

United States Senate

WASHINGTON, DC 20510

August 2, 2024

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
301 7th Street, SW
Washington, DC 20528

Dear Secretary Mayorkas:

We urge U.S. Citizenship and Immigration Services (USCIS) to invite noncitizens with approved Special Immigrant Juvenile (SIJ) petitions and Deferred Action to request Advance Parole Documents.

As you are aware, the estimated wait for immigrant visas in the fourth employment-based preference category (EB-4) for these vulnerable young people and other noncitizens currently exceeds 17 years. Advance Parole Documents would allow these young noncitizens to travel, reunite with sick or dying loved ones, participate in important family events, and advance their education and professional development in our interconnected world. Affirmatively welcoming such applications from these noncitizens would be consistent with USCIS policies that allow other young noncitizens permission to travel for humanitarian, educational, or employment purposes when Deferred Action is granted. It also would be consistent with the congressional intent behind the SIJ program, which is to allow these young people to “remain safely in the country with a means to apply for LPR status.”¹

We commend USCIS for its 2022 policy that made SIJ youth eligible for discretionary grants of Deferred Action. This decision has had an important and positive impact on the lives of SIJ youth impacted by the green-card backlog, allowing tens of thousands to obtain work authorization, Social Security numbers, and protection from deportation while they await visa availability. However, as these young people wait for visas or congressional action, their lives continue, and many will be faced with the choice between travelling internationally for critical reasons or remaining in the United States to preserve their lives here.

SIJ youth trapped in the EB-4 backlog are often at a pivotal time in their transition to adulthood. Many SIJ youth are in college or at the beginning of their careers. They have the same dreams as many other young people in the United States—to go to college, study abroad, and explore professional opportunities. Without the ability to travel abroad, SIJ youth are barred from many of the experiences that their peers have access to, putting them at a disadvantage as they enter the labor market. Apart from educational and professional pursuits, some SIJ youth stuck in the visa backlog may need to return to their home countries to visit infirm or dying relatives. Allowing SIJ youth to make brief, preapproved trips abroad would afford them the

¹ *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011).

same opportunities as other young Americans to engage in educational pursuits, further their careers, or reunite with sick or dying family members.

Granting SIJ youth the ability to apply for Advance Parole Documents would alleviate one harmful consequence of the EB-4 backlog during the years-long wait for the next step in their immigration journey. Were it not for the EB-4 backlog, these youth would have the benefits of lawful permanent residence, including the ability to travel abroad. Affirmatively inviting SIJ youth to apply for Advance Parole Documents is a concrete step that is aligned with the goals of the existing USCIS SIJ Deferred Action policy.

The Secretary of Homeland Security has the authority to grant parole on a case-by-case basis in their discretion and under such conditions as they may prescribe, under INA §212(d)(5), for urgent humanitarian reasons or significant public benefit. As it has done with other immigrant groups, such as DACA recipients, USCIS could allow SIJ youth with Deferred Action to request Advance Parole Documents, depart the United States, and be paroled upon return if those youth demonstrate that they meet the parole requirements in the statute (and any other conditions prescribed by the Secretary).

We therefore urge USCIS to amend its policy and invite SIJ youth with Deferred Action to apply for Advance Parole Documents. We also urge USCIS to include the following additional provisions in the SIJ Advance Parole policy:

- 1) The policy should explicitly state that approved travel with Advance Parole Documents for humanitarian, educational, or employment purposes is permissible; and
- 2) The policy should provide that SIJ youth who obtain Advance Parole Documents and are paroled in upon their return will continue to have Deferred Action until the date specified by USCIS in the Deferred Action notice (in other words, the policy should specify that a departure and return using a valid Advance Parole Document does not interrupt or terminate an SIJ youth's existing grant of Deferred Action).²

We also urge USCIS to provide specific guidelines regarding how it will assess “humanitarian, educational, or employment purposes” when adjudicating Advance Parole Document applications.³ Such guidelines should include examples of the types of educational, employment, and humanitarian purposes that would meet the requirements for issuing an Advance Parole Document.

With increased backlogs and wait times for immigrant visas of nearly two decades, allowing SIJ youth to apply for Advance Parole Documents is a sensible and humane solution that will benefit these vulnerable young people and their communities.

² Such language could mirror the language USCIS already uses for DACA recipients who travel on Advance Parole. *See* Form I-131 Instructions, at 6 (exp. Feb. 28, 2027), <https://www.uscis.gov/sites/default/files/document/forms/i-131instr.pdf> (“If you obtain an Advance Parole Document in connection with a decision to defer removal in your case under DACA and if, upon your return, you are paroled into the United States, your case will generally continue to be deferred. The deferral will continue until the date specified by USCIS or ICE in the deferral notice given to you or until the decision to defer removal action in your case has been terminated, whichever is earlier.”).

³ *See id.* at 5.

We would appreciate your prompt response to this inquiry and look forward to working together on this vital issue.

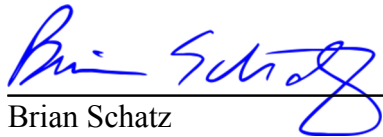
Sincerely,



Richard J. Durbin
United States Senator



Catherine Cortez Masto
United States Senator




Brian Schatz
United States Senator



Peter Welch
United States Senator



Mazie K. Hirono
United States Senator



Patty Murray
United States Senator



Benjamin L. Cardin
United States Senator



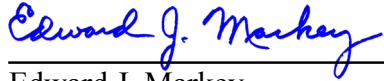
Tammy Duckworth
United States Senator



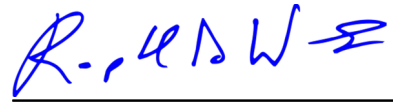
Tina Smith
United States Senator



Jacky Rosen
United States Senator



Edward J. Markey
United States Senator



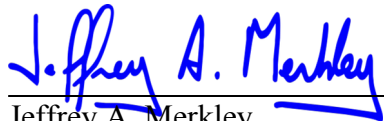
Raphael Warnock
United States Senator



Christopher A. Coons
United States Senator



Alex Padilla
United States Senator



Jeffrey A. Merkley
United States Senator



Elizabeth Warren
United States Senator



Cory A. Booker
United States Senator



Amy Klobuchar
United States Senator

cc: The Honorable Ur Jaddou
Director, U.S. Citizenship and Immigration Services