

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

MARTÍN JONATHAN BATALLA VIDAL,
ANTONIO ALARCON, ELIANA FERNANDEZ,
CARLOS VARGAS, MARIANO
MONDRAGON, and CAROLINA FUNG FENG,
on behalf of themselves and all other similarly
situated individuals, and MAKE THE ROAD
NEW YORK, on behalf of itself, its members, its
clients, and all similarly situated individuals,

Plaintiffs,

v.

KIRSTJEN M. NIELSEN,¹ Secretary, Department
of Homeland Security, JEFFERSON
BEAUREGARD SESSIONS III, Attorney General
of the United States, and DONALD J. TRUMP,
President of the United States,

Defendants.

**THIRD AMENDED
COMPLAINT**

Case No. 1:16-cv-04756 (NGG) (JO)

INTRODUCTION

Plaintiffs Martín Batalla Vidal, Antonio Alarcon, Eliana Fernandez, Carlos Vargas, Mariano Mondragon, and Carolina Fung Feng (“Individual Plaintiffs”), on behalf of themselves and all other similarly situated individuals, and Make the Road New York (“MRNY”), on behalf of itself, its members and clients, and all other similarly situated individuals (collectively “Plaintiffs” or “Named Plaintiffs”), bring this action to challenge the Trump Administration’s unlawful termination of the Deferred Action for Childhood Arrivals (“DACA”) program. Nearly one million young immigrants rely on DACA to work, study, hold driver’s licenses, serve in the military, support their families, and live securely in the only country they know as home. Defendants’ arbitrary decision to terminate this established and successful program upends the

¹ Kirstjen M. Nielsen was sworn in as Secretary of Homeland Security on December 6, 2017 and is automatically substituted for Acting Secretary Duke as a defendant in this action. Fed. R. Civ. P. 25(d).

lives of these individuals and threatens to destabilize their families, communities, and workplaces. The termination of DACA violates federal statutes and the Constitution, necessitating this Court's intervention to protect against imminent and devastating harm.

The termination of DACA will prevent Mr. Batalla Vidal from caring for patients at the nursing home where he works. It will prohibit Ms. Fernandez from working to support her two U.S. citizen children, making her mortgage payments, and paying for health insurance for her family. It will throw into disarray the lives of Mr. Mondragon's two young children and pregnant wife, who depend on his ability to make a living wage. It will bar Mr. Vargas, who recently started attending night classes at City University of New York School of Law, from fulfilling his dream of becoming a lawyer. Defendants' decision to abruptly end the program will force nearly 800,000 people to live with the persistent fear of being separated from their families.

Defendants impose these harms in violation of the procedural requirements meant to protect individuals from arbitrary government action. The termination of DACA binds the Department of Homeland Security ("DHS") to categorically deny deferred action to new applicants as of September 5, 2017, and to deny all renewal applications received after October 5, 2017, without following public notice-and-comment procedures required by the Administrative Procedure Act ("APA"), and without the analysis required by the Regulatory Flexibility Act ("RFA").

Separately, Defendants' DACA termination reverses longstanding agency policy on which nearly 800,000 people have relied, including assurances to DACA applicants that the information they provided would not be used against them or their loved ones. Under the APA, Defendants must provide a reasoned explanation for choosing to terminate this program. Rather than do so, Defendants have justified the reversal based on fear of a hypothetical lawsuit, the

legally erroneous claim that DACA is unlawful, and a variety of inaccurate factual assertions.

Defendants' termination of DACA additionally violates the Fifth Amendment.

Defendants failed to correct misleading notices previously sent to many DACA recipients who were required to submit renewal applications by October 5, 2017, in violation of procedural due process requirements. Defendants further deprived DACA renewal applicants of procedural due process in their implementation of the DACA termination, particularly in their arbitrary and haphazard implementation of the October 5 deadline. Finally, Defendants' contradictory, illogical, and false explanations for terminating DACA evidence that the true reasons for ending this highly successful program are pretextual, in violation of the guarantee of equal protection under law.

Because Plaintiffs and other similarly situated individuals are already beginning to lose eligibility for DACA status due to Defendants' unlawful actions, Plaintiffs ask this Court to declare the termination of DACA unlawful and to enjoin its enforcement.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, as this case arises under the U.S. Constitution, the APA, 5 U.S.C. §§ 551 *et seq.*, and the RFA, 5 U.S.C. §§ 601 *et seq.*

2. Venue properly lies in this district because Individual Plaintiffs reside in the district, and Plaintiff Make the Road New York ("MRNY") operates community centers in Bushwick, Brooklyn; Jackson Heights, Queens; Port Richmond, Staten Island; and Brentwood, Long Island. 28 U.S.C. § 1391(e)(1). Venue also properly lies in this district because a substantial part of the events or omissions giving rise to this action occurred in the district. *Id.* § 1391(b).

PARTIES

Plaintiff Martín Batalla Vidal

3. Plaintiff Martín Jonathan Batalla Vidal (“Mr. Batalla Vidal”) is a recipient of DACA. He has resided in Queens, New York for twenty years.

4. Mr. Batalla Vidal was born in Mexico and raised in New York since he was a young child. Mr. Batalla Vidal has a younger brother who has also received DACA, and two younger brothers who were born in the United States. Mr. Batalla Vidal considers New York his home, as it is the only place he has lived in since he was a child.

5. Mr. Batalla Vidal attended Bushwick Leaders High School for Academic Excellence in Brooklyn, New York from September 2004 until his graduation in June 2008.

6. After graduating from high school, Mr. Batalla Vidal hoped to attend a nursing program at a school such as the City University of New York (“CUNY”), but could not seriously consider these programs because those universities did not offer financial aid to undocumented students. His guidance counselor and other advisors also stressed the difficulty of finding work in the medical field without employment authorization, in light of which Mr. Batalla Vidal chose not to pursue a degree he might not be able to use in the future.

7. In November 2012, the Obama Administration created DACA. In November 2014, Mr. Batalla Vidal applied for DACA with the assistance of MRNY. To prepare his application, Mr. Batalla Vidal attended a workshop at MRNY’s Brooklyn office, where he made follow-up visits. To prove his eligibility for DACA, Mr. Batalla Vidal spent many hours over the course of several months gathering paperwork and obtaining documents from his high school, hospital, and bank. On February 17, 2015, DHS approved Mr. Batalla Vidal’s application.

8. Receiving DACA reinvigorated Mr. Batalla Vidal's dreams of working in the medical profession, and in fall 2015, he enrolled at ASA College in a medical assistant's degree program. With DACA, Mr. Batalla Vidal was able to raise money for school and support his mother and younger siblings. He worked two jobs at the same time, full time at Bocca Catering and part time at the New York Sports Club. He currently works full time at Park Terrace Rehabilitation and Nursing Center, where he cares for patients with serious health needs. Mr. Batalla Vidal also received a scholarship for DACA recipients from ASA College.

9. Defendants approved Mr. Batalla Vidal's DACA renewal on February 16, 2017. His current grant will expire on February 15, 2019. Because of Defendants' termination of DACA, Mr. Batalla Vidal is ineligible to apply to renew DACA.

10. When Mr. Batalla Vidal found out about the termination of the DACA program, he obtained a third job in order to save money prior to the expiration of his period of deferred action and work authorization.

11. Through employment he was able to obtain with DACA, Mr. Batalla Vidal can financially support himself, his mother, and his younger siblings. Since his mother has severe arthritis and cannot work, Mr. Batalla Vidal pays the rent and the majority of the bills for his household. Mr. Batalla Vidal's ability to pursue his career and provide for his family has been thrown into jeopardy due to Defendants' termination of DACA. Without Mr. Batalla Vidal's income, he and his family will face significant financial hardship. Mr. Batalla Vidal has also developed anxiety and stress related to the termination of the DACA program. If Mr. Batalla Vidal is deported, his family will also lose his emotional support and be irreparably harmed.

Plaintiff Antonio Alarcon

12. Plaintiff Antonio Alarcon (“Mr. Alarcon”) is a recipient of DACA. He resides in Queens, New York.

13. Mr. Alarcon was born in Mexico and has lived in New York since he was eleven years old. As a child, he lived in New York with his parents, while his younger brother stayed behind in Mexico with their grandparents. When Mr. Alarcon was seventeen, his grandparents passed away, and his parents felt compelled to return to Mexico to care for his younger brother. When his parents left, Mr. Alarcon moved in with his aunt and uncle.

14. Mr. Alarcon received DACA on March 26, 2013, with the assistance of MRNY, which then hired Mr. Alarcon as an Immigrant Youth Organizer. Employment by virtue of DACA enabled Mr. Alarcon to financially support himself, his aunt, and his uncle as he pursued his education.

15. Mr. Alarcon graduated from Flushing High School, and received his associate’s degree from LaGuardia Community College in 2015. He is currently pursuing a Bachelor of Arts degree in Film Studies from Queens College, where he is on track to graduate in December 2017.

16. Through his employment and volunteer activities, Mr. Alarcon has become a leading voice for youth in his community and beyond. From facilitating local youth meetings and retreats, to serving as a regional coordinator on national campaigns, he has worked to expand educational opportunities for immigrant youth throughout New York and the United States.

17. Defendants granted Mr. Alarcon DACA renewals on March 6, 2015 and again on January 26, 2017. His current grant will expire on January 25, 2019. He is ineligible to renew his

DACA because of Defendants' termination of the program, thereby jeopardizing his and his family's wellbeing.

Plaintiff Eliana Fernandez

18. Plaintiff Eliana Fernandez ("Ms. Fernandez") is a recipient of DACA. She resides in Suffolk County, New York.

19. Ms. Fernandez was born in Ecuador and came to the United States at the age of fourteen, where she was finally able to reunite with her parents after not seeing them for many years. She has lived in New York since she was fourteen years old. She has two New York-born, U.S. citizen, children of elementary-school age, whom she is raising.

20. Ms. Fernandez first received DACA on December 11, 2012 and renewed her status on November 4, 2016. Her current grant will expire on November 20, 2018, and so she is no longer eligible to renew DACA as a result of Defendants' termination of the program.

21. Ms. Fernandez has worked hard to build a life for herself and her family. Despite being ineligible for financial aid and other types of support, she attended St. Joseph's College, where she was on the Dean's List many semesters and earned a degree in Sociology in 2015. She now works as an Immigration Case Manager in MRNY's Long Island office. This semester she started graduate school at CUNY School of Professional Studies to obtain an Advanced Certificate on Immigration Law.

22. Ms. Fernandez is a mother and homeowner who contributes every day to the state of New York by working, studying, and giving back to her community. She was able to achieve these goals because of DACA, which allowed her to go back to school, earn a living wage, and purchase a home in which her children can grow up.

23. Without DACA, Ms. Fernandez would no longer have a driver's license to drive her children to the doctor or to school. Without the employment authorization that her DACA status provides, she could not afford her mortgage or her family's health insurance. Defendants' termination of the DACA program puts Ms. Fernandez at risk of being separated from her children, as she was from her parents as a child. As a result, Ms. Fernandez has developed anxiety and stress, as well as physical ailments. She was recently diagnosed with migraines for the first time and has developed severe neck pain which she attributes to the stress and emotional toll of her uncertain future.

Plaintiff Carlos Vargas

24. Plaintiff Carlos Vargas ("Mr. Vargas") is a recipient of DACA. He resides in Staten Island, New York.

25. Mr. Vargas was born in Puebla, Mexico. He came to the United States with his mother, who was struggling to raise Mr. Vargas and his siblings after Mr. Vargas's father passed away two months before he was born. Mr. Vargas has lived in New York City since he was four, and in Staten Island since he was sixteen.

26. Mr. Vargas began working in restaurants at age thirteen to help his family, leaving school at 3 P.M. and working shifts from 4 P.M. to midnight, five days a week. He had hoped to attend college but was told by a school counselor that he could not attend because he was undocumented.

27. After graduating from James Madison High School in Brooklyn, Mr. Vargas began working sixty hours per week to support his family, while remaining committed to going to college and earning a degree. Mr. Vargas learned that his undocumented status would not prevent him from enrolling in CUNY College of Staten Island ("CUNY CSI"), provided he

could pay his tuition without government loans. He applied for admission and was accepted. By taking classes at night and working full time during the day, Mr. Vargas obtained his Bachelor of Science degree in Business in 2014.

28. Mr. Vargas applied for DACA in August 2012. His application was granted on December 13, 2012. DHS renewed his DACA on November 14, 2014 and again on September 14, 2016, with his current grant expiring on September 13, 2018. Mr. Vargas is no longer eligible to renew DACA as a result of Defendants' termination of the program.

29. DACA allowed Mr. Vargas to obtain work authorization and a New York driver's license for the first time in his life, thereby opening up new employment and life opportunities.

30. After volunteering for many years in Staten Island for Make the Road New York, El Centro del Inmigrante, and the Staten Island Community Job Center, Mr. Vargas became accredited as a U.S. Department of Justice Accredited Representative, authorizing him to represent individuals before U.S. Citizenship and Immigration Services and the Executive Office for Immigration Review, the component of the Department of Justice that hears immigration cases.

31. Mr. Vargas now works at MRNY, where he screens individuals and provides assistance applying for DACA and other forms of immigration relief. He plans to become a lawyer so that he can be a more effective advocate for his community. In fall 2017, he began attending evening classes at CUNY School of Law.

32. Mr. Vargas financially supports himself and his elderly mother who is unable to work due to depression, anxiety, vision and other medical issues. Mr. Vargas is the primary person who cares for his mother, accompanies her to her many medical appointments, and pays

for her medical expenses. He is also financially responsible for multiple mortgages on homes he owns with his brother.

Plaintiff Mariano Mondragon

33. Plaintiff Mariano Mondragon (“Mr. Mondragon”) is a recipient of DACA. He resides in Queens, New York.

34. Mr. Mondragon was born in Mexico and first came to the United States with his father in 1999, when he was fourteen years old. Six months after they arrived, his father returned to Mexico while Mr. Mondragon remained in the United States with his aunt. He has not seen his parents in seventeen years.

35. Mr. Mondragon began working at the age of sixteen. Since graduating from Flushing High School in 2005, he has worked in the restaurant industry.

36. Mr. Mondragon has been married for five years. He and his wife have two U.S.-born children together, ages eight and eighteen months, and his wife is six months pregnant with their third child.

37. Mr. Mondragon also has a ten-year-old daughter from a previous relationship. Her mother moved to Mexico when she was pregnant. While Mr. Mondragon has never met his daughter in person, he provides financial support for her.

38. Mr. Mondragon received DACA on April 14, 2014 and renewed it on February 25, 2016. His DACA status will expire on February 24, 2018. In addition, two of Mr. Mondragon’s brothers are DACA recipients.

39. DACA has allowed Mr. Mondragon to support his family by working as a bartender in Manhattan and it has provided assurance that he will not be separated from his children and wife.

40. Mr. Mondragon applied to renew his deferred action under DACA in September 2017. He had to rush to get his application completed and submitted because the September 5, 2017, announcement only gave him until October 5, 2017 to apply.

Plaintiff Carolina Fung Feng

41. Plaintiff Carolina Fung Feng (“Ms. Fung Feng”) is a recipient of DACA. She resides in Middle Village, Queens.

42. Ms. Fung Feng was born in Costa Rica and came to the United States to live with her aunt in 2001 when she was twelve. She has not seen her father—her only living parent—since she left Costa Rica sixteen years ago. Ms. Fung Feng first applied for DACA around September 2012 and was approved around December 2012. She has successfully renewed DACA twice, in July 2014 and June 2016. Her status expires in August 2018, and so she is no longer eligible to renew DACA as a result of Defendants’ termination of the program.

43. Ms. Fung Feng graduated from Hunter College in January 2013 with a Bachelor of Arts in English-Spanish Translation and Interpretation, and English Language Arts. She also received an English teaching certification from Teaching House in 2015.

44. Ms. Fung Feng has worked for MRNY since 2015 as a Program Assistant for the Adult Literacy Program. She supports her younger brother, a U.S. citizen who graduated from CUNY City College in 2017, and her younger cousin, who came to the U.S. to study. Ms. Fung Feng recently enrolled in a GRE prep class in order to eventually attend graduate school.

Plaintiff Make the Road New York

45. Plaintiff Make the Road New York (“MRNY”) brings this action on behalf of itself, as well as on behalf of its clients and members and all similarly situated individuals. MRNY is a nonprofit, membership-based § 501(c)(3) organization dedicated to empowering

immigrant, Latino, and working-class communities in New York. With offices in Brooklyn, Queens, Staten Island, and Suffolk County, MRNY integrates adult and youth education, legal and survival services, and community and civic engagement, in order to assist low-income New Yorkers improve their lives and neighborhoods.

