

Congress of the United States
Washington, DC 20515-4309

July 9, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Ave., NW
Washington, D.C. 20528

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By ESEC at 9:17 am, Jul 12, 2021

Dear Secretary Mayorkas,

We commend you and the Biden-Harris administration's commitment to strengthening protections for recipients of Consideration of Deferred Action for Childhood Arrivals (DACA), more commonly known as Dreamers. This group of people has stepped up for their country during this pandemic, and we should continue to provide them opportunities as the true Americans they are.

There is one area that respectfully still requires attention. Currently, when most people apply to renew their Employment Authorization Document (EAD), they are granted an automatic 180-day extension, as long as their application was submitted prior to the expiration date on their EAD¹. Unfortunately, DACA recipients, who renew under the eligibility category (c)(33) in accordance with section 274a.12, title 8 of the Code of Federal Regulations, are not granted this same extension.

Given the lengthy United States Citizenship and Immigration Services (USCIS) processing times, which have only been exacerbated as the agency adjusts to working through a pandemic, DACA recipients often find themselves in the position of having applied for a renewal, but their current EAD expires. This means, that without the automatic extension given to others, they are left without valid work authorization. This can lead to loss of employment, loss of financial aid or enrollment status in college, and loss of health care through the Affordable Care Act, none of which are acceptable at any time, much less during a global pandemic.

As we work together, fighting for the rights of Dreamers, we must be sure that we look for all possible methods to make their lives easier. Adding the (c)(33) category to the list of those receiving an automatic extension of benefits would be another step taken to show Dreamers the respect and equity they deserve.

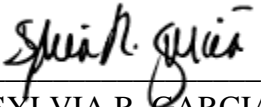
Dreamers serve on the front lines of this public health crisis including as but not limited to doctors, nurses, farmers, grocery store workers, and EMTs. They are parents supporting their children, and oftentimes children supporting elderly parents.

¹U.S. Citizenship and Immigration Services, *Automatic Employment Authorization Document (EAD) Extension*, (February 1, 2017), <https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/automatic-employment-authorization-document-ead-extension>.

Ensuring they can utilize their EAD while in the process of renewing will not only help them, but their families and communities and our nation as a whole.

We are grateful for your leadership on this issue, and we welcome the opportunity to work with you on this matter.

Sincerely,


SYLVIA R. GARCIA
Member of Congress

/s/
BONNIE WATSON COLEMAN
Member of Congress

/s/
JAMES P. MCGOVERN
Member of Congress

/s/
EARL BLUMENAUER
Member of Congress

/s/
ADRIANO ESPAILLAT
Member of Congress

/s/
NORMA J. TORRES
Member of Congress

/s/
JIM COSTA
Member of Congress

/s/
JESÚS G. “CHUY” GARCÍA
Member of Congress

/s/
PRAMILA JAYAPAL
Member of Congress

/s/
VERONICA ESCOBAR
Member of Congress

/s/
NANETTE DIAZ BARRAGÁN
Member of Congress

/s/
GRACE F. NAPOLITANO
Member of Congress

/s/
JIMMY PANETTA
Member of Congress

/s/
TONY CÁRDENAS
Member of Congress

/s/
RASHIDA TLAIB
Member of Congress

/s/
ALEXANDRIA OCASIO-CORTEZ
Member of Congress

/s/
RAÚL GRIJALVA
Member of Congress

/s/
AL GREEN
Member of Congress

/s/
SHEILA JACKSON LEE
Member of Congress

/s/
ALBIO SIREs
Member of Congress

/s/
MONDAIRE JONES
Member of Congress

/s/
TERESA LEGER FERNÁNDEZ
Member of Congress

/s/
RUBEN GALLEG0
Member of Congress



U.S. Citizenship
and Immigration
Services

September 28, 2021

The Honorable Sylvia R. Garcia
U.S. House of Representatives
Washington, DC 20515

Dear Representative Garcia:

Thank you for your July 9, 2021 letter to the Department of Homeland Security in support of recipients of Deferred Action for Childhood Arrivals (DACA), also known as Dreamers. Secretary Mayorkas asked that I reply on his behalf.

Consistent with President Biden's January 20, 2021, Presidential Memorandum, the Department of Homeland Security has been actively engaged in various lines of effort to preserve and fortify DACA.¹ As you know, on July 16, 2021, the U.S. District Court for the Southern District of Texas held that the 2012 DACA memorandum is contrary to both the Administrative Procedure Act (APA) and the Immigration and Nationality Act and vacated the 2012 DACA memorandum in its entirety.² I was disappointed by the Court's ruling and acknowledge its impact on families across the country. The Court, however, temporarily stayed its order with regard to individuals who obtained DACA on or before July 16, 2021. Under the Court's order, such individuals may continue to receive deferred action under the DACA policy, and DHS may continue to adjudicate DACA requests and accompanying employment authorization applications from individuals who were previously granted deferred action under that policy while the Department of Justice appeals the Court's decision.

The Biden-Harris Administration and DHS remain committed to ensuring that Dreamers are protected from the threat of removal and can continue to contribute to this country that is their home. DHS remains focused on safeguarding DACA, and we are currently engaging the public in a rulemaking process to preserve and fortify DACA.³

¹ 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/>.

² The Court also remanded the 2012 DACA memorandum to DHS for further consideration and issued a permanent injunction prohibiting the government's continued administration of DACA and the reimplementation of DACA without compliance with the APA.

³ See <https://www.federalregister.gov/documents/2021/09/28/2021-20898/deferred-action-for-childhood-arrivals>.

In the meantime, consistent with the ruling, DHS will continue processing DACA renewal requests and related employment authorization applications. DHS is committed to minimizing processing times for DACA renewal requests, with a goal of adjudicating such requests within 120 days. Currently, the median processing time for DACA renewals through July 31 of fiscal year 2021 is 1.5 months⁴ and DACA-related Employment Authorization Document (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. For these reasons, we do not believe an automatic extension for EADs is necessary.

U.S. Citizenship and Immigration Services (USCIS) has taken several steps to ensure the timely adjudication of DACA renewal requests, including allowing for the reuse of biometrics where available, working to safely maximize biometrics appointment capacity at Application Support Centers (ASC) for those who must visit an ASC for biometrics collection, and shifting a significant number of resources from the DACA initial request workload to assist with processing of DACA renewal requests to reduce case processing times. As noted in the form instructions and DACA FAQs, USCIS strongly encourages requestors to file their renewal requests within the 150-120 day filing period to minimize the possibility that their current period of DACA will expire before they receive a decision on their renewal request. We understand the importance of swift employment authorization adjudications for DACA recipients.

As DHS works to preserve and strengthen DACA, we recognize that only the passage of legislation will give full protection and a path to citizenship to DACA recipients. In January, President Biden offered a legislative proposal, and in March the House of Representatives passed the “American Dream and Promise Act.” I urge you and your colleagues in Congress to act swiftly to enact legislation through the reconciliation process 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,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a horizontal line.

Ur M. Jaddou
Director

⁴ See Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year, available online at <https://cgov.uscis.gov/processing-times/historic-pt> (accessed September 28, 2021).