

# Congress of the United States

Washington, DC 20515

October 23, 2023

**RECEIVED**  
By ESEC at 2:04 pm, Oct 25, 2023

The Honorable Joseph R. Biden, Jr.  
President of the United States  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20050

Dear President Biden,

The Deferred Action for Childhood Arrivals (DACA) program continues to face legal challenges and is once again moving through the court system and at risk of ending in front of the Supreme Court. Following the Southern District of Texas's ruling on September 13, 2023, we are concerned about the trajectory of the litigation and the rising likelihood that DACA will end, which would cause over half a million current DACA recipients to lose their protections, work authorization, and other benefits. Despite the Biden administration's admirable efforts to uphold DACA, Judge Hanen of the Southern District Court of Texas maintains that President Obama exceeded his executive authority when creating and implementing the DACA program. Furthermore, his recent ruling continues to prevent the acceptance of any new DACA recipients into the program.

We cannot wait until the end of DACA to use every tool in the toolbox to protect Dreamers and immigrant youth. While the ruling allows those who are currently enrolled in the DACA program to renew their protection, we cannot predict how the Supreme Court will rule, if at all, nor what future administrations will do with DACA. What we can predict is the very real possibility that DACA will be significantly scaled back or ended altogether. While Judge Hanen's recent ruling does not alter the status quo of the DACA program, it is no longer able to meet its original purpose of deferring the deportation of all eligible undocumented minors. Because the Court has halted new applications, even if it permits the renewal of existing DACA recipients, an estimated 400,000 of otherwise qualified undocumented minors will continue to be unable to enroll in a program that was designed for them.

As the program is chipped away to an uncertain future, we urge the Biden administration to put forward and execute a plan that protects the livelihood of all immigrant youth. Specifically, we ask that the Biden Administration:

- Tasks USCIS with setting up new processes so that DACA recipients who currently qualify for other immigration pathways know about and use those opportunities
- Pursues additional pathways for administrative relief for vulnerable groups that include DACA recipients
- Streamlines the approval processes for DACA renewals and Advance Parole applications

Without the safeguards of DACA, hundreds of thousands of individuals would be vulnerable to deportation and lose work authorization. DACA recipients would forfeit their salaries and work benefits, and American companies would lose valued employees. Banks would lose out on numerous payments as DACA recipients would find it difficult to pay their mortgages or their car loans. DACA recipient households pay \$6.2 billion in federal taxes and \$3.3 billion in state and local taxes; they provide significant contributions to our economy and our communities at large. Many are now building families too—more than 39% of DACA recipients are married and nearly 48% have at least one U.S. citizen child.

With continued inaction on immigration reform in Congress and attacks on DACA in the court system, the Biden administration must provide and execute on a protection plan for DACA recipients and other undocumented youth now—we cannot wait to put forward a plan until after a court decision to end DACA has stripped thousands of people of their ability to work and live safely without the threat of deportation. Without further action, the end of DACA is all the more

likely and devastating. We urge the Biden administration to advance a clear and viable plan to provide stability for immigrant youth, so they may remain and continue contributing in the only country they have called home.

Sincerely,



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Katie Porter  
Member of Congress



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Raúl M. Grijalva  
Member of Congress



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Salud Carbajal  
Member of Congress



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Barbara Lee  
Member of Congress



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Alma S. Adams, Ph.D.  
Member of Congress



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Eleanor Holmes Norton  
Member of Congress



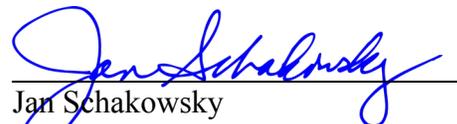
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Yvette D. Clarke  
Member of Congress



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Rashida Tlaib  
Member of Congress

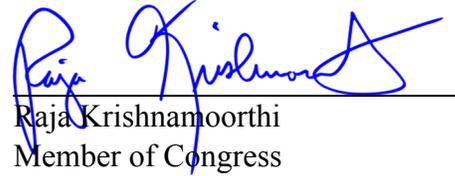


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Jan Schakowsky  
Member of Congress



Dan Goldman  
Member of Congress



Raja Krishnamoorthi  
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James P. McGovern  
Member of Congress



Delia C. Ramirez  
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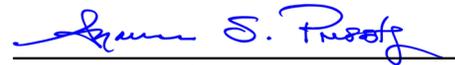
Jesús G. "Chuy" García  
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Dina Titus  
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Nikema Williams  
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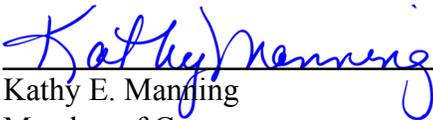
Kevin Mullin  
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Adam B. Schiff  
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Donald M. Payne, Jr.  
Member of Congress



Adriano Espaillat  
Member of Congress



Tony Cárdenas  
Member of Congress



Joaquin Castro  
Member of Congress



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Chellie Pingree  
Member of Congress



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Mike Quigley  
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Jamie Raskin  
Member of Congress



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Jim Tokuda  
Member of Congress



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Juan Vargas  
Member of Congress



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Frederica S. Wilson  
Member of Congress



U.S. Citizenship  
and Immigration  
Services

November 15, 2023

The Honorable Katie Porter  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Porter:

Thank you for your October 23, 2023 letter regarding legal challenges faced by the Deferred Action for Childhood Arrivals (DACA) policy.