46. MRNY has a legal department staffed by twenty-three attorneys and eleven advocates who provide a broad range of civil legal services to immigrant New Yorkers. MRNY's immigration team provides individualized assistance to immigrants facing deportation, as well as in affirmative applications for immigration relief. MRNY also directly assists individuals prepare the documentation and paperwork necessary for DACA applications and renewals. Given the immigrant-rich nature of the New York neighborhoods it serves, MRNY's limited staff is unable to fully meet the high demand for its services and resources.

47. Consistently from June of 2012 until the last day that DACA renewal applications were accepted, MRNY held weekly DACA screening workshops at its Queens office and similar services at its other sites on an as-needed basis, escalating the number of workshops, screenings, and appointments in the final month that U.S. Citizenship and Immigration Services ("USCIS"), a component of DHS, accepted DACA renewal applications.

48. MRNY also assisted DACA-eligible individuals through its Action NYC program, which provides comprehensive immigration screenings to New Yorkers. In addition, MRNY provided assistance with DACA renewals in its Brooklyn, Staten Island, and Long Island offices, and continues to provide ongoing assistance to its clients and members whose initial and renewal applications were rejected by DHS. Since fall 2012, MRNY has conducted approximately 392 DACA clinics and has opened 4,560 DACA cases for clients, assisting a total

of 3,323 individuals. MRNY assisted its DACA-eligible clients with initial applications as well as renewals.

49. MRNY has more than 21,000 dues-paying members residing in New York City and Long Island, primarily in the boroughs of Queens and Brooklyn. Its members include Plaintiffs Batalla Vidal, Alarcon, Fernandez, Vargas, Mondragon, and Fung Feng, along with many other members who are already beginning to lose their DACA status as a result of Defendants' termination of the program.

50. Approximately twelve current MRNY employees have DACA, including Plaintiffs Alarcon, Fernandez, Fung Feng, and Vargas.

51. Approximately forty MRNY members, and a significant additional number of MRNY clients, have DACA that expires between September 5, 2017 and March 5, 2018 and were therefore subject to the mandatory October 5, 2017 renewal deadline. Of these members, MRNY was unable to reach four DACA recipients to inform them they needed to renew before October 5. Some MRNY members and clients had received notices from Defendants advising them to renew "as soon as possible" and within 120 to 150 days before their status expires. Defendants' notices made no mention of the October 5, 2017 deadline. None of these MRNY members or clients received a corrected notice from Defendants informing them of the mandatory October 5, 2017 deadline for renewals.

52. At least seven MRNY members, and an additional number of clients, were eligible for DACA as of September 5, 2017, but had not yet submitted their initial applications. Most of them were in the process of assembling the documentation necessary to satisfy the DACA eligibility requirements.

53. Still other youth members of MRNY, and an additional number of clients, were not eligible for DACA on September 5, 2017 but will become eligible for DACA in the future, under the terms of the 2012 Guidance. One client received a letter from his high school indicating he met the education requirement of DACA on September 7, 2017—two days after he lost the ability to apply for DACA.

54. At least nine members and/or clients of MRNY submitted renewal applications that arrived on October 5, 2017 at the Post Office Box designated by DHS, but DHS rejected these applications as untimely because DHS or its agents did not retrieve the applications from the U.S. Postal Service facility until the next day.

55. In addition, DHS rejected the renewal applications of at least three members and/or clients of MRNY due to unexpected mail delivery delays, notwithstanding that the applications were mailed well in advance of the October 5 deadline.

56. DHS rejected at least one MRNY member (Maria Santamaria Rivas)'s timely renewal application on the ground that a DHS employee misread the date on the accompanying \$495 check as "2012," when actually it read "2017." By the time DHS returned the rejected application, it was past October 5. The MRNY member resubmitted her renewal application with an explanation of DHS's mistake in reviewing her original timely-submitted renewal, but DHS rejected the resubmission as untimely.

57. Plaintiff MRNY, its staff, its members, and its clients are aggrieved by Defendants' final agency action and have exhausted their administrative remedies.

58. The legal interests of MRNY, its staff, its members, and its clients in not having the DACA program terminated unlawfully, and in having their DACA applications and renewals considered, are germane to MRNY's purpose of advocating for the rights of low-income

immigrant communities, to its role as an employer of individuals with DACA, and are inextricably bound up with the legal services that MRNY attorneys provide the organization's clients.

59. MRNY's clients face hindrances to bringing suit to protect their own interests, including but not limited to lack of notice, privacy concerns, fear of retaliation (against themselves and/or their families), language barriers, and lack of resources.

60. Defendants' unlawful termination of the DACA program has already directly harmed MRNY by causing the organization to divert its resources from other time-sensitive immigration cases to assist individuals to apply for renewals by October 5, 2017, to conduct additional screenings of its clients who are DACA recipients (members and non-members) to determine whether they are eligible for other forms of immigration relief, and to manage the fallout of the October 5 deadline—including advocating on behalf of its clients whose renewal applications were rejected despite being timely filed.

61. Since September 5, 2017, MRNY hosted twelve workshops on DACA renewal that they would not have had to host if Defendants had not terminated the program. MRNY's ActionNYC program in Queens, part of an initiative co-sponsored by the N.Y.C. Office of Immigrant Affairs and CUNY that connects New Yorkers with free and safe immigration services, has had to significantly shift its focus to addressing the needs of DACA-eligible clients above all others. Five Accredited Representative staff members who each do screenings and immigration application assistance had to cancel all of their September appointments and reschedule them for October and later, in order to schedule DACA renewal applications in their September slots. This also involved the extra administrative burden of calling and rescheduling numerous appointments and delaying work on their other active cases.

62. MRNY has also expended significant resources since the October 5 deadline because its clients' and members' applications were rejected by DHS. This has included: tracking the packages; investigating mail delays; contacting USCIS (the component of DHS that adjudicates requests for deferred action under DACA) about each individual application to request reconsideration of the rejection; and communicating with anxious clients about advocacy efforts and next steps.

63. In addition, MRNY's legal team has expended its limited resources creating Know-Your-Rights materials, answering calls, addressing walk-in questions, mailing renewal applications, and coordinating an emergency support plan, including mental health support, for members, clients, and staff due to the DACA Termination.

64. MRNY spent additional money on priority and overnight shipping fees for renewal applications to ensure they would arrive by the October 5 deadline. Notwithstanding these expenditures, some renewal applications did not arrive by the October 5 deadline because of unreasonable U.S. Postal Service delays.

65. MRNY expended time and resources advocating on several members' and clients' behalf to ask USCIS to reconsider their applications that were rejected unreasonably.

66. MRNY will sustain further injuries when its DACA employees lose work authorization as a result of the Defendants' actions.

67. MRNY has also expended extensive resources in bringing the current action to vindicate the rights of its members, its clients, itself, and others who are affected.

68. These injuries to MRNY, its members, and its clients would be redressed by a favorable decision from this Court.

69. As a New York-focused, non-profit organization, MRNY is a “small organization” under the RFA. 5 U.S.C. § 601(4). MRNY is directly affected by Defendants’ termination of DACA, as the Agency’s final action has adversely affected it. *Id.* § 611(a)(1).

Defendants

70. Defendant Kirstjen M. Nielsen is the Secretary of the U.S. Department of Homeland Security. She is sued in her official capacity.

71. Defendant Jefferson Beauregard Sessions III is the Attorney General of the United States and the head of the U.S. Department of Justice. He is sued in his official capacity.

72. Defendant Donald J. Trump is the President of the United States. He is sued in his official capacity.

STATEMENT OF FACTS

The 2012 DACA Memorandum

73. On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano (“the Secretary”) announced the creation of the DACA program, which set out guidelines for U.S. Citizenship and Immigration Services (“USCIS”) to use its prosecutorial discretion to extend deferred action to certain young immigrants “who were brought to this country as children and know only this country as home.” Mem. from Janet Napolitano, Sec’y of Homeland Security, to Alejandro Mayorkas, Dir., U.S. Citizenship and Immigration Servs., *Exercising Prosecutorial Discretion With Respect to Individuals Who Came to the United States as Children*, June 15, 2012 (“DACA Memorandum”) (attached hereto as Exhibit A). Those granted deferred action also became eligible for employment authorization. 8 C.F.R. § 274a.12(c)(14).

74. The DACA Memorandum states that individuals who came to the United States as children, lack a serious criminal history, attend school or participate in the Armed Services, and

meet other criteria may request that the Secretary grant deferred action, a discretionary form of relief from removal, for a period of two years, subject to renewal. Those granted deferred action in this manner could also obtain employment authorization and a social security card. *See* Ex. A, DACA Memorandum.

75. The Secretary made findings that the individuals eligible to apply for DACA “have already contributed to our country in significant ways” and “lacked the intent to violate the law.” *Id.* at 1. She found that our nation’s immigration laws “are not designed to be blindly enforced without consideration given to the individual circumstances of each case,” and that the limited resources of DHS must be “focused on people who meet our enforcement priorities.” *Id.*

76. Individuals who met the criteria listed in the DACA Memorandum did not automatically receive deferred action. Instead, DHS was directed to exercise its discretion to consider grants of deferred action “on a case by case basis.” *Id.*

77. Pursuant to the DACA Memorandum, USCIS established an application and background-check procedure to evaluate whether individuals would qualify for deferred action. Applicants were required to disclose extensive sensitive and personal information to Defendants, including their lack of lawful immigration status as of June 15, 2012, current and previous mailing addresses, country of birth, dates of initial and subsequent entries, and contact information. *See* USCIS Form I-821D and Instructions (attached hereto as Exhibit B).

78. In order to prove that they met the eligibility criteria, DACA applicants also routinely provided Defendants documents containing personal information, including copies of school records, pay stubs, bank statements, passports, birth certificates, and similar records.

79. The information and records DACA applicants provided Defendants frequently included sensitive and personal information about third parties as well, including family members of DACA applicants.

80. Defendants consistently represented to DACA applicants that the information they provided would be protected from disclosure to U.S. Immigration and Customs Enforcement (“ICE”) and Customs and Border Protection (“CBP”) for immigration enforcement proceedings against them and their family members or guardians, except in limited, delineated circumstances. *Id.* at 20; U.S. Citizenship & Immigration Servs.: Frequently Asked Questions (excerpt attached hereto as Exhibit C); Letter from Jeh Johnson, Sec’y of Homeland Sec., to Judy Chu, U.S. House Representative (Dec. 30, 2016) (“[T]he U.S. government represented to [DACA] applicants that the personal information they provided will not later be used for immigration enforcement purposes. . . . We believe these representations . . . must continue to be honored.”) (attached hereto as Exhibit D). These assurances allowed applicants to apply for deferred action without fear that the information they provided would later be used by Defendants to deport them or their families.

Impact of the DACA Program

81. Since the program was first introduced in 2012, nearly 800,000 individuals have received deferred action and employment authorization under DACA. Close to 42,000 DACA recipients live in New York State alone.

82. As a result of the DACA program, these young immigrants have been able to enroll in colleges and universities, and to obtain jobs, driver’s licenses, bank accounts, and health insurance (through employment, college, or state-run programs). DACA recipients have come to rely on the program to allow them to work, study, and live without the constant threat of

deportation. Indeed, in reliance on the program, DACA recipients have made significant investments in their futures, such as enrolling in higher education and graduate programs; pursuing employment opportunities; marrying and having children of their own; and purchasing homes and automobiles, to name a few examples.

83. They have also relied on the availability of renewing DACA. New York DACA recipients have submitted more than 53,000 renewal applications since DACA began—10,000 more than initial applications, meaning that some recipients have renewed more than once.

84. This reliance has continued since Defendant President Trump took office, because he maintained the program for nearly eight months, accepting both first-time applications and renewals while assuring DACA-eligible immigrants that he would “take care of” them.

85. The Trump Administration’s arbitrary decision to terminate DACA reverberates well beyond the nearly 800,000 DACA recipients. The opportunities DACA recipients acquired and created as a result of the program benefitted their families, communities, and employers, as well. All of these groups stand to lose these gains, on which they have come to rely, if Defendants’ arbitrary decision to end DACA stands.

86. For example, Ms. Fernandez works as an immigration advocate with MRNY and is enrolled in a graduate program at CUNY School of Professional Studies to obtain an Advanced Certificate on Immigration Law. Without DACA, she will be forced to leave her job and cease her studies. If Ms. Fernandez is deported, her two U.S.-citizen sons will be left without their primary caretaker. Like Ms. Fernandez, many DACA recipients depend on their work authorization to financially support family members, including U.S.-citizen children and siblings.

87. The positive impact DACA has made on the overall U.S. economy would disappear if the Administration’s arbitrary decision to terminate the program holds. Economists

calculate that DACA has boosted labor-force participation, raised DACA recipients' purchasing power, and increased state and federal tax revenues.

88. Economists estimate that the U.S. economy would lose tens of billions of dollars if the program is terminated. New York state alone stands to lose nearly \$2.6 billion if DACA recipients leave the workforce. Terminating the program will have a significant fiscal and economic cost—estimated to be more than \$60 billion—borne by the entire U.S. population.

The Trump Administration's Animus Toward Individuals of Latino and Mexican Heritage

89. A hallmark of Defendant Trump's campaign and presidency has been unabashed nativism, in both words and deeds, rarely seen in this country's recent history. As part of that nativist platform, Defendant Trump and some members of his Administration have portrayed immigrants as imminent threats to the health, safety, and wellbeing of the United States.

90. One group that Defendant Trump has repeatedly targeted is Latinos, especially those of Mexican heritage. When Defendant Trump announced his candidacy in June 2015, he labeled Latinos and Mexicans as "criminals," a characterization he used to justify his harsh immigration proposals.

91. In his presidential announcement speech, then-candidate Trump stated: "When Mexico sends its people, they're not sending their best . . . They're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists."

92. Defending these remarks, then-candidate Trump explained: "I can't apologize for the truth. I said tremendous crime is coming across." He later added: "What can be simpler or more accurately stated? The Mexican Government is forcing their most unwanted people into the United States. They are, in many cases, criminals, drug dealers, [and] rapists"

93. A few weeks after he announced his candidacy, Defendant Trump again described Mexicans as murderers and rapists, stating, “I do business with the Mexican people, but you have people coming through the border that are from all over. And they’re bad. They’re really bad.” He labeled the people who were coming in as “killers and rapists.”

94. During a Republican presidential debate in August 2015, then-candidate Trump again characterized Mexicans as criminals. He stated that “the Mexican government is much smarter, much sharper, much more cunning and they send the bad ones over because they don’t want to pay for them, they don’t want to take care of them.”

95. Later that same month, Defendant Trump criticized fellow-candidate Jeb Bush because his wife is Latina, retweeting a post criticizing Governor Bush, which told him to stop speaking “Mexican” and instead speak English.

96. In May 2016, then-candidate Trump criticized U.S. District Judge Gonzalo Curiel for his Mexican heritage. Judge Curiel was born a U.S. citizen in Indiana. While Judge Curiel was presiding over a lawsuit against Trump University, then-candidate Trump complained that the jurist would not be able to fairly adjudicate the case because of his ancestry: “He’s a Mexican. We’re building a wall between here and Mexico. The answer is, he is giving us very unfair rulings—rulings that people can’t even believe.”

97. Since his inauguration, Defendant Trump has continued to express animus toward Mexicans and Latinos through both his words and actions. In August 2017, in a speech in Arizona, Defendant Trump described some undocumented immigrants as “animals.”

98. That same month, Defendant Trump pardoned former Sheriff Joe Arpaio for contempt of court. Sheriff Arpaio had violated an injunction barring the Maricopa County Sheriff’s Office from implementing a policy that allowed officers to arrest someone on suspicion

of illegal presence and directed officers to consider “race or ‘Mexican ancestry’” as a factor. *United States v. Arpaio*, 2017 WL 3268180 (D. Ariz. 2017). By pardoning Sheriff Arpaio, Defendant Trump implicitly approved of unconstitutional discrimination against Latinos and Mexicans, and stated that Sheriff Arpaio was convicted merely for “doing his job.”

99. In his speeches since the Inauguration, when discussing the undocumented Latino community, Defendant Trump has characterized them as criminals and gang members.

100. In his April 2017 prepared remarks announcing the Department of Justice’s “Renewed Commitment to Criminal Immigration Enforcement,” Defendant Sessions argued for securing the borders by taking a stand against “filth.”

The Trump Administration’s Decision to Terminate the DACA Program

101. On June 29, 2017, Texas Attorney General Ken Paxton, along with the attorneys general of nine other states, wrote Defendant Sessions threatening to amend their complaint in *Texas v. United States*, No. 1:14-cv-00254 (S.D. Tex.), to challenge the DACA program if Defendants did not terminate DACA by September 5, 2017.

102. On September 5, 2017, Elaine Duke, then-Acting Secretary of DHS, issued a memorandum announcing that DHS would terminate the DACA program. *See* Mem. from Elaine C. Duke, Acting Sec’y of Homeland Sec., to James W. McCament, Acting Dir., U.S. Citizenship and Immigration Servs., *Memorandum on Rescission of Deferred Action For Childhood Arrivals (DACA)*, Sept. 5, 2017 (“Duke Memorandum”) (attached hereto as Exhibit E).

