclusion

“We’ve already been abused in many ways, we’ve never had stabilities throughout our lives. It’s just a matter of time and this question that’s haunting you, when is it going to stop?”

**CLAUDE**

FROM GEORGIA, LIVING IN NEW YORK, CURRENTLY IN THE BACKLOG.



<sup>78</sup> RACHEL LEYA DAVIDSON & LAILA L. HLASS, “ANY DAY THEY COULD DEPORT ME”: OVER 44,000 IMMIGRANT CHILDREN TRAPPED IN THE SIJS BACKLOG 15 (The End SIJS Backlog Coalition 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

**THE SIJS BACKLOG** has more than doubled in just two years, and it will likely continue to grow. With over 100,000 youth’s lives on hold as of March 2023, it is time for Congress to act and address the root cause of the backlog: the misapplication of employment-based visa limitations to vulnerable SIJS youth.

SIJS, a humanitarian status, was created to provide stability and certainty for youth who have suffered severe harm by opening a pathway to permanent legal status in the United States. Yet, thousands of youth continue to live in limbo, their lives on hold yearning to attend college, join the military, pursue their professional goals, receive healthcare, transition out of foster care, find safe and stable housing, achieve their dreams, and live without fear of deportation. It is time for Congress to fix the backlog so that these young people, all on a pathway to citizenship, can find the safety they need to flourish and so that they can fully participate as members of our society. There is no reason to defer their futures and the contributions they can make today to U. S. life. Fixing the SIJS backlog would immediately lessen the broader immigration court backlog, ease the burden on state foster care agencies, and provide cities, states, and the country with tax revenue as SIJS youth enter the workforce.<sup>78</sup>

As Bora, originally from Mexico and now a resident of California, describes:

Once I received my green card, the world completely opened up to me. I was able to study abroad . . . receiving full [college financial] aid thanks to FAFSA . . . I finally felt like I could do something good with my life and continue my education without the fear of being deported and thrown into a country where I do not know anything. I am currently working at the [local] District Attorney’s Office while I am studying for the LSAT in hopes of becoming an attorney. I cannot imagine how different my life would be if I were still stuck in the backlog to this day. I would have missed out on so many educational opportunities.

**BORA**

FROM MEXICO, LIVING IN CALIFORNIA, SPENT AROUND FOUR YEARS IN THE BACKLOG.

Rachel, originally from Honduras, and now a resident of New York, explains how her life changed when she finally received her green card after years in the backlog<sup>79</sup>:

“[H]onestly so much so much has changed [since receiving my green card], because I can now decide where I can go, you know. Outside opportunities open up for you with it, your green card. So many doors open really that are not available to you without it. And if you know how to take advantage of it, well then it can go really well for you. The truth is when you don’t have any of that, you feel trapped as if you are not worth anything. But once someone has their card, well your entire life changes. And even the lives of the people around you, thanks to that even those people’s lives can change.”

RACHEL

FROM HONDURAS, LIVING IN NEW YORK, SPENT ABOUT 6 YEARS IN THE BACKLOG.

There are over 100,000 more Boras, Claudes, Davids, Josés, Kaseys, Hossens, Mias, Rachels, Sarahs and Surayas, trapped in the SIJS backlog waiting and ready to transition into adulthood as U.S. residents and citizens. Our society needs their full contributions, and they need access to this country’s permanent protection without further delay.

**DECEMBER 2023**

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This report is a collaborative project of The End SIJS Backlog Coalition, a project of the National Immigration Project, and Tulane Law's Immigrant Rights Clinic.





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