We acknowledge your concerns regarding the trajectory of litigation and the possibility that the DACA policy could end, resulting in the nearly 600,000 current DACA recipients losing their deferred action, employment authorization, and other protections. We understand and appreciate your suggestions for DHS to take urgent action to protect immigrant youth.

Consistent with President Biden's January 20, 2021, Presidential Memorandum,<sup>1</sup> the Department of Homeland Security (DHS) has been actively engaged in efforts to preserve and strengthen DACA, including the publication of the DACA Final Rule on August 30, 2022.<sup>2</sup> Unfortunately, as you mention, on September 13, the U.S. District Court for the Southern District of Texas issued a decision finding the DACA Final Rule unlawful and expanding the original July 16, 2021 injunction and order of vacatur to cover the Final Rule. Although the court maintained a partial stay of the order for "all DACA recipients who received their initial DACA status prior to July 16, 2021,"<sup>3</sup> as your letter states, U.S. Citizenship and Immigration Services (USCIS) is still prohibited from adjudicating new initial DACA requests. I am deeply disappointed by the Court's decision and am concerned about its impact on DACA recipients and their families across the country.

The Biden-Harris Administration and DHS remain committed to ensuring that Dreamers are protected from the threat of deportation and are allowed to continue to contribute to this country that is their home. Consistent with the most recent ruling, DHS has continued processing DACA renewal requests and related employment authorization and advance parole applications, and we are maintaining our ongoing efforts to minimize processing times. The

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<sup>1</sup> See Presidential Memorandum, *Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)*, January 20, 2021, available online at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/preserving-and-fortifying-deferred-action-for-childhood-arrivals-daca/>

<sup>2</sup> 87 FR 53152, *Deferred Action for Childhood Arrivals*, available online at <https://www.federalregister.gov/documents/2022/08/30/2022-18401/deferred-action-for-childhood-arrivals>.

<sup>3</sup> See the [Memorandum and Order \(PDF, 1.35 MB\)](#) and [Supplemental Order of Injunction \(PDF, 72.53 KB\)](#).

steps USCIS has taken to reduce processing times include allowing for the reuse of biometrics where available and improving internal systems workflows. Currently, the median processing time for DACA renewals through the end of Fiscal Year 2023 is one month,<sup>4</sup> and DACA-related EAD applications are generally adjudicated concurrently with DACA renewal requests. These processing times include those DACA renewal requests that resulted in Requests for Evidence and those that were filed later than the recommended timeframe of 150 to 120 days prior to expiration.

USCIS has also engaged in renewed outreach to inform the public of alternative immigration pathways for vulnerable youth, including engagements on Temporary Protected Status,<sup>5</sup> and a national engagement on “Immigration Options for Youth and Child Victims of Abuse.” The national engagement focused on special immigrant juvenile classification, U and T nonimmigrant status, and relief under the Violence Against Women Act.<sup>6</sup> DHS has also pursued additional pathways for administrative relief for vulnerable groups that include DACA recipients, including deferred action for stateless individuals<sup>7</sup> and for workers reporting labor violations.<sup>8</sup> The agency will continue to explore options for vulnerable groups that include DACA recipients.

As DHS works to preserve DACA, we recognize that only the passage of legislation will give full protection and a path to citizenship to DACA recipients. I urge you and your colleagues in Congress to act swiftly to enact legislation to provide permanent protection that the American people want, and Dreamers have earned.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,



Ur M. Jaddou  
Director

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<sup>4</sup> See Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year, available online at <https://egov.uscis.gov/processing-times/historic-pt> (accessed October 30, 2023).

<sup>5</sup> See Notes from Previous Engagements- TPS, available online at [https://www.uscis.gov/outreach/notes-from-previous-engagements?topic\\_id%5B%5D=33611&ddt\\_mon=&ddt\\_yr=&query=&items\\_per\\_page=10](https://www.uscis.gov/outreach/notes-from-previous-engagements?topic_id%5B%5D=33611&ddt_mon=&ddt_yr=&query=&items_per_page=10).

<sup>6</sup> See National Engagement- Immigration Options for Children and Youth, available online at <https://www.uscis.gov/sites/default/files/document/outreach-engagements/NationalEngagement-ImmigrationOptionsforYouthandChildVictimsofAbuse-PowerPoint.pdf>.

<sup>7</sup> See Policy Alert: Statelessness, available online at <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230801-Statelessness.pdf>.

<sup>8</sup> See DHS Support of the Enforcement of Labor and Employment Laws, available online at <https://www.dhs.gov/enforcement-labor-and-employment-laws>.