103. Defendants Sessions and Trump and the Acting Secretary jointly made the decision to end DACA and jointly prepared the Duke Memorandum.

104. The Duke Memorandum directed DHS to categorically reject all new applications for deferred action received after September 5, 2017. It also directed DHS to only consider

deferred action renewal applications from existing DACA recipients whose status expires on or before March 5, 2018, but only if such renewal applications were received by October 5, 2017. DHS is categorically rejecting deferred action renewal applications from DACA recipients whose deferred action expires after March 5, 2018 and has already started categorically rejecting renewal applications received after October 5, 2017.

105. The Acting Secretary stated that the decision was based on two reasons: (1) the preliminary injunction issued against a separate program, *see Texas v. United States*, 86 F. Supp. 3d 591 (S.D. Tex. 2015), *aff'd*, 809 F.3d 134 (5th Cir. 2015), *aff'd by an equally divided court*, 136 S. Ct. 2271 (2016) (per curiam); and (2) Defendant Sessions' opinion that DACA "was an unconstitutional exercise of authority by the Executive Branch," *see* Ex. E, Duke Memorandum.

106. DHS provided no other explanation for its decision to terminate DACA.

107. The preliminary injunction issued by a Texas court does not reach the original DACA program. Rather, it enjoins the Deferred Action for Parents of Americans and Lawful Permanent Residents program, a different program that was never implemented.

108. On September 5, 2017, Defendant Sessions held a press conference, falsely asserting that DACA "contributed to a surge of unaccompanied minors on the southern border that yielded terrible humanitarian consequences." He stated further, "It also denied jobs to hundreds of thousands of Americans by allowing those same jobs to go to illegal aliens." *Attorney General Sessions Delivers Remarks on DACA*, Dep't of Justice (Sept. 5, 2017) (attached hereto as Exhibit F).

109. While then-Secretary Duke based the decision to terminate DACA on the legally erroneous conclusion that DHS lacks authority to exercise its discretion in granting deferred action under DACA, Defendant Trump has made contradictory statements that suggest he

believes it is within his executive authority. On September 5, 2017, shortly after the DACA Termination was published, Defendant Trump tweeted that if Congress did not act before March 5, 2018, he would “revisit this issue.” If the unlawfulness of DACA were the true reason for terminating the program, then the President would lack authority to “revisit” ending DACA.

110. In addition, on September 14, 2017, a week after the Administration’s announcement terminating DACA, and facing multiple suits challenging his actions, Defendant Trump tweeted, “Does anybody really want to throw out good, educated and accomplished young people who have jobs, some serving in the military? Really!.....” This statement is inconsistent with previous statements by Defendant Trump and the Trump Administration, and reflects the arbitrariness of the Administration’s decision to end the program.

111. The DACA status of more than 150,000 DACA recipients will expire before March 5, 2018. Many of those individuals received the standard DHS renewal notice directing the recipient to submit a renewal application “as soon as possible,” and to avoid a lapse in status by submitting the renewal application 120 to 150 days before expiration. *See* Dep’t Homeland Sec., I-797C Notice of Action, July 15, 2017 (attached hereto as Exhibit G).

112. Defendants’ renewal notices did not advise recipients whose status will expire before March 5, 2018 that they, in fact, had to submit a renewal application by the October 5, 2017 deadline.

113. On information and belief, DHS did not provide accurate or corrected individualized notices to those DACA recipients who had to renew by October 5, 2017, including those individuals whom Defendants had previously advised to renew “as soon as possible” but without mention of the October 5, 2017 deadline.

The Trump Administration's Unfair and Arbitrary Implementation of the DACA "Wind Down" Process

114. The Duke Memorandum provided that DHS would consider renewal applications from DACA recipients whose status was set to expire on or before March 5, 2018 and had not already expired before the date of the announcement, if DHS received the application by October 5. However, DHS refused to consider many renewal applications on the basis of factors over which the renewal applicants had no control, and without providing notice of the additional grounds for rejection.

115. USCIS directed DACA renewal applicants to send applications to one of three "Lockboxes," located in Chicago, Dallas, and Phoenix. Each "Lockbox" has an address that receives applications sent via the U.S. Postal Service (a Post Office box) and a separate address that receives applications sent via FedEx, UPS, and DHL. DACA renewal applicants were each given one designated address to which to mail their renewal application based on their home address; this was the exclusive address to which they could mail their renewal application and no hand-delivered applications were accepted.

116. At each Lockbox, upon information and belief, government agents retrieve applications, collect applicable fees, and verify that the applications do not have any facial clerical errors. Upon information and belief, USCIS staff then either forwards an application to a Service Center for adjudication or rejects the application and returns it to the applicant. New York DACA recipients were directed to send their renewal applications to the Chicago Lockbox, with a Chicago Post Office box address.

117. USCIS never announced a time on October 5 by which renewal applications had to be delivered to the Lockbox. However, on information and belief, Lockbox staff stopped retrieving renewal applications from the designated Post Office box locations at some point in

the afternoon or evening of October 5. USCIS did not collect renewal applications that arrived at the Post Office boxes after that point until October 6, and USCIS subsequently rejected them as untimely.

118. For example, Varlene Cooper is a DACA recipient and a member of MRNY. She came to the United States when she was about 12 years old and works two jobs, as an EMT and a dialysis technician, in order to support her two children and her ill mother. Ms. Cooper's renewal application arrived at the Chicago Lockbox's Post Office box address at 6:01 PM local time on October 5 and was available for pickup by 6:38 PM. However, the Lockbox staff did not retrieve the application until 7:21 the next morning. DHS rejected her renewal application as untimely, refusing to adjudicate it even though it arrived at the designated Post Office box on October 5. Ms. Cooper's deferred action grant expired on November 24, 2017.

119. MRNY has eight other clients whose renewal applications arrived at the designated Post Office box address on October 5, but were not retrieved by USCIS staff until the next day and were subsequently rejected by USCIS as untimely.

120. After MRNY sent a letter to Counsel for Defendants in this case, USCIS decided to reconsider Ms. Cooper's renewal application, and it was approved on November 30, 2017.

121. Other DACA recipients mailed their renewal applications well in advance of the October 5 deadline, but the U.S. Postal Service unreasonably delayed the delivery of those applications. As a result, their applications arrived after October 5, and USCIS rejected them as untimely. *See Liz Robbins, Post Office Fails to Deliver on Time, and DACA Applications Get Rejected*, N.Y. TIMES (Nov. 11, 2017), attached hereto as Exhibit H.

122. For example, Jorge Gonzalez Alvarado is a MRNY member and Staten Island resident who has lived in the United States since he was two years old. DACA has enabled him

to obtain a driver's license and begin a career in plumbing, through which he can support his parents. He just finished the first year of a plumbing apprenticeship program. Mr. Gonzalez Alvarado mailed his renewal application on September 14, 2017, but due to unforeseeable U.S. Postal Service delays, the renewal application was not delivered to the designated Post Office box until October 6, and USCIS did not retrieve the application until October 10. USCIS rejected Mr. Gonzalez Alvarado's application as untimely. Plaintiffs' counsel informed Counsel for Defendants of Mr. Gonzalez Alvarado's circumstances, but has yet to receive a response.

123. DHS also rejected renewal applications that originally had been received by the October 5 deadline, but had been returned to the applicant due to real or perceived clerical errors. The rejection notices contained a sentence inviting the applicant to correct the error and re-file. In addition, many of these individuals received a separate document with their rejection notice and rejected applications, printed on a green piece of paper, inviting them to correct the error and re-apply with the green sheet on top of their re-submission packet, even if the applicant did not receive their rejection itself until after October 5. *See, e.g.*, Sample Invitation to Reapply, attached hereto as Exhibit I. Previous to Defendants' DACA Termination, individuals whose applications were rejected for minor clerical errors were allowed to correct those errors and re-submit, or in some cases, instead of outright rejecting an application, USCIS would issue a Request for Further Evidence ("RFE") and allow the applicant to provide that evidence within a designated period of time. However, in all cases rejected between September 6 and October 5, 2017, by the time applicants received their rejected applications and were able to resubmit with corrections, USCIS rejected their applications as untimely as having been filed after October 5. Upon information and belief, USCIS did not issue any RFEs to correct these minor errors, instead outright rejecting entire application filings.

124. For example, Maria Santamaria Rivas is a MRNY member who has lived in the United States since she was 3 years old. She timely submitted her DACA renewal application after the announcement of the DACA Termination, with a check for her fees that was dated September 28, 2017. USCIS received the application on October 2, but a USCIS employee misread her check and rejected her entire application on that basis, stating, “The date on the check/money order is not current.” Ms. Rivas’s attorney received the Rejection Notice on October 10, 2017, and provided a new check as requested. USCIS rejected the resubmitted application as untimely. She was not considered for renewal of her DACA status. On November 17, 2017, a MRNY attorney emailed the USCIS Lockbox Support email to request that USCIS consider the corrected application with the original received date of October 2, 2017. *See* Copy of Email Exchange between Alexandra S. Lee, Esq., and Hillary, attached hereto as Exhibit J. On November 22, 2017, a USCIS Lockbox Support staff member, Hillary, responded in relevant part: “The original received date cannot be assigned to a resubmission. . . . USCIS is *currently not accepting* initial or renewal filings for DACA requests.” *Id.* (emphasis in original). Subsequently, undersigned counsel requested reconsideration of Ms. Rivas’s case, along with thirteen other individuals whose cases were rejected for minor perceived or actual clerical errors, on December 4, 2017, but have yet to receive a response from USCIS.

125. In addition, some applications were affected by both the U.S. Postal Service delays and also contained real or perceived clerical errors, and were therefore rejected for either or both reasons, and not allowed to reapply.

126. USCIS’s arbitrary and unfair rejections of deferred action renewal applications were not limited to the Chicago Lockbox.

127. The Phoenix Lockbox rejected at least seven California applicants whose applications were received before October 5 on the basis of perceived or actual clerical errors. At least one of these applicants received a separate document printed on a green piece of paper, inviting them to correct the error and re-submit their application, with no deadline for the re-submission. *See* Ex. I (Sample Invitation to Reapply). All of these individuals' re-submissions were subsequently rejected as untimely despite their attempts to resubmit corrected applications.

128. Twelve applicants from Texas mailed their renewal applications to the Dallas Lockbox's designated Post Office box address on September 25 via certified mail, but the U.S. Postal Service delayed the delivery until October 6, 2017. USCIS rejected the applications as untimely. The attorney for those twelve clients has contacted their Congress member and has attempted to re-submit them with USCIS, but has not yet received any response from USCIS.

129. On November 15, 2017, counsel for Defendants announced that USCIS would, in fact, reconsider some DACA renewal applications that had been rejected, if they were delayed unreasonably by the U.S. Postal Service and the individual could provide "individualized proof" of the mail delay, or if the application was improperly rejected. *See* ECF No. 108, attached hereto as Exhibit K. While USCIS announced it would release further guidance on November 20, it did not do so until November 30.

130. The November 30 USCIS website publication—a paragraph and a Frequently Asked Questions ("FAQs") on Rejected DACA Requests—was incomplete and still did not explain how individuals were supposed to re-submit their applications. *See* U.S. Citizenship and Immigr. Servs., *Frequently Asked Questions: Rejected DACA Requests* (Nov. 30, 2017) ("Specific guidance will be provided soon about the steps that a DACA recipient must take to resubmit his or her renewal request to USCIS if the filing was rejected due to U.S. Postal Service

mail-service delays.”) (“Nov. 30 FAQs”), attached hereto as Exhibit L. The Nov. 30 FAQs state that USCIS will directly contact individuals whose applications were received and erroneously rejected on October 5, and provides a 33-day period for resubmission once contacted by USCIS.

131. On December 7, 2017, USCIS updated its FAQs to include information stating that individuals who were affected by mail delays will be contacted by USCIS by mid-December, and providing instructions on what to submit when they are invited to reapply. *See* U.S. Citizenship and Immigr. Servs., *Frequently Asked Questions: Rejected DACA Requests* (Dec. 7, 2017) (“Dec. 7 FAQs”), attached hereto as Exhibit M.

132. The Nov. 30 FAQs and Dec. 7 FAQs do not address applications that were rejected for minor perceived or actual clerical errors. Both documents state, “If USCIS rejected your timely filed renewal request because it was not properly filed, that is a valid reason for rejection and it will not be reconsidered.” Nov. 30 FAQs; Dec. 7 FAQs. These individuals, as well as individuals whose applications were affected by both mail delays and minor perceived or actual clerical errors, remain without relief.

133. Because USCIS’s November 15 and November 30 announcements did not provide guidance on how rejected applicants could re-submit and did not provide any relief for those rejected for real or perceived minor clerical errors, undersigned counsel sent a letter to Defendants’ counsel on December 4, 2017, bringing the cases of 16 individuals to USCIS’s attention and requesting reconsideration. While USCIS’s subsequent December 7 FAQs provide some guidance to individuals whose applications were rejected due to mail delays, it still does not address individuals whose applications were rejected due to minor clerical errors or those affected both by mail delays and minor clerical errors.

134. Individuals who had their applications rejected for perceived or actual minor clerical errors, including Ms. Rivas, are currently being harmed because USCIS is not accepting re-submission of their applications.

Impact of the DACA Termination on Named Plaintiffs and the Putative Class

135. The DACA Termination has already begun to upend the lives of the nearly 800,000 DACA recipients, as well as those of their families, communities, and employers. Without DACA, the Individual Plaintiffs will soon lose their work authorization, preventing them from supporting themselves and their families. MRNY will lose approximately a dozen highly valued employees.

136. For example, Mr. Batalla Vidal relies on his work authorization through DACA to work at a rehabilitation center caring for elderly and disabled patients; he supports himself, his mother, and his younger siblings. Without Mr. Batalla Vidal's income, he and his family will face substantial financial hardship.

137. Ms. Fernandez depends on her work authorization to support herself and her two U.S.-citizen children.

138. Additionally, the DACA Termination will prevent DACA recipients from enrolling in university and graduate programs since they will be unable to secure employment after graduating, blocking all future opportunities for professional or educational advancement. Similarly, their inability to secure employment while in school will severely hinder their financial ability to afford their education.

139. For example, Mr. Alarcon relies on DACA to allow him to enroll as a Bachelor of Arts candidate at Queens College, where he is on track to graduate in December 2017.

140. Ms. Fernandez has also relied on DACA to graduate from college and in September 2017 enrolled in graduate school at CUNY School of Professional Studies to obtain an Advanced Certificate on Immigration Law.

141. The October 5, 2017 renewal deadline imposed on DACA recipients whose deferred action and work permit expire before March 5, 2018 was untenable for many DACA recipients for various reasons, including financial ones. The rush to file an important application on less than a month's notice also led to many individuals making minor errors, such as forgetting to check a box, forgetting to sign or signing in the wrong place, or submitting a check for what applicants previously had to pay for DACA renewal—\$465, instead of the new fee of \$495—or for some other erroneous amount.

142. The October 5, 2017 renewal deadline imposed on DACA recipients was also administered in an arbitrary manner. Many DACA recipients submitted their renewal applications as soon as they could before the October 5 deadline, but were nonetheless rejected for reasons outside of their control. The harms of this are already beginning to be felt: for example, four MRNY members' current grants of DACA expire in December 2017: a father of five U.S. citizen children; a twenty-one-year-old who has lived in the U.S. since he was six years old; a young man who is both working and going to college full time; and a nineteen-year-old college student who has been in the U.S. since she was three years old. These four individuals—along with many others across the country—stand to lose everything they have worked for in the only country they know as home.

143. In addition, the September 5, 2017 cutoff for initial applicants has inflicted severe harm on those who were unable to file by September 5, 2017.

144. For example, Jose Rangel is DACA eligible, lives in Houston, Texas, and is thirty-four years old. He arrived in the United States from Mexico when he was six. He is married and has a seven-year-old U.S.-citizen daughter.

145. Mr. Rangel did not apply for DACA in 2012 because he received erroneous legal advice that he was not eligible. Years later, a friend insisted he was eligible and encouraged him to apply.

146. In mid-to-late August 2017, Mr. Rangel and his lawyer completed his initial application, which was ready to be finalized and mailed. On September 5, 2017, when Mr. Rangel heard Defendant Sessions' announcement, he was relieved that he had finished his DACA application two-weeks earlier and assumed it had been submitted.

147. After calling his lawyer to confirm, Mr. Rangel found out that due to Hurricane Harvey, his lawyer's office had been closed and they were behind on mailing out applications—preventing his initial DACA application from being filed by September 5, 2017 and depriving him of the opportunity to receive deferred action.

148. Similarly, M.J. is an eighteen-year-old Mexican national who has lived in the United States for almost all of her life. M.J.'s U.S.-citizen stepfather had been in the process of petitioning for her to receive permanent resident status. However, her stepfather became abusive and recently abandoned the family petition, leaving M.J. without status.

149. M.J. met with non-profit attorneys who advised her to apply for DACA. The attorneys started work on the case, but Hurricane Harvey prevented them from completing the application because their homes and offices were flooded and closed.

150. On the day Harvey landed, the attorneys tried to work with M.J. to get documents together and file for DACA prior to the expected announcement of the program's termination,

but Houston was largely under water and the schools were closed, preventing M.J. from getting the requisite documents, the attorneys from getting into the office, and the postal service from sending any mail. There was no viable way for M.J. to file her DACA before September 5th.

151. The DACA Termination, in most states, including New York, will prevent individuals from obtaining driver's licenses or state identification cards. For example, Ms. Fernandez relies on her driver's license to bring her children to school every day and the doctor when needed. Many DACA recipients rely on driver's licenses or state identification cards as a form of photo identification for banking, insurance, notarizations, and other everyday services.

152. Moreover, the DACA Termination places these individuals at risk of immediate apprehension and deportation. Under Defendant Trump, DHS has significantly increased its targeting of DACA recipients whose statuses have lapsed for deportation.

153. The Trump Administration's new enforcement priorities, which are so all encompassing that they cannot in earnest be called "priorities," target individuals who would qualify for DACA. Trump has directed DHS to prioritize for removal anyone present in the United States without admission or parole, including those eligible for DACA under the 2012 guidance.

154. In fact, at the same time the DACA Termination was announced, the government issued "talking points" stating, *inter alia*, that: "The Department of Homeland Security urges DACA recipients to use the time remaining on their work authorization to prepare for and arrange their departure from the United States" Similarly, a DHS "Frequently Asked Questions" document issued the same day refers to the time period prior to March 5, 2018 as a "grace period for DACA recipients" whose grants of deferred action will soon expire "to make appropriate plans to leave the country."

155. DHS can easily deport the Plaintiffs because the Department already has their personal information. Plaintiffs and other DACA recipients provided extensive personal information to DHS in reliance on the agency's repeated promises to use the information only to grant them protection from deportation, and not to use that information for immigration-enforcement purposes except in narrow, delineated circumstances.

156. Notwithstanding those prior assurances, DHS has changed its policy regarding the permissible uses of the information provided by DACA applicants to remove the limitations on using that information for immigration-enforcement purposes. This policy change constitutes final agency action.

157. If they are deported from the United States, Plaintiffs and others similarly situated face grievous harm. The Individual Plaintiffs, as well as the members and clients of MRNY, will be forced to leave the only country that many of them have known as home; they have grown up in American neighborhoods, attended American schools, and have structured their lives around living in the United States.

158. The termination of DACA is already having profound impacts on the lives of DACA recipients. DACA recipients, including Individual Plaintiffs, fear deportation. Some have started to make provisions for what happens if they were deported, such as having difficult conversations with their parents and children about emergency plans.

159. Faced with the loss of their work authorization, many DACA recipients, including Mr. Batalla Vidal, have taken on additional jobs while they still have work authorization.

CLASS ACTION ALLEGATIONS

160. Pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, Named Plaintiffs seek to represent a certified Plaintiff class consisting of (1) all persons with deferred

action through DACA as of September 5, 2017; and (2) all persons who are or will be eligible for deferred action under the terms of the original DACA guidance issued by the Department of Homeland Security (“DHS”) in 2012; (3) *except* the individual recipients of, or applicants for, deferred action through DACA who are Plaintiffs in other actions challenging the DACA Termination in a U.S. District Court as of December 11, 2017.²

161. Plaintiffs seek to represent the above-described class for all claims except that under the Regulatory Flexibility Act.

162. This action meets all the Rule 23(a) prerequisites for maintaining a class action.

163. The class members are sufficiently numerous as to render joinder impracticable, satisfying Rule (23)(a)(1). Defendants’ decision to terminate the DACA program without providing adequate reasons and based on legal error, without going through the proper notice-and-comment procedure, without providing corrected notices to individual recipients subject to the October 5, 2017 renewal deadline, and based on animus toward individuals of Latino and Mexican origin, harms millions of individuals residing throughout the United States. In addition, the class action is the only appropriate procedural avenue for the protection of the class members’ constitutional rights and rights under the APA.

164. This action presents common questions of law and fact, resolution of which will not require individualized determinations of the circumstances to any plaintiff, satisfying Rule 23(a)(2). Such common questions of law and fact include, but are not limited to:

² Other cases challenging the DACA termination currently before a U.S. district court as of December 11, 2017 include *New York v. Trump*, No. 17-cv-5228 (E.D.N.Y. filed Sept. 6, 2017); *Regents of Univ. of California v. DHS*, No. 17-cv-05211 (N.D. Cal. filed Sept. 8, 2017); *State of California v. DHS*, No. 17-cv-05235 (N.D. Cal. filed Sept. 11, 2017); *City of San Jose v. Trump*, No. 17-cv-05329 (N.D. Cal. filed Sept. 14, 2017); *Garcia v. United States of America*, No. 17-cv-05380 (N.D. Cal. filed Sept. 18, 2017); *County of Santa Clara v. Trump*, No. 17-cv-05813 (N.D. Cal. filed Oct. 10, 2017); *CASA de Maryland v. DHS*, No. 17-cv-02942 (D. Md. filed Oct. 5, 2017); *NAACP v. Trump*, No. 17-v-01907 (D.D.C. filed Sept. 18, 2017); and *Park v. Sessions*, No. 17-cv-01332 (E.D. Va. filed Nov. 21, 2017).

- a. whether the DACA Termination constituted a substantive rule, such that notice-and-comment rulemaking was required under 5 U.S.C. § 706(2)(D);
- b. whether Defendants' DACA Termination and change in the policy regarding the permissible uses of the sensitive information DACA applicants provided was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with the law, in violation of 5 U.S.C. § 706(2)(A);
- c. whether Defendants failed to provide corrected notices to individuals whom Defendants had previously written advising them to renew "as soon as possible" but without mention of the October 5, 2017 deadline, in violation of procedural due process;
- d. whether Defendants unfairly and arbitrarily rejected deferred action renewal applications in violation of procedural due process; and
- e. whether the termination of DACA was substantially motivated by animus toward individuals of Latino and Mexican origin, and whether it had a disparate impact on such individuals in violation of the equal protection guarantee of the Due Process Clause of the Fifth Amendment.

165. The Named Plaintiffs' claims are typical of the putative class, satisfying Rule 23(a)(3). Like the other members of the class, the Defendants' termination of the DACA program and change to the confidentiality policy without providing adequate reasons, in violation of 5 U.S.C. § 706(2)(A); failure to go through the proper notice-and-comment procedure, in violation of 5 U.S.C. § 706(2)(D); having its decision substantially motivated by animus, in violation of the equal protection guarantee of the Fifth Amendment; failure to provide adequate notice to individuals who were obligated to renew by October 5, 2017, in violation of the Due Process Clause of the Fifth Amendment; and arbitrarily and unfairly rejecting renewal

applications, in violation of the Due Process Clause of the Fifth Amendment, harms the Named Plaintiffs.

166. The interests of the putative class are fairly and adequately protected by the Named Plaintiffs and their attorneys, satisfying Rule 23(a)(4).

167. The Named Plaintiffs' interests do not conflict with other members of the class. Instead, the Named Plaintiffs' interests are the same as those of the class: not to be subjected to agency rules that are promulgated without adequate basis, without undergoing the required notice-and-comment procedure, and that are implemented without fair notice and based on animus toward individuals of Latino and Mexican origin.

168. The legal theories under which the Named Plaintiffs seek declaratory and injunctive relief are the same or similar to those on which all members of the class would rely, and the harms suffered by the Named Plaintiffs are typical of those suffered by the class members.

169. With respect to Rule 23(a)(4) adequacy, undersigned counsel are qualified, experienced, and able to conduct the litigation. The attorneys have the necessary knowledge, experience, and resources to litigate this matter. In addition, attorneys have expended the time and effort necessary to identify the class.

170. Counsel for Plaintiffs do not anticipate any conflicts of interest between the Named Plaintiffs and the other class members, nor does Counsel anticipate any reason that the other class members would dispute the adequacy of Counsel's representation.

171. This action also meets all the requirements of, and is brought in accordance with, Rule 23(b)(2). Defendants' unlawful termination of the DACA program and changes to the confidentiality policy pose a real and immediate threat generally applicable to each member of

the class, thus making final declaratory and injunctive relief with respect to the class as a whole appropriate.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Administrative Procedure Act: Agency Action Without Observance of Procedure Required By Law By all Plaintiffs against Defendants Nielsen and Sessions

172. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

173. The APA requires that agency action that is substantive in nature follow notice-and-comment procedures. 5 U.S.C. § 706(2)(D).

174. The DACA Termination constitutes a substantive rule, as it binds DHS to categorically deny applications for deferred action to individuals who fit the original DACA eligibility criteria.

175. It is undisputed that Defendants failed to follow notice-and-comment rulemaking procedures prior to issuing the DACA Termination.

176. Defendants' termination of DACA violated the APA.

SECOND CLAIM FOR RELIEF

Administrative Procedure Act: Agency Action that is Arbitrary and Capricious, An Abuse of Discretion, and Otherwise Not In Accordance with Law By all Plaintiffs against Defendants Nielsen and Sessions

177. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

178. The APA prohibits federal agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

179. Defendants' DACA Termination and its change to the confidentiality of DACA applicant information constitute final agency action, and are arbitrary and capricious, an abuse of discretion, and otherwise not in accordance with the law because they (a) lack a rational explanation for the change in policy on which persons had reasonably relied, (b) are based on a legal error, and (c) failed to consider all relevant factors.

180. Defendants justified the DACA Termination on the grounds of litigation risk and the legal conclusion that the program is unlawful. These grounds are inadequate to justify termination, are legally erroneous, and fail to address the government's previous conclusion that the DACA program was lawful. These justifications are also contradicted by Defendant Trump's own subsequent statement that he would "revisit" the termination if necessary.

181. Defendants provided no justification for many of the details of the DACA Termination, including the September 5, 2017 deadline for initial applications; the October 5, 2017 deadline to file renewal applications; the March 5, 2018 cut-off for renewal eligibility; and changes to the confidentiality of applicant information.

182. Defendants' termination of DACA and changes to the confidentiality of DACA-applicant information violated the APA.

THIRD CLAIM FOR RELIEF
Regulatory Flexibility Act
By Plaintiff MRNY against Defendants Nielsen and Sessions

183. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

184. DHS failed to conduct any regulatory flexibility analysis to determine how the DACA Termination will affect small entities, such as MRNY, in violation of the Regulatory Flexibility Act. 5 U.S.C. §§ 601 *et seq.*

185. MRNY, as a “small organization” within the meaning of 5 U.S.C. § 601(4), is directly affected by the DACA Termination, and therefore DHS was required to conduct a regulatory flexibility analysis prior to promulgating the rule.

186. It is undisputed that Defendants failed to conduct a regulatory flexibility analysis.

187. Defendants’ termination of DACA violated the RFA.

FOURTH CLAIM FOR RELIEF
Fifth Amendment (Procedural Due Process)
By all Plaintiffs against Defendants Nielsen and Sessions

188. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

189. The hallmark of due process is notice and a meaningful opportunity to be heard.

190. The Due Process Clause of the Fifth Amendment prohibits the federal government, including Defendants, from depriving individuals of their liberty or property interests without due process of law.

191. Defendants have not provided DACA recipients with the process to which they are entitled.

192. Defendants, in individualized written notices, advised many DACA recipients whose status expires by March 5, 2018 to apply to renew “as soon as possible” and, to ensure no lapse in status, to renew between 120 to 150 days before expiration.

193. Defendants did not send corrected notices to these DACA recipients advising them that they needed to apply to renew DACA by October 5, 2017 or be forever ineligible to renew their status.

194. Defendants’ failure to issue corrected notices advising of the October 5, 2017 deadline violates the Due Process Clause of the Fifth Amendment.

FIFTH CLAIM FOR RELIEF
Fifth Amendment (Equal Protection)
By all Plaintiffs against All Defendants

195. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

196. The Due Process Clause of the Fifth Amendment prohibits the federal government, including Defendants, from denying to any person equal protection of the laws.

197. The DACA Termination targets Latinos and, in particular, Mexicans, and will have a disparate impact on these groups.

198. Defendants Sessions, Nielsen, and Trump have violated the equal protection guarantee of the Fifth Amendment because the DACA Termination was substantially motivated by animus toward Latinos and, in particular, Mexicans.

SIXTH CLAIM FOR RELIEF
Fifth Amendment (Procedural Due Process)
By Plaintiff MRNY against Defendants Nielsen and Sessions

199. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

200. The hallmark of due process is notice and a meaningful opportunity to be heard.

201. The Due Process Clause of the Fifth Amendment prohibits the federal government, including Defendants, from depriving individuals of their liberty or property interests without due process of law.

202. In the implementation of the October 5 deadline for renewal applications, Defendants have not provided DACA recipients with the process to which they are entitled.

203. Defendants did not provide any notice of additional specific requirements that USCIS imposed for receiving and rejecting renewal applications or their resubmissions under the

November 15 and November 30 USCIS guidance and FAQs. While the December 7 FAQs add some instructions for individuals who were affected by unreasonable mail delay, they still do not address individuals whose applications were rejected unfairly for minor perceived or actual clerical errors, or who were affected both by U.S. Postal Service mail delays and minor perceived or actual clerical errors.

204. For example, Defendants rejected renewal applications that arrived at the designated Post Office box in the late afternoon and evening of October 5 without notifying DACA recipients of a specific time deadline other than the date of October 5. Defendants failed to specify that applications that arrived at their Post Office box would not be considered “received” until the applications had been transferred to the appropriate Lockbox or service center, such that the address Defendants provided for applicants to meet the October 5 deadline was not actually an address that allowed a person to meet the “received by” deadline imposed by DHS. Defendants likewise ignored the postmark dates on renewal applications, notwithstanding that the postmarks showed significant delays that were attributable to the U.S. Postal Service and not the applicants themselves. Moreover, Defendants rejected renewal applications on the basis of real or perceived clerical errors, and in many cases provided rejected applicants with a green document inviting them to correct the error and reapply; yet Defendants again rejected as untimely applicants’ resubmitted renewal applications that had corrected or clarified those errors.

205. Defendants’ arbitrary and unfair implementation of the October 5, 2017 deadline violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

206. Declare that the DACA Termination and actions taken by Defendants to terminate DACA and to change the confidentiality of DACA applicant information are void and without legal force or effect;

207. Declare that the DACA Termination and actions taken by Defendants to terminate DACA and to change the confidentiality of DACA applicant information are arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and without observance of procedure required by law, in violation of 5 U.S.C. §§ 702–706;

208. Declare that the DACA Termination and actions taken by Defendants to terminate DACA are in violation of the equal protection and due process guarantees of the Fifth Amendment of the U.S. Constitution and contrary to the law of the United States;

209. Vacate and set aside the DACA Termination and any other action taken by Defendants to terminate DACA, including the change to the confidentiality of DACA-applicant information;

210. Enjoin and restrain Defendants, their agents, servants, employees, attorneys, and all persons in active concert or participation with any of the Defendants, from implementing or enforcing the DACA Termination and the change in confidentiality of DACA-applicant information, and from taking any other action to terminate DACA that is not in compliance with applicable law or the U.S. Constitution;

211. Enjoin and restrain Defendants, their agents, servants, employees, attorneys, and all persons in active concert or participation with any of the Defendants, from denying individuals who were eligible to renew their deferred action under the terms of the DACA Termination Memo the opportunity to re-submit their renewal applications; and

212. Grant such other relief as this Court deems just and proper.

Dated: December 11, 2017

Respectfully submitted,

/s/ Jessica R. Hanson

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Susanna D. Evarts, Law Student Intern
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* *Pro hac vice* motion forthcoming

+Admitted only in Louisiana

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2017, a true and correct copy of the foregoing Second Amended Complaint was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Jessica R. Hanson

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EXHIBIT

A

Secretary

U.S. Department of Homeland Security
Washington, DC 20528



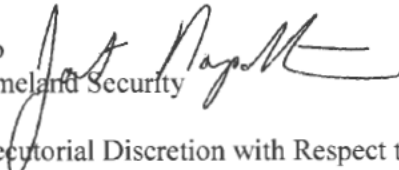
**Homeland
Security**

June 15, 2012

MEMORANDUM FOR: David V. Aguilar
Acting Commissioner, U.S. Customs and Border Protection

Alejandro Mayorkas
Director, U.S. Citizenship and Immigration Services

John Morton
Director, U.S. Immigration and Customs Enforcement

FROM: Janet Napolitano 
Secretary of Homeland Security

SUBJECT: Exercising Prosecutorial Discretion with Respect to Individuals
Who Came to the United States as Children

By this memorandum, I am setting forth how, in the exercise of our prosecutorial discretion, the Department of Homeland Security (DHS) should enforce the Nation's immigration laws against certain young people who were brought to this country as children and know only this country as home. As a general matter, these individuals lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them. However, additional measures are necessary to ensure that our enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities.

The following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion pursuant to this memorandum:

- came to the United States under the age of sixteen;
- has continuously resided in the United States for a least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- is not above the age of thirty.

Our Nation's immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutorial discretion, which is used in so many other areas, is especially justified here.

As part of this exercise of prosecutorial discretion, the above criteria are to be considered whether or not an individual is already in removal proceedings or subject to a final order of removal. No individual should receive deferred action under this memorandum unless they first pass a background check and requests for relief pursuant to this memorandum are to be decided on a case by case basis. DHS cannot provide any assurance that relief will be granted in all cases.

1. With respect to individuals who are encountered by U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), or U.S. Citizenship and Immigration Services (USCIS):

- With respect to individuals who meet the above criteria, ICE and CBP should immediately exercise their discretion, on an individual basis, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.
- USCIS is instructed to implement this memorandum consistent with its existing guidance regarding the issuance of notices to appear.

2. With respect to individuals who are in removal proceedings but not yet subject to a final order of removal, and who meet the above criteria:

- ICE should exercise prosecutorial discretion, on an individual basis, for individuals who meet the above criteria by deferring action for a period of two years, subject to renewal, in order to prevent low priority individuals from being removed from the United States.
- ICE is instructed to use its Office of the Public Advocate to permit individuals who believe they meet the above criteria to identify themselves through a clear and efficient process.
- ICE is directed to begin implementing this process within 60 days of the date of this memorandum.
- ICE is also instructed to immediately begin the process of deferring action against individuals who meet the above criteria whose cases have already been identified through the ongoing review of pending cases before the Executive Office for Immigration Review.

3. With respect to the individuals who are not currently in removal proceedings and meet the above criteria, and pass a background check:

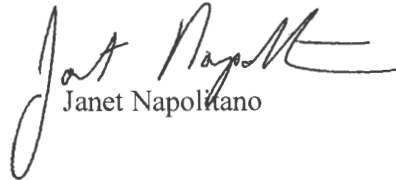
- USCIS should establish a clear and efficient process for exercising prosecutorial discretion, on an individual basis, by deferring action against individuals who meet the

above criteria and are at least 15 years old, for a period of two years, subject to renewal, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.

- The USCIS process shall also be available to individuals subject to a final order of removal regardless of their age.
- USCIS is directed to begin implementing this process within 60 days of the date of this memorandum.

For individuals who are granted deferred action by either ICE or USCIS, USCIS shall accept applications to determine whether these individuals qualify for work authorization during this period of deferred action.

This memorandum confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights. It remains for the executive branch, however, to set forth policy for the exercise of discretion within the framework of the existing law. I have done so here.



Janet Napolitano

EXHIBIT

B



Consideration of Deferred Action for Childhood Arrivals

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-821D
OMB No. 1615-0124
Expires 01/31/2019

For USCIS Use Only	A- 	Receipt	Action Block
	Case ID: 		
	☐ Requestor interviewed on 		
Returned: / / 	Relocated	Received: / / 	Remarks
Resubmitted: / / 	Sent	 / / 	
To Be Completed by an Attorney or Accredited Representative, if any.		☐ Select this box if Form G-28 is attached to represent the requestor.	Attorney State Bar Number (if any):

► **START HERE** - Type or print in black ink. Read Form I-821D Instructions for information on how to complete this form.

Part 1. Information About You (For Initial and Renewal Requests)

I am not in immigration detention *and* I have included Form I-765, Application for Employment Authorization, and Form I-765WS, Form I-765 Worksheet; and

I am requesting:

1. ☐ **Initial Request** - Consideration of Deferred Action for Childhood Arrivals

OR

2. ☐ **Renewal Request** - Consideration of Deferred Action for Childhood Arrivals

AND

For this Renewal request, my most recent period of Deferred Action for Childhood Arrivals expires on

(mm/dd/yyyy) ►

Full Legal Name

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

U.S. Mailing Address (Enter the same address on Form I-765)

4.a. In Care Of Name (if applicable)

4.b. Street Number and Name

4.c. Apt. ☐ Ste. ☐ Flr. ☐

4.d. City or Town

4.e. State 4 f. ZIP Code

Removal Proceedings Information

5. Are you **NOW** or have you **EVER** been in removal proceedings, or do you have a removal order issued in any other context (for example, at the border or within the United States by an immigration agent)?

☐ Yes ☐ No

NOTE: The term "removal proceedings" includes exclusion or deportation proceedings initiated before April 1, 1997; an Immigration and Nationality Act (INA) section 240 removal proceeding; expedited removal; reinstatement of a final order of exclusion, deportation, or removal; an INA section 217 removal after admission under the Visa Waiver Program; or removal as a criminal alien under INA section 238.

If you answered "Yes" to **Item Number 5.**, you must select a box below indicating your current status or outcome of your removal proceedings.

Status or outcome:

5.a. ☐ Currently in Proceedings (Active)

5.b. ☐ Currently in Proceedings (Administratively Closed)

5.c. ☐ Terminated

5.d. ☐ Subject to a Final Order

5.e. ☐ Other. Explain in **Part 8. Additional Information.**

5.f. Most Recent Date of Proceedings

(mm/dd/yyyy) ►

5.g. Location of Proceedings

Part 1. Information About You (For Initial and Renewal Requests) (continued)**Other Information**

6. Alien Registration Number (A-Number) (if any)
 ▶ A-
7. U.S. Social Security Number (if any)
 ▶
8. Date of Birth (mm/dd/yyyy) ▶
9. Gender ☐ Male ☐ Female
- 10.a. City/Town/Village of Birth
- 10.b. Country of Birth
11. Current Country of Residence
12. Country of Citizenship or Nationality
13. Marital Status
☐ Married ☐ Widowed ☐ Single ☐ Divorced

Other Names Used (If Applicable)

If you need additional space, use **Part 8. Additional Information**.

- 14.a. Family Name (Last Name)
- 14.b. Given Name (First Name)
- 14.c. Middle Name

Processing Information

15. Ethnicity (Select **only one** box)
☐ Hispanic or Latino
☐ Not Hispanic or Latino
16. Race (Select **all applicable** boxes)
☐ White
☐ Asian
☐ Black or African American
☐ American Indian or Alaska Native
☐ Native Hawaiian or Other Pacific Islander
17. Height Feet Inches
18. Weight Pounds
19. Eye Color (Select **only one** box)
☐ Black ☐ Blue ☐ Brown
☐ Gray ☐ Green ☐ Hazel
☐ Maroon ☐ Pink ☐ Unknown/Other
20. Hair Color (Select **only one** box)
☐ Bald (No hair) ☐ Black ☐ Blond
☐ Brown ☐ Gray ☐ Red
☐ Sandy ☐ White ☐ Unknown/Other

Part 2. Residence and Travel Information (For Initial and Renewal Requests)

1. I have been continuously residing in the U.S. since at least June 15, 2007, up to the present time. ☐ Yes ☐ No

NOTE: If you departed the United States for some period of time before your 16th birthday and returned to the United States on or after your 16th birthday to begin your current period of continuous residence, and if this is an initial request, submit evidence that you established residence in the United States prior to 16 years of age as set forth in the instructions to this form.

For Initial Requests: List your current address and, to the best of your knowledge, the addresses where you resided since the date of your initial entry into the United States to present.

For Renewal Requests: List only the addresses where you resided since you submitted your last Form I-821D that was approved.

If you require additional space, use **Part 8. Additional Information**.

Part 2. Residence and Travel Information (For Initial and Renewal Requests) (continued)**Present Address****2.a.** Dates at this residence (mm/dd/yyyy)From ► To ► **Present****2.b.** Street Number and Name **2.c.** Apt. ☐ Ste. ☐ Flr. ☐**2.d.** City or Town **2.e.** State **2 f.** ZIP Code **Address 1****3.a.** Dates at this residence (mm/dd/yyyy)From ► To ► **3.b.** Street Number and Name **3.c.** Apt. ☐ Ste. ☐ Flr. ☐**3.d.** City or Town **3.e.** State **3 f.** ZIP Code **Address 2****4.a.** Dates at this residence (mm/dd/yyyy)From ► To ► **4.b.** Street Number and Name **4.c.** Apt. ☐ Ste. ☐ Flr. ☐**4.d.** City or Town **4.e.** State **4 f.** ZIP Code **Address 3****5.a.** Dates at this residence (mm/dd/yyyy)From ► To ► **5.b.** Street Number and Name **5.c.** Apt. ☐ Ste. ☐ Flr. ☐**5.d.** City or Town **5.e.** State **5 f.** ZIP Code **Travel Information****For Initial Requests:** List all of your absences from the United States since June 15, 2007.**For Renewal Requests:** List only your absences from the United States since you submitted your last Form I-821D that was approved.If you require additional space, use **Part 8. Additional Information.****Departure 1****6.a.** Departure Date (mm/dd/yyyy) ► **6.b.** Return Date (mm/dd/yyyy) ► **6.c.** Reason for Departure **Departure 2****7.a.** Departure Date (mm/dd/yyyy) ► **7.b.** Return Date (mm/dd/yyyy) ► **7.c.** Reason for Departure **8.** Have you left the United States without advance parole on or after August 15, 2012? ☐ Yes ☐ No**9.a.** What country issued your last passport? **9.b.** Passport Number **9.c.** Passport Expiration Date(mm/dd/yyyy) ► **10.** Border Crossing Card Number (if any) **Part 3. For Initial Requests Only****1.** I initially arrived and established residence in the U.S. prior to 16 years of age. ☐ Yes ☐ No**2.** Date of **Initial** Entry into the United States (on or about) (mm/dd/yyyy) ► **3.** Place of **Initial** Entry into the United States

Part 3. For Initial Requests Only (continued)

4. Immigration Status on June 15, 2012 (e.g., *No Lawful Status, Status Expired, Parole Expired*)
- 5.a. Were you **EVER** issued an Arrival-Departure Record (Form I-94, I-94W, or I-95)? ☐ Yes ☐ No
- 5.b. If you answered "Yes" to **Item Number 5.a.**, provide your Form I-94, I-94W, or I-95 number (if available).
- 5.c. If you answered "Yes" to **Item Number 5.a.**, provide the date your authorized stay expired, as shown on Form I-94, I-94W, or I-95 (if available).
(mm/dd/yyyy)

Education Information

6. Indicate how you meet the education guideline (e.g., *Graduated from high school, Received a general educational development (GED) certificate or equivalent state-authorized exam, Currently in school*)
7. Name, City, and State of School Currently Attending or Where Education Received
8. Date of Graduation (e.g., *Receipt of a Certificate of Completion, GED certificate, other equivalent state-authorized exam*) or, if currently in school, date of last attendance. (mm/dd/yyyy)

Military Service Information

9. Were you a member of the U.S. Armed Forces or U.S. Coast Guard? ☐ Yes ☐ No

If you answered "Yes" to **Item Number 9.**, you must provide responses to **Item Numbers 9.a. - 9.d.**

- 9.a. Military Branch
- 9.b. Service Start Date (mm/dd/yyyy)
- 9.c. Discharge Date (mm/dd/yyyy)
- 9.d. Type of Discharge

Part 4. Criminal, National Security, and Public Safety Information (For Initial and Renewal Requests)

If any of the following questions apply to you, use **Part 8. Additional Information** to describe the circumstances and include a full explanation.

1. Have you **EVER** been arrested for, charged with, or convicted of a felony or misdemeanor, *including incidents handled in juvenile court*, in the United States? *Do not include minor traffic violations unless they were alcohol- or drug-related.* ☐ Yes ☐ No

If you answered "Yes," you must include a certified court disposition, arrest record, charging document, sentencing record, etc., for each arrest, unless disclosure is prohibited under state law.

2. Have you **EVER** been arrested for, charged with, or convicted of a crime in any country other than the United States? ☐ Yes ☐ No

If you answered "Yes," you must include a certified court disposition, arrest record, charging document, sentencing record, etc., for each arrest.

3. Have you **EVER** engaged in, do you continue to engage in, or plan to engage in terrorist activities? ☐ Yes ☐ No
4. Are you **NOW** or have you **EVER** been a member of a gang? ☐ Yes ☐ No
5. Have you **EVER** engaged in, ordered, incited, assisted, or otherwise participated in any of the following:
- 5.a. Acts involving torture, genocide, or human trafficking? ☐ Yes ☐ No
- 5.b. Killing any person? ☐ Yes ☐ No
- 5.c. Severely injuring any person? ☐ Yes ☐ No
- 5.d. Any kind of sexual contact or relations with any person who was being forced or threatened? ☐ Yes ☐ No
6. Have you **EVER** recruited, enlisted, conscripted, or used any person to serve in or help an armed force or group while such person was under age 15? ☐ Yes ☐ No
7. Have you **EVER** used any person under age 15 to take part in hostilities, or to help or provide services to people in combat? ☐ Yes ☐ No

Part 5. Statement, Certification, Signature, and Contact Information of the Requestor *(For Initial and Renewal Requests)*

NOTE: Select the box for either **Item Number 1.a.** or **1.b.**

- 1.a.** ☐ I can read and understand English, and have read and understand each and every question and instruction on this form, as well as my answer to each question.
- 1.b.** ☐ The interpreter named in **Part 6.** has read to me each and every question and instruction on this form, as well as my answer to each question, in , a language in which I am fluent. I understand each and every question and instruction on this form as translated to me by my interpreter, and have provided true and correct responses in the language indicated above.

Requestor's Certification

I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct and that copies of documents submitted are exact photocopies of unaltered original documents. I understand that I may be required to submit original documents to U.S. Citizenship and Immigration Services (USCIS) at a later date. I also understand that knowingly and willfully providing materially false information on this form is a federal felony punishable by a fine, imprisonment up to 5 years, or both, under 18 U.S.C. section 1001. Furthermore, I authorize the release of any information from my records that USCIS may need to reach a determination on my deferred action request.

2.a. Requestor's Signature



Don't forget to sign!

2.b. Date of Signature *(mm/dd/yyyy)* ►

Requestor's Contact Information

3. Requestor's Daytime Telephone Number

4. Requestor's Mobile Telephone Number

5. Requestor's Email Address

Part 6. Contact Information, Certification, and Signature of the Interpreter *(For Initial and Renewal Requests)*

Interpreter's Full Name

Provide the following information concerning the interpreter:

1.a. Interpreter's Family Name *(Last Name)*

1.b. Interpreter's Given Name *(First Name)*

2. Interpreter's Business or Organization Name *(if any)*

Interpreter's Mailing Address

3.a. Street Number and Name

3.b. Apt. ☐ Ste. ☐ Flr. ☐

3.c. City or Town

3.d. State

3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

Interpreter's Contact Information

4. Interpreter's Daytime Telephone Number

5. Interpreter's Email Address

Part 6. Contact Information, Certification, and Signature of the Interpreter *(For Initial and Renewal Requests)* *(continued)*

Interpreter's Certification

I certify that:

I am fluent in English and which is the same language provided in **Part 5., Item Number 1.b.**;

I have read to this requestor each and every question and instruction on this form, as well as the answer to each question, in the language provided in **Part 5., Item Number 1.b.**; and

The requestor has informed me that he or she understands each and every instruction and question on the form, as well as the answer to each question.

6.a. Interpreter's Signature

6.b. Date of Signature *(mm/dd/yyyy)* ►

Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Request, If Other than the Requestor *(For Initial and Renewal Requests)*

Preparer's Full Name

Provide the following information concerning the preparer:

1.a. Preparer's Family Name *(Last Name)*

1.b. Preparer's Given Name *(First Name)*

2. Preparer's Business or Organization Name

Preparer's Mailing Address

3.a. Street Number and Name

3.b. Apt. ☐ Ste. ☐ Flr. ☐

3.c. City or Town

3.d. State

3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

Preparer's Contact Information

4. Preparer's Daytime Telephone Number

5. Preparer's Fax Number

6. Preparer's Email Address

Preparer's Declaration

I declare that I prepared this Form I-821D at the requestor's behest, and it is based on all the information of which I have knowledge.

7.a. Preparer's Signature

7.b. Date of Signature *(mm/dd/yyyy)* ►

NOTE: If you need extra space to complete any item within this request, see the next page for **Part 8. Additional Information.**

Part 8. Additional Information (For Initial and Renewal Requests)

If you need extra space to complete any item within this request, use the space below. You may also make copies of this page to complete and file with this request. Include your name and A-Number (*if any*) at the top of each sheet of paper; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

Full Legal Name

1.a. Family Name
(Last Name)

1.b. Given Name

1.c. Middle Name	
------------------	--

2. A-Number (*if any*) ▶ A-

3.a. Page Number **3.b.** Part Number **3.c.** Item Number

[illegible]

4.a. Page Number **4.b.** Part Number **4.c.** Item Number

[illegible]

5.a. Page Number **5.b.** Part Number **5.c.** Item Number

[illegible]



Instructions for Consideration of Deferred Action for Childhood Arrivals

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-821D
OMB No. 1615-0124
Expires 01/31/2019

What is the Purpose of this Form?

An individual may file Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to request that U.S. Citizenship and Immigration Services (USCIS) exercise prosecutorial discretion in his or her favor under the Deferred Action for Childhood Arrivals (DACA) process, including consideration for Renewal of deferred action. USCIS considers deferring action (including Renewal of deferred action) on a case-by-case basis, based on the guidelines in the **What is a Childhood Arrival for Purposes of This Form** section of these instructions. Deferred action is a discretionary determination to defer removal of an individual as an act of prosecutorial discretion. Individuals who receive deferred action will not be placed into removal proceedings or removed from the United States for a specified period of time, unless the Department of Homeland Security (DHS) chooses to terminate the deferral. See the Secretary of Homeland Security's memorandum issued on June 15, 2012 (Secretary's memorandum), upon which the DACA process is based, at www.uscis.gov/childhoodarrivals.

When Should I Use Form I-821D?

Use this form to request consideration of Initial DACA or Renewal of DACA. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. All individuals filing Form I-821D, whether for an Initial or a Renewal of deferred action, must also file Form I-765, Application for Employment Authorization, and Form I-765 Worksheet, Form I-765WS. See the **Evidence for Initial Requests Only** and **Evidence for Renewal Requests Only** sections of these instructions for more information.

CAUTION: If you file this request more than 150 days prior to the expiration of your current period of deferred action, USCIS may reject your submission and return it to you with instructions to resubmit your request closer to the expiration date. **USCIS encourages renewal requestors to file as early in the 150-day period as possible - ideally, at least 120 days prior to the DACA expiration date.**

NOTE: If you have received DACA and you are filing within one year after your last period of deferred action expired, please follow the instructions provided below for renewal requestors.

NOTE: If U.S. Immigration and Customs Enforcement (ICE) initially deferred action in your case and you are seeking a Renewal, you must file Form I-821D and select and complete **Item Number 2**, in **Part 1**, of Form I-821D. You must also respond to ALL subsequent questions on the form. You must also submit documentation to establish how you satisfy the guidelines as if you were filing an Initial request for consideration of deferred action.

If you are currently in immigration detention, you may not request consideration of DACA or Renewal of DACA from USCIS. If you think you meet the guidelines of this process, you should identify yourself to your deportation officer.

What is a Childhood Arrival for Purposes of This Form?

An individual may be considered for Initial DACA if he or she:

1. Was under 31 years of age as of June 15, 2012;
2. Came to the United States before reaching his or her 16th birthday;
3. Has continuously resided in the United States since June 15, 2007, up to the present time;

4. Was present in the United States on June 15, 2012 and at the time of making his or her request for consideration of deferred action with USCIS;
5. Had no lawful status on June 15, 2012;
NOTE: No lawful status on June 15, 2012 means that:
 - A. You never had a lawful immigration status on or before June 15, 2012; or
 - B. Any lawful immigration status or parole that you obtained prior to June 15, 2012 had expired as of June 15, 2012.
6. Is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a general educational development (GED) certificate, or is an honorably discharged veteran of the U.S. Armed Forces or U.S. Coast Guard; and
7. Has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and does not otherwise pose a threat to national security or public safety.

An individual may be considered for **Renewal** of DACA if he or she met the guidelines for consideration of Initial DACA (see above) AND he or she:

1. Did not depart the United States on or after August 15, 2012 without advance parole;
2. Has continuously resided in the United States since he or she submitted his or her most recent request for DACA that was approved up to the present time; and
3. Has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and does not otherwise pose a threat to national security or public safety.

Who May File Form I-821D?

1. **Childhood Arrivals Who Have Never Been in Removal Proceedings.** If you have never been in removal proceedings, submit this form to request that USCIS consider deferring action in your case. You must be 15 years of age or older at the time of filing and meet the guidelines described in the Secretary's memorandum to be considered for deferred action.
2. **Childhood Arrivals Whose Removal Proceedings Were Terminated.** If you were in removal proceedings which have been terminated by the immigration judge prior to this request, you may use this form to request that USCIS consider deferring action in your case. You must be 15 years of age or older at the time of filing and meet the guidelines described in the Secretary's memorandum to be considered for deferred action.
3. **Childhood Arrivals In Removal Proceedings, With a Final Removal Order, or With Voluntary Departure.** If you are in removal proceedings, have a final order of removal, exclusion, or deportation issued in any other context, have a voluntary departure order, or if your proceedings have been administratively closed, you may use this form to request that USCIS consider deferring action in your case, even if you are under 15 years of age at the time of filing. For the purpose of this form, "removal proceedings" includes exclusion or deportation proceedings initiated before April 1, 1997, an Immigration and Nationality Act (INA) section 240 removal proceeding, expedited removal, reinstatement of a final order of exclusion, deportation, or removal, an INA section 217 removal after admission under the Visa Waiver Program, removal as a criminal alien under INA section 238, or any other kind of removal proceeding under U.S. immigration law in any other context (e.g., at the border or within the United States by an immigration agent).
4. **Childhood Arrivals Whose Case Was Deferred and Who Are Seeking Renewal of DACA.** If USCIS or ICE deferred action in your case under DACA, you may use this form to request consideration of Renewal of DACA from USCIS.

General Instructions

USCIS provides forms free of charge through the USCIS website. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which can be downloaded for free at <http://get.adobe.com/reader/>.

Each request must be properly signed and accompanied by Form I-765 with fees and Form I-765WS. If you are under 14 years of age, your parent or legal guardian may sign the request on your behalf. A designated representative may sign if the requestor is unable to sign due to a physical or developmental disability or mental impairment. A photocopy of a signed request or typewritten name in place of a signature is not acceptable. This request is not considered properly filed until accepted by USCIS.

Evidence. You must submit all required evidence and supporting documentation with your request at the time of filing. See the **Evidence for Initial Requests Only** and **Evidence for Renewal Requests Only** sections of these instructions for more details.

You should keep all documents that support how you meet the DACA guidelines so you can provide them if they are requested by USCIS.

NOTE: If you are submitting a **Renewal Request** for consideration of DACA to USCIS, you do not need to re-submit documents you already submitted with your previous DACA requests.

Biometric Services Appointment. Individuals requesting DACA must provide fingerprints, photographs, and signatures (biometrics). You may receive a notice scheduling you to appear at an Application Support Center (ASC) for biometrics collection. Failure to comply with the notice may result in the denial of your deferred action request. USCIS may, in its discretion, waive the collection of certain biometrics.

Copies. You may submit a legible photocopy of any document, unless you are specifically required to file an original document with this request. Original documents submitted when not required may remain a part of the record, and USCIS will not automatically return them to you.

Translations. Any document you submit to USCIS that contains a foreign language must have a full English translation. The translator must certify that the English translation is complete and accurate, and that he or she is competent to translate from the foreign language into English.

An example of a certification would read, "I [typed name], certify that I am fluent (conversant) in the English and [insert other language] languages, and that the above/attached document is an accurate translation of the document attached entitled [name of document]." The certification should also include the date, the translator's signature and typed name, and the translator's address.

Advance Parole. If you wish to file a request for Advance Parole, please follow the instructions for filing Form I-131, Application for Travel Document. You can get the most current information on how to apply for advance parole by visiting the USCIS website at www.uscis.gov/i-131 or calling the National Customer Service Line at 1-800-375-5283 or 1-800-767-1833 (TTY for the hearing impaired). Customer service officers are available Monday - Friday from 8 a.m. - 6 p.m. in each U.S. time zone.

Travel Warning. On or after August 15, 2012, if you travel outside of the United States before USCIS has determined whether to defer action in your case, you will not be considered for deferred action. Even after USCIS has deferred action in your case under DACA, you should not travel outside the United States unless you have been issued an Advance Parole Document by USCIS. Deferred action will terminate automatically if you travel outside the United States without obtaining an Advance Parole Document from USCIS. In addition, leaving the United States, even with an Advance Parole Document, may impact your ability to return to the United States.

How To Fill Out Form I-821D

1. This form consists of eight parts. Requestors for Initial DACA and those requestors seeking Renewal of DACA should fill out most parts. However, only requestors for Initial DACA should complete **Part 3**. See below for greater detail.

Part 1. Information About You. All requestors must complete this part.

Part 2. Residence and Travel Information. All requestors must complete this part. Please be aware that Initial requestors must provide more extensive information than Renewal requestors.

Part 3. For Initial Requests Only. Renewal requestors should skip this part.

Part 4. Criminal, National Security, and Public Safety Information. All requestors must complete this part.

Part 5. Statement, Certification, Signature, and Contact Information of the Requestor. All requestors must complete this part.

Part 6. Contact Information, Certification, and Signature of the Interpreter. Any requestor using an interpreter must complete this part.

Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Request, If Other than the Requestor. If you had someone else prepare your request, he or she must complete this part.

Part 8. Additional Information. Any requestor may complete this part if additional space is needed.

2. Further Information on filling out Form I-821D:

A. Type or print legibly in black ink.

B. If you need extra space to complete any item within this request, use **Part 8. Additional Information** and make additional copies of this sheet as needed. Type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

C. Answer all questions fully and accurately. If an item is not applicable or the answer is “none,” type or print “N/ A,” unless otherwise directed.

D. All dates must be entered as mm/dd/yyyy. You may provide approximate dates if you do not know the exact date. Do not leave a date response blank.

E. **Processing Information.** You must provide the biometrics information requested in **Part 1, Item Numbers 15. - 20**. Providing this information as part of your request may reduce the time you spend at your USCIS ASC appointment.

F. **Part 5. Statement, Certification, Signature, and Contact Information of the Requestor.** Select the box that indicates whether someone interpreted this form for you. If applicable, the attorney, accredited representative, or other individual who helped prepare this form for you must complete **Part 7**. and sign and date the form. Every request must contain the requestor’s original signature. A photocopy of a signed request or a typewritten name in place of a signature is **not** acceptable. Sign and date the form and provide your daytime telephone number, mobile telephone number, and email address. If you are under 14 years of age, your parent or legal guardian may sign the request on your behalf. A designated representative may sign if the requestor is unable to sign due to a physical or developmental disability or mental impairment.

G. **Part 6. Contact Information, Certification, and Signature of the Interpreter.** If you used an interpreter to read the instructions and complete the questions on this form, the interpreter must fill out **Part 6**. The interpreter must provide his or her full name, the name of his or her business or organization, an address, a daytime telephone number, and an email address. He or she must also sign and date the form.

- H. Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Request, If Other Than the Requestor.** If the person who completed this request, is someone other than the person named in **Part 1.**, he or she must complete this section of the request, provide his or her name, the address of his or her business or organization (if any), and his or her contact information. If the person completing this request is an attorney or accredited representative, he or she must submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with this request. Further, the attorney or accredited representative, and anyone who assisted in preparing your request, must sign and date the request. This section of the request **MUST** contain the original signature of the attorney or accredited representative, and anyone who assisted in preparing your request. A typewritten name in place of a signature is not acceptable.

Evidence for Initial Requests Only

NOTE: If you are submitting an **Initial Request** for consideration of DACA to USCIS, you will need to submit documents showing how you believe you have satisfied each DACA guideline.

1. What documents should you submit with your Form I-821D?
 - A. You do not need to submit original documents unless USCIS requests them.
 - B. Evidence and supporting documents that you file with your Form I-821D should show that you are at least 15 years of age at the time of filing, if required (see the **Who May File Form I-821D** section of these instructions for more information), and that you meet all of the following:
 - (1) Were born after June 15, 1981 (i.e., You were not age 31 or older on June 15, 2012);
 - (2) Arrived in the United States before 16 years of age;
 - (3) Have continuously resided in the United States since June 15, 2007, up to the present time;
 - (4) Were present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
 - (5) Had no lawful status on June 15, 2012; and
 - (6) Are currently in school, graduated or received a certificate of completion from high school, obtained a GED certificate or other equivalent state-authorized exam in the United States, or that you are an honorably discharged veteran of the U.S. Armed Forces or U.S. Coast Guard.
2. What documents do you need to provide to prove identity?

Submit copies of any of the following:

 - A. Passport;
 - B. Birth certificate accompanied by photo identification;
 - C. Any national identity document from your country of origin bearing your photo and/or fingerprint;
 - D. Any U.S. government immigration or other document bearing your name and photograph (e.g., EADs, visas, driver's licenses, non-driver cards);
 - E. Any school-issued form of identification with photo;
 - F. Military identification document with photo;
 - G. State-issued photo ID showing date of birth; or
 - H. Any other document with photo that you believe is relevant.

NOTE: Expired documents are acceptable.

3. What documents may show that you came to the United States before your 16th birthday?

Submit copies of any of the following documents:

- A. Passport with an admission stamp indicating when you entered the United States;
- B. Form I-94, I-94W, or I-95 Arrival-Departure Record;
- C. Any Immigration and Naturalization Service (INS) or DHS document stating your date of entry (e.g., Form I-862, Notice to Appear);
- D. Travel records, such as transportation tickets showing your dates of travel to the United States;
- E. School records (e.g., transcripts, report cards) from the schools that you have attended in the United States, showing the names of the schools and periods of school attendance;
- F. Hospital or medical records concerning treatment or hospitalization, showing the names of the medical facilities or physicians and the dates of the treatment or hospitalization;
- G. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding); or
- H. Any other document that you believe is relevant.

4. If you left the United States for some period of time before your 16th birthday and returned on or after your 16th birthday to begin your current period of continuous residence, what documents may show that you established residence before your 16th birthday?

Submit copies of any of the following documents:

- A. School records (e.g., transcripts, report cards) from the schools that you have attended in the United States, showing the names of the schools and periods of school attendance;
- B. Employment records (e.g., pay stubs, W-2 Forms, certification of the filing of Federal income tax returns, state verification of the filing of state income tax returns, letters from employers, or, if you are self employed, letters from banks and other firms with whom you have done business);
- C. Documents evidencing that you were physically present in the United States for multiple years prior to your 16th birthday; or
- D. Any other relevant document.

5. What documents may show that you continuously resided in the United States since June 15, 2007, up to the present date?

Submit copies of any relevant documents such as:

- A. Rent receipts, utility bills (e.g., gas, electric, phone), or receipts or letters from companies showing the dates during which you received service. You may submit this documentation even if it only has the name of your parents or legal guardians, as long as you also submit other evidence (e.g., third party documentation) that connects you to your residence at that address;
- B. Employment records (e.g., pay stubs, W-2 Forms, certification of the filing of Federal income tax returns, state verification of the filing of state income tax returns, letters from employers, or, if you are self employed, letters from banks and other firms with whom you have done business);

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters must include: your address at the time of employment, exact periods of employment, periods of layoff, and duties with the employer. Letters must also be signed by the employer and include the employer's contact information.

- C. School records (e.g., transcripts, report cards) from the schools that you have attended in the United States, showing the names of the schools and periods of school attendance;

- D. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records);
- E. Hospital or medical records concerning treatment or hospitalization, showing the names of the medical facilities or physicians and the dates of the treatment or hospitalization;
- F. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding);
- G. Money order receipts for money sent in or out of the country; passport entries; birth certificates of children born in the United States; dated records of bank transactions; correspondence between you and another person or organization; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, rental agreements, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- H. Any other relevant document.

6. Do brief departures interrupt continuous residence?

A brief, casual, and innocent absence from the United States will not interrupt your continuous residence. If you were absent from the United States for any period of time, your absence will be considered brief, casual, and innocent, if it was on or after June 15, 2007, and before August 15, 2012, and:

- A. The absence was short and reasonably calculated to accomplish the purpose for the absence;
- B. The absence was not because of an order of exclusion, deportation, or removal;
- C. The absence was not because of an order of voluntary departure or an administrative grant of voluntary departure before you were placed in exclusion, deportation, or removal proceedings; and
- D. The purpose of the absence and/or your actions while outside of the United States were not contrary to law.

In Part 3. Arrival/Residence Information, list all your absences from the United States since June 15, 2007.

Include information about all your departure and return dates, and the reason for your departures. Documents you can submit that may show your absence was brief, casual, and innocent include, but are not limited to:

- A. Plane or other transportation tickets or itinerary showing the travel dates;
- B. Passport entries;
- C. Hotel receipts showing the dates you were abroad;
- D. Evidence of the purpose of the travel (e.g., you attended a wedding or funeral);
- E. Copy of Advance Parole Document issued by USCIS; and
- F. Any other evidence that could support a brief, casual, and innocent absence.

7. What documents may demonstrate that you were present in the United States on June 15, 2012?

Submit copies of any relevant documents such as:

- A. Rent receipts, utility bills (e.g., gas, electric, phone), or receipts or letters from companies showing the dates during which you received service. You may submit this documentation even if it only has the name of your parents or legal guardians, as long as you also submit other evidence (e.g., third party documentation) that connects you to your residence at that address;
- B. Employment records (e.g., pay stubs, W-2 Forms, certification of the filing of Federal income tax returns, state verification of the filing of state income tax returns, letters from employers, or, if you are self employed, letters from banks and other firms with whom you have done business);

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters must include: your address at the time of employment, exact periods of employment, periods of layoff, and duties with the employer. Letters must also be signed by the employer and include the employer's contact information.

- C. School records (e.g., transcripts, report cards) from the schools that you have attended in the United States, showing the names of the schools and periods of school attendance;
 - D. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records);
 - E. Hospital or medical records concerning treatment or hospitalization, showing the names of the medical facilities or physicians and the dates of the treatment or hospitalization;
 - F. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding);
 - G. Money order receipts for money sent in or out of the country; passport entries; birth certificates of children born in the United States; dated records of bank transactions; correspondence between you and another person or organization; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, rental agreements, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
 - H. Any other relevant document.
8. **What documents may show you had no lawful status on June 15, 2012?** (Submit documents if you were admitted or paroled, or otherwise obtained a lawful immigration status, on or before June 15, 2012, or you were or are in removal proceedings.)
- Submit copies of any of the following documents:
- A. Form I-94, I-94W, or I-95 Arrival/Departure Record showing the date your authorized stay expired;
 - B. If you have a final order of exclusion, deportation, or removal issued as of June 15, 2012, submit a copy of that order and related charging documents, if available;
 - C. An INS or DHS charging document placing you into removal proceedings, if available; or
 - D. Any other document that you believe is relevant to show that on June 15, 2012, you had no lawful status.
9. **What documents may demonstrate that you: a) are currently in school in the United States at the time of filing; b) have graduated or received a certificate of completion or a certificate of attendance from a U.S. high school, a U.S. public or private college or university, including community college; or c) have obtained a GED certificate or other equivalent state-authorized exam in the United States?** (If applicable)

USCIS recognizes that schools, educational programs, school districts, and state education agencies around the country issue educational records in a variety of formats. USCIS does not require educational records to be presented in any particular format.

- A. To be considered “currently in school,” you are to demonstrate that you are currently enrolled in one of the following:
 - (1) A U.S. public, private, or charter elementary school, junior high or middle school, high school, secondary school, alternative program, or home school program meeting state requirements;
 - (2) An education, literacy, or career training program (including vocational training) that has a purpose of improving literacy, mathematics, or English or is designed to lead to placement in post-secondary education, job training, or employment, and where you are working toward such placement, and that the program:
 - (a) Is administered by a non-profit entity; or
 - (b) Is funded in whole or in part by Federal, state, local, or municipal funds; or
 - (c) Is of demonstrated effectiveness;

- (3) An education program in the U.S. assisting students in obtaining a regular high school diploma or its recognized equivalent under state law (including a certificate of completion, certificate of attendance, or alternate award), or in passing a GED exam or other equivalent state-authorized exam, and that the program:
- (a) Is administered by a non-profit entity; or
 - (b) Is funded in whole or in part by Federal, state, local, or municipal funds; or
 - (c) Is of demonstrated effectiveness;
- (4) A U.S. public or private college or university including community college.

Evidence of enrollment may include, but is not limited to: school registration cards, acceptance or other letters demonstrating enrollment or attendance, current transcripts, report cards, progress reports, or other documents issued by a school district, state education agency, school, or program. These documents should show your name; the name of the school district, or state educational agency, school, or program issuing the record; the dates or time periods of enrollment you are seeking to establish; and your current educational or grade level.

If you have been accepted for enrollment and your classes have not yet begun, you may submit an acceptance letter with evidence that you have registered for classes or any other relevant evidence showing you have committed to starting classes on a certain date, including, for example, a copy of your tuition bill, your class schedule, or your Individualized Educational Program.

If you are enrolled in an educational, literacy, or career training program (including vocational training or an ESL course), evidence that the program is funded in whole or in part by Federal, state, local, or municipal funds includes a letter or other documentation from an authorized representative of the program that includes information such as: your name and date of enrollment, the duration of the program and expected completion date, the program's source of public funding, and the program's authorized representative's contact information.

If you are enrolled in an education, literacy, or career training program that is not publicly funded, evidence that the program is of demonstrated effectiveness may include information from an authorized school representative relating to: the duration of the program's existence; the program's track record in placing students in employment, job training, or post-secondary education; receipt of awards or special achievement or recognition that indicate the program's overall quality; and/or any other information indicating the program's overall quality.

- B.** Evidence to show that you meet the educational guideline because you have "graduated from school" or "obtained a GED certificate" or other equivalent state-authorized exam in the United States includes, but is not limited to:
- (1) A high school diploma from a U.S. public or private high school or secondary school;
 - (2) A recognized equivalent of a U.S. high school diploma under state law, including a GED certificate or other equivalent state-authorized exam, a certificate of completion, or a certificate of attendance;
 - (3) A transcript that identifies the date of graduation or program completion;
 - (4) An enrollment history that shows the date of graduation or program completion;
 - (5) A degree from a public or private college or university or a community college; or
 - (6) An alternate award from a U.S. public or private high school or secondary school.

These documents should show your name; the name of the U.S. school district, educational agency, school, or program issuing the record; the dates or time periods of enrollment you are seeking to establish; and your date of graduation or completion.

10. What documents may demonstrate that you are an honorably discharged veteran of the U.S. Armed Forces or U.S. Coast Guard? (If applicable)

Submit copies of the following documents:

- A.** Form DD-214, Certificate of Release or Discharge from Active Duty;
- B.** NGB Form 22, National Guard Report of Separation and Record of Service;

- C. Military personnel records;
- D. Military health records; or
- E. Any other relevant document.

11. What additional documents should you submit if you are currently or have been in removal proceedings?

Submit a copy of the removal order, any document issued by the immigration judge, or the final decision of the Board of Immigration Appeals (BIA), if available. If you have not been in removal proceedings, this question does not apply to you.

12. What evidence should I submit to demonstrate my criminal history?

If you have been arrested for or charged with any felony (i.e., a Federal, state, or local criminal offense punishable by imprisonment for a term exceeding one year) or misdemeanor (i.e., a Federal, state, or local criminal offense for which the maximum term of imprisonment authorized is one year or less but greater than five days) in the United States, or a crime in any country other than the United States, you must submit evidence demonstrating the results of the arrest or charges brought against you. If the charges against you were handled in juvenile court, and the records are from a state with laws prohibiting their disclosure, this evidence is not required.

- A. If you have ever been arrested for any felony or misdemeanor in the United States, or a crime in any country other than the United States, and no charges were filed, submit an original official statement by the arresting agency or applicable court order confirming that no charges were filed for each arrest. If you are unable to provide such documentation or if it is not available, you must provide an explanation, including a description of your efforts to obtain such evidence, in **Part 8. Additional Information**.
- B. If you have ever been charged with or convicted of a felony or misdemeanor in the United States, or a crime in any country other than the United States, submit an original or court-certified copy of the complete arrest record and disposition for each incident (e.g., dismissal order, conviction and sentencing record, acquittal order). If you are unable to provide such documentation or if it is not available, you must provide an explanation, including a description of your efforts to obtain such evidence, in **Part 8. Additional Information**.
- C. If you have ever had any arrest or conviction vacated, set aside, sealed, expunged, or otherwise removed from your record, submit:
 - (1) An original or court-certified copy of the court order vacating, setting aside, sealing, expunging, or otherwise removing the arrest or conviction; or
 - (2) An original statement from the court that no record exists of your arrest or conviction.

If you are unable to provide such documentation or if it is not available, you must provide an explanation, including a description of your efforts to obtain such evidence, in **Part 8. Additional Information**.

NOTE: You do not need to submit documentation concerning minor traffic violations such as driving without a license unless they were alcohol - or drug-related.

Evidence for Renewal Requests Only

NOTE: If you are submitting a **Renewal Request** for consideration of DACA to USCIS, you do not need to re-submit documents you already submitted with your previous DACA requests.

If you are seeking a **Renewal** of DACA, respond to all questions, except where the section or question indicates “For Initial Requests Only.”

If you are currently in exclusion, deportation, or removal proceedings, see **Item Number 11.** (above) for additional guidance.

If you have any criminal history, see **Item Number 12.** (above) for additional guidance.

With your Renewal request, you only need to submit any new documents pertaining to removal proceedings or criminal history that you have not already submitted to USCIS. If USCIS needs more documentation from you, USCIS will send a Request for Evidence to you explaining the needed information. However, you should submit new documents if any of the following situations apply to you:

1. You are currently in exclusion, deportation, or removal proceedings (please note, you do not need to submit these documents if your case was administratively closed); or
2. You have been charged with, or convicted of, a felony or misdemeanor (please note, you do not need to submit these documents if you already submitted them with a previous DACA request).

NOTE: You should keep all documents that support how you meet the DACA guidelines so you can provide them if they are requested by USCIS.

If ICE initially deferred action in your case and you are seeking a Renewal, you must select and complete **Item Number 2. in Part 1.** of Form I-821D. You must also respond to **ALL** subsequent questions on the form. You must also submit documentation to establish how you satisfy the guidelines as if you were filing an Initial request for consideration of deferred action.

NOTE: You do not need to submit documentation concerning minor traffic violations such as driving without a license unless they were alcohol-or drug- related.

Additional Information Relevant to ALL Requests for DACA

1. What other factors will USCIS consider when making a determination on deferred action?

USCIS will also conduct a background check. USCIS may consider deferring action in your case even if you have been arrested or detained by any law enforcement officer and charges were filed, or if charges were filed against you without an arrest. USCIS will evaluate the totality of the circumstances in reaching a decision on deferred action.

In accordance with the Secretary's memorandum, if USCIS determines that you have been convicted of a felony, a significant misdemeanor, or three or more misdemeanors not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct, or that you otherwise pose a threat to national security or public safety, USCIS is unlikely to defer action in your case. See the Frequently Asked Questions at www.uscis.gov/childhoodarrivals.

Even if you satisfy the threshold criteria for consideration of DACA, USCIS may deny your request if it determines, in its unreviewable discretion, that an exercise of prosecutorial discretion is not warranted in your case.

2. What else should you submit with Form I-821D?

USCIS will not consider deferring action in your case unless your Form I-821D is accompanied by Form I-765, with fees, and Form I-765WS. If you do not include Form I-765 with all applicable fees with your Form I-821D, your entire submission will be rejected.

Optional E-Notification of Request Acceptance. You may submit Form G-1145, Notification of Application/Petition Acceptance, an optional form, which will notify you electronically when USCIS accepts your request for DACA.

What is the Filing Fee?

There is no filing fee for Form I-821D. However, you must submit both filing and biometric services fees with Form I-765. Read Form I-765 filing instructions for complete information at www.uscis.gov/I-765.

Where to File?

Please see our USCIS website at www.uscis.gov/I-821D or call the USCIS National Customer Service Center at **1-800-375-5283** for the most current information about where to file this form. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Address Changes

You must inform USCIS if you change your address. For information on filing a change of address, go to the USCIS website at www.uscis.gov/addresschange or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

NOTE: Do not submit a change of address request to USCIS Lockbox facilities because these facilities do not process change of address requests.

Processing Information

Initial Processing. Once your request has been received by USCIS, USCIS will check the request for completeness. If you do not completely fill out the form, USCIS may deny or reject your request.

Requests for More Information, Including Biometrics or Interview. We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you provide the originals of any copies you submit. We will return these originals when they are no longer needed.

If the same documents are required for both Form I-821D and Form I-765 that are filed together, the documents only have to be submitted once.

At the time of any interview or other appearance at a USCIS office, USCIS may require that you provide biometric information (e.g., photograph, fingerprints, signature) to verify your identity and update your background information.

Decision. USCIS will review your request to determine whether the exercise of prosecutorial discretion is appropriate in your case. Each case will be considered on an individual, case-by-case basis. Even if you satisfy the threshold criteria for consideration of DACA, USCIS may determine, in its unreviewable discretion, that deferred action is not warranted in your case. You will be notified of the decision in writing. There is no motion to reopen/reconsider the decision and there is no right to appeal.

USCIS Forms and Information

To ensure you are using the latest version of this form, visit the USCIS website at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have Internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our Internet-based system, **InfoPass**. To access the system, visit our website at infopass.uscis.gov. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Penalties

If you knowingly and willfully provide materially false information on Form I-821D, you will be committing a Federal felony punishable by a fine, or imprisonment up to five years, or both, under 18 U.S.C. Section 1001. In addition, individuals may be placed into removal proceedings, face severe penalties provided by law, and be subject to criminal prosecution.

USCIS Privacy Act Statement

AUTHORITIES: The information requested on this form, and the associated evidence, is collected under the Immigration and Nationality Act, section 101, et seq.

PURPOSE: The primary purpose for providing the requested information on this form is to determine if you should be considered for deferred action as a childhood arrival. The information you provide will be used in making a decision whether to defer removal action in your case as an exercise of prosecutorial discretion.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision in your case or result in denial of your request.

ROUTINE USES: The information you provide on this form may be shared with other Federal, state, local, and foreign government agencies and authorized organizations following approved routine uses described in the associated published system of records notices [DHS/USCIS-007 - Benefits Information System and DHS/USCIS-001 - Alien File, Index, and National File Tracking System of Records which can be found at www.dhs.gov/privacy].

Other Disclosure Information

Information provided in this request is protected from disclosure to ICE and U.S. Customs and Border Protection (CBP) for the purpose of immigration enforcement proceedings unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). The information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of deferred action for childhood arrivals request itself, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense. **The above information sharing clause covers family members and guardians, in addition to the requestor.**

This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 3 hours per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0124. **Do not mail your completed Form I-821D to this address.**

Reminder

For Initial and Renewal Request

- ☐ Did you submit Form I-765 along with the filing and biometric services fees (\$495) required for the application or employment authorization, and did you also submit a completed Form I-765WS?
- ☐ Did you answer every relevant **Item Number**?
- ☐ Did you provide an original, handwritten signature and date your request?
- ☐ Did you submit the necessary documents? For Initial requests, did you submit documents to meet each guideline? For Renewal requests, see the section titled Evidence for Renewal Requests Only.
- ☐ If you were issued a final order of exclusion, deportation, or removal, did you include a copy of that final order (if available and if you had not already submitted it to USCIS)?
- ☐ If your exclusion, deportation, or removal proceedings were terminated by an immigration judge, did you include a copy of the immigration judge's termination order (if available and if you had not already submitted it to USCIS)?
- ☐ If you have ever been arrested for, charged with, or convicted of any felony or misdemeanor in the United States or any crime in any country other than the United States, did you submit an original, official, or court-certified document that shows your complete arrest record and final disposition for each incident (if available and if you had not already submitted it to USCIS)?

For Initial Requests Only

- ☐ Did you submit evidence to show that you came to the United States while under 16 years of age?
- ☐ Did you submit evidence to prove your identity, date of initial entry, and continuous residence from June 15, 2007 (or earlier) up to the present time?
- ☐ Did you submit evidence that you are currently in school, have a GED certificate, have graduated or received a certificate of completion from high school, or are an honorably discharged veteran of the U.S. Armed Forces or U.S. Coast Guard?
- ☐ Did you provide evidence showing that you had no lawful status as of June 15, 2012?

EXHIBIT C

Perma.cc record

Captured August 26, 2016 2:30 pm

[See the Capture View \(/S6G2-3D8M\)](#)[What is Perma.cc? \(/about\)](#)[Show record details](#)[View the live page](#)<https://www.uscis.gov/humanitaria>



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Humanitarian

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- [Female Genital Mutilation or Cutting \(FGM/C\)](#)

Frequently Asked Questions

FAQs updated June 15, 2015

General Information for All Requestors

- [What is Deferred Action for Childhood Arrivals?](#)
- [DACA Process](#)
- [Background Checks](#)
- [After USCIS Makes a Decision](#)

- [Chinese \(PDF, 611 KB\)](#)
- [Korean \(PDF, 627 KB\)](#)
- [Tagalog \(PDF, 338 KB\)](#)
- [Vietnamese \(PDF, 454 KB\)](#)

I. General Information for All Requestors

A. What is Deferred Action for Childhood Arrivals?

Over the past several years, this Administration has undertaken an unprecedented effort to transform the immigration enforcement system into one that focuses on national security, public safety, border security and the integrity of the immigration system. As the Department of Homeland Security (DHS) continues to focus its enforcement resources on the removal of individuals who pose a danger to national security or a risk to public safety, DHS will exercise prosecutorial discretion as appropriate to ensure that enforcement resources are not expended on low priority cases, such as individuals who came to the United States as children and meet other key guidelines. Individuals who demonstrate that they meet the guidelines below may request consideration of deferred action for childhood arrivals (DACA) for a period of two years, subject to renewal for a period of two years, and may be eligible for employment authorization.

You may request consideration of DACA if you:

1. Were under the age of 31 as of June 15, 2012;
2. Came to the United States before reaching your 16th birthday;
3. Have continuously resided in the United States since June 15, 2007, up to the present time;
4. Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
5. Had no lawful status on June 15, 2012, meaning that:
 - You never had a lawful immigration status on or before June 15, 2012, or
 - Any lawful immigration status or parole that you obtained prior to June

immediately contact the Law Enforcement Support Center's hotline at 1-855-448-6903 (staffed 24 hours a day, 7 days a week).

Q15: If I accepted an offer of administrative closure under the case-by-case review process or my case was terminated as part of the case-by-case review process, can I be considered for deferred action under this process?

A15: Yes. If you can demonstrate that you meet the guidelines, you will be able to request consideration of DACA even if you have accepted an offer of administrative closure or termination under the case-by-case review process.

Q16: If I declined an offer of administrative closure under the case-by-case review process, can I be considered for deferred action under this process?

A16: Yes. If you can demonstrate that you meet the guidelines, you will be able to request consideration of DACA even if you declined an offer of administrative closure under the case-by-case review process.

Q17: If my case was reviewed as part of the case-by-case review process but I was not offered administrative closure, can I be considered for deferred action under this process?

A17: Yes. If you can demonstrate that you meet the guidelines, you will be able to request consideration of DACA even if you were not offered administrative closure following review of your case as part of the case-by-case review process.

Q18: Can I request consideration of DACA under this process if I am currently in a nonimmigrant status (e.g. F-1, E-2, H-4) or have Temporary Protected Status (TPS)?

A18: No. You can only request consideration of DACA under this process if you currently have no immigration status and were not in any lawful status on June 15, 2012.

Q19: Will the information I share in my request for consideration of DACA be used for immigration enforcement purposes?

A19: Information provided in this request is protected from disclosure to ICE and CBP for the purpose of immigration enforcement proceedings unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). Individuals whose cases are deferred pursuant to DACA will not be referred to ICE. The information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of DACA, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense. The above information sharing policy covers family members and guardians, in addition to the requestor. This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q20: If my case is referred to ICE for immigration enforcement purposes or if I receive an NTA, will information related to my family members and guardians also be referred to ICE for immigration enforcement purposes?

A20: If your case is referred to ICE for purposes of immigration enforcement or you receive an NTA, information related to your family members or guardians that is contained in your request will not be referred to ICE for purposes of immigration enforcement against family members or guardians. However, that information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of DACA, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense.

This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

Q21: Will USCIS verify documents or statements that I provide in support of a request for DACA?

A21: USCIS has the authority to verify documents, facts, and statements that are provided in support of requests for DACA. USCIS may contact education institutions, other government agencies, employers, or other entities in order to verify information.

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www.justice.gov/crt/worker-information.

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Last Reviewed/Updated: 03/04/2016



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National Customer Service Center

1-800-375-5283

TDD for the Deaf and Hard of Hearing

1-800-767-1833

EXHIBIT D

Secretary
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

December 30, 2016

The Honorable Judy Chu
U.S. House of Representatives
Washington, DC 20515

Dear Representative Chu:

On behalf of the Administration, I write in response to the letter you and 110 other members of Congress sent the President on December 5. In your letter, you ask us "to do everything within [our] power to safeguard the personal identifying information of DACA enrollees." We share your concerns.

Today there are 750,000 young people enrolled in DACA who, when they applied for enrollment, relied on the U.S. government's representations about the use of their personal identifying information. Since DACA was announced in 2012, DHS has consistently made clear that information provided by applicants will be collected and considered for the primary purpose of adjudicating their DACA requests and would be safeguarded from other immigration-related purposes. More specifically, the U.S. government represented to applicants that the personal information they provided will not later be used for immigration enforcement purposes except where it is independently determined that a case involves a national security or public safety threat, criminal activity, fraud, or limited other circumstances where issuance of a notice to appear is required by law.

We believe these representations made by the U.S. government, upon which DACA applicants most assuredly relied, must continue to be honored.

For decades, even dating back before DACA, it has been the long-standing and consistent practice of DHS (and its predecessor INS) to use information submitted by people seeking deferred action or other benefits for the limited purpose of adjudicating their requests, and not for immigration enforcement purposes except in the kinds of specified circumstances described above. This was true, for example, under the deferred action policies extended to victims of human trafficking, to foreign students affected by Hurricane Katrina, to battered immigrants under the Violence Against Women Act, and to widows and widowers of American citizens. Accordingly, people who requested to be considered under DACA, like those who requested deferred action in the past, have relied on our consistent practice concerning the information they provide about themselves and others.

The Honorable Judy Chu

Page 2

The U.S. government's practice of adhering to the assurances it makes to applicants for deferred action is also consistent with the way USCIS (and the INS before it) has long protected information submitted by those seeking other benefits or relief. This includes but is not limited to individuals requesting temporary protected status, deferred enforced departure, or extended voluntary departure. In these circumstances, as with deferred action requests, USCIS and INS have abided by a longstanding and consistent practice of using information to adjudicate specific applications, but not for immigration enforcement purposes absent the limited circumstances described above.

Since DACA began, thousands of Dreamers have been able to enroll in colleges and universities, complete their education, start businesses that help improve our economy, and give back to our communities as teachers, medical professionals, engineers, and entrepreneurs—all on the books. We continue to benefit as a country from the contributions of those young people who have come forward and want nothing more than to contribute to our country and our shared future.

The co-signers of your letter will receive separate, identical responses. Should you wish to discuss this further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeh Charles Johnson". The signature is stylized with a large, circular loop at the beginning and a long, horizontal flourish extending to the right.

Jeh Charles Johnson

EXHIBIT E



Official website of the Department of Homeland Security



U.S. Department of
Homeland Security

Memorandum on Rescission Of Deferred Action For Childhood Arrivals (DACA)

Release Date: September 5, 2017

MEMORANDUM FOR:

James W. McCament
Acting Director
U.S. Citizenship and Immigration Services

Thomas D. Homan
Acting Director
U.S. Immigration and Customs Enforcement

Kevin K. McAleenan
Acting Commissioner
U.S. Customs and Border Protection

Joseph B. Maher
Acting General Counsel

Ambassador James D. Nealon
Assistant Secretary, International Engagement

Julie M. Kirchner
Citizenship and Immigration Services Ombudsman

FROM:

Elaine C. Duke
Acting Secretary

SUBJECT:

Rescission of the June 15, 2012 Memorandum Entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children”

This memorandum rescinds the June 15, 2012 memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” which established the program known as Deferred Action for Childhood Arrivals (“DACA”). For the reasons and in the manner outlined below, Department of Homeland Security personnel shall take all appropriate actions to execute a wind-down of the program, consistent with the parameters established in this memorandum.

Background

The Department of Homeland Security established DACA through the issuance of a memorandum on June 15, 2012. The program purported to use deferred action—an act of prosecutorial discretion meant to be applied only on an individualized case-by-case basis—to confer certain benefits to illegal aliens that Congress had not otherwise acted to provide by law.^{[1] (# ftn1)} Specifically, DACA provided certain illegal aliens who entered the United States before the age of sixteen a period of deferred action and eligibility to request employment authorization.

On November 20, 2014, the Department issued a new memorandum, expanding the parameters of DACA and creating a new policy called Deferred Action for Parents of Americans and Lawful Permanent Residents (“DAPA”). Among other things—such as the expansion of the coverage criteria under the 2012 DACA policy to encompass aliens with a wider range of ages and arrival dates, and lengthening the period of deferred action and work authorization from two years to three—the November 20, 2014 memorandum directed USCIS “to establish a process, similar to DACA, for exercising prosecutorial discretion through the use of deferred action, on a case-by-case basis,” to certain aliens who have “a son or daughter who is a U.S. citizen or lawful permanent resident.”

Prior to the implementation of DAPA, twenty-six states—led by Texas—challenged the policies announced in the November 20, 2014 memorandum in the U.S. District Court for the Southern District of Texas. In an order issued on February 16, 2015, the district court preliminarily enjoined the policies nationwide.^{[2] (# ftn2)} The district court held that the plaintiff states were likely to succeed on their claim that the DAPA program did not comply with relevant authorities.

The United States Court of Appeals for the Fifth Circuit affirmed, holding that Texas and the other states had demonstrated a substantial likelihood of success on the merits and satisfied

the other requirements for a preliminary injunction.^[3] (# ftn3) The Fifth Circuit concluded that the Department's DAPA policy conflicted with the discretion authorized by Congress. In considering the DAPA program, the court noted that the Immigration and Nationality Act "flatly does not permit the reclassification of millions of illegal aliens as lawfully present and thereby make them newly eligible for a host of federal and state benefits, including work authorization." According to the court, "DAPA is foreclosed by Congress's careful plan; the program is 'manifestly contrary to the statute' and therefore was properly enjoined."

Although the original DACA policy was not challenged in the lawsuit, both the district and appellate court decisions relied on factual findings about the implementation of the 2012 DACA memorandum. The Fifth Circuit agreed with the lower court that DACA decisions were not truly discretionary,^[4] (# ftn4) and that DAPA and expanded DACA would be substantially similar in execution. Both the district court and the Fifth Circuit concluded that implementation of the program did not comply with the Administrative Procedure Act because the Department did not implement it through notice-and-comment rulemaking.

The Supreme Court affirmed the Fifth Circuit's ruling by equally divided vote (4-4).^[5] (# ftn5) The evenly divided ruling resulted in the Fifth Circuit order being affirmed. The preliminary injunction therefore remains in place today. In October 2016, the Supreme Court denied a request from DHS to rehear the case upon the appointment of a new Justice. After the 2016 election, both parties agreed to a stay in litigation to allow the new administration to review these issues.

On January 25, 2017, President Trump issued Executive Order No. 13,768, "Enhancing Public Safety in the Interior of the United States." In that Order, the President directed federal agencies to "[e]nsure the faithful execution of the immigration laws . . . against all removable aliens," and established new immigration enforcement priorities. On February 20, 2017, then Secretary of Homeland Security John F. Kelly issued an implementing memorandum, stating "the Department no longer will exempt classes or categories of removable aliens from potential enforcement," except as provided in the Department's June 15, 2012 memorandum establishing DACA,^[6] (# ftn6) and the November 20, 2014 memorandum establishing DAPA and expanding DACA.^[7] (# ftn7)

On June 15, 2017, after consulting with the Attorney General, and considering the likelihood of success on the merits of the ongoing litigation, then Secretary John F. Kelly issued a memorandum rescinding DAPA and the expansion of DACA—but temporarily left in place the June 15, 2012 memorandum that initially created the DACA program.

Then, on June 29, 2017, Texas, along with several other states, sent a letter to Attorney General Sessions asserting that the original 2012 DACA memorandum is unlawful for the same reasons

stated in the Fifth Circuit and district court opinions regarding DAPA and expanded DACA. The letter notes that if DHS does not rescind the DACA memo by September 5, 2017, the States will seek to amend the DAPA lawsuit to include a challenge to DACA.

The Attorney General sent a letter to the Department on September 4, 2017, articulating his legal determination that DACA “was effectuated by the previous administration through executive action, without proper statutory authority and with no established end-date, after Congress’ repeated rejection of proposed legislation that would have accomplished a similar result. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch.” The letter further stated that because DACA “has the same legal and constitutional defects that the courts recognized as to DAPA, it is likely that potentially imminent litigation would yield similar results with respect to DACA.” Nevertheless, in light of the administrative complexities associated with ending the program, he recommended that the Department wind it down in an efficient and orderly fashion, and his office has reviewed the terms on which our Department will do so.

Rescission of the June 15, 2012 DACA Memorandum

Taking into consideration the Supreme Court’s and the Fifth Circuit’s rulings in the ongoing litigation, and the September 4, 2017 letter from the Attorney General, it is clear that the June 15, 2012 DACA program should be terminated. In the exercise of my authority in establishing national immigration policies and priorities, except for the purposes explicitly identified below, I hereby rescind the June 15, 2012 memorandum.

Recognizing the complexities associated with winding down the program, the Department will provide a limited window in which it will adjudicate certain requests for DACA and associated applications meeting certain parameters specified below. Accordingly, effective immediately, the Department:

- Will adjudicate—on an individual, case-by-case basis—properly filed pending DACA initial requests and associated applications for Employment Authorization Documents that have been accepted by the Department as of the date of this memorandum.
- Will reject all DACA initial requests and associated applications for Employment Authorization Documents filed after the date of this memorandum.
- Will adjudicate—on an individual, case by case basis—properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted by the Department as of the date of this memorandum, and from current beneficiaries whose benefits will expire between the date of this memorandum and March 5, 2018 that have been accepted by the Department as of October 5, 2017.

- Will reject all DACA renewal requests and associated applications for Employment Authorization Documents filed outside of the parameters specified above.
- Will not terminate the grants of previously issued deferred action or revoke Employment Authorization Documents solely based on the directives in this memorandum for the remaining duration of their validity periods.
- Will not approve any new Form I-131 applications for advance parole under standards associated with the DACA program, although it will generally honor the stated validity period for previously approved applications for advance parole. Notwithstanding the continued validity of advance parole approvals previously granted, CBP will—of course—retain the authority it has always had and exercised in determining the admissibility of any person presenting at the border and the eligibility of such persons for parole. Further, USCIS will—of course—retain the authority to revoke or terminate an advance parole document at any time.
- Will administratively close all pending Form I-131 applications for advance parole filed under standards associated with the DACA program, and will refund all associated fees.
- Will continue to exercise its discretionary authority to terminate or deny deferred action at any time when immigration officials determine termination or denial of deferred action is appropriate.

This document is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigation prerogatives of DHS.

[\[1\] \(# ftnref1\)](#) Significantly, while the DACA denial notice indicates the decision to deny is made in the unreviewable discretion of USCIS, USCIS has not been able to identify specific denial cases where an applicant appeared to satisfy the programmatic categorical criteria as outlined in the June 15, 2012 memorandum, but still had his or her application denied based solely upon discretion.

[\[2\] \(# ftnref2\)](#) *Texas v. United States*, 86 F. Supp. 3d 591 (S.D. Tex. 2015).

[\[3\] \(# ftnref3\)](#) *Texas v. United States*, 809 F.3d 134 (5th Cir. 2015).

[\[4\] \(# ftnref4\)](#) *Id.*

[\[5\] \(# ftnref5\)](#) *United States v. Texas*, 136 S. Ct. 2271 (2016) (per curiam).

[\[6\]](#) ([# ftnref6](#)) Memorandum from Janet Napolitano, Secretary, DHS to David Aguilar, Acting Comm'r, CBP, et al., "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children" (June 15, 2012).

[\[7\]](#) ([# ftnref7](#)) Memorandum from Jeh Johnson, Secretary, DHS, to Leon Rodriguez, Dir., USCIS, et al., "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Whose Parents are U.S. Citizens or Permanent Residents" (Nov. 20, 2014).

Topics: [Border Security \(/topics/border-security\)](#), [Deferred Action \(/topics/deferred-action\)](#)

Keywords: [DACA \(/keywords/daca\)](#), [Deferred Action for Childhood Arrivals \(/keywords/deferred-action-childhood-arrivals\)](#)

Last Published Date: September 5, 2017

EXHIBIT F

JUSTICE NEWS

Attorney General Sessions Delivers Remarks on DACA

Washington, DC ~ Tuesday, September 5, 2017

Remarks as prepared for delivery

Good morning. I am here today to announce that the program known as DACA that was effectuated under the Obama Administration is being rescinded.

The DACA program was implemented in 2012 and essentially provided a legal status for recipients for a renewable two-year term, work authorization and other benefits, including participation in the social security program, to 800,000 mostly-adult illegal aliens.

This policy was implemented unilaterally to great controversy and legal concern after Congress rejected legislative proposals to extend similar benefits on numerous occasions to this same group of illegal aliens.

In other words, the executive branch, through DACA, deliberately sought to achieve what the legislative branch specifically refused to authorize on multiple occasions. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch.

The effect of this unilateral executive amnesty, among other things, contributed to a surge of unaccompanied minors on the southern border that yielded terrible humanitarian consequences. It also denied jobs to hundreds of thousands of Americans by allowing those same jobs to go to illegal aliens.

We inherited from our Founders—and have advanced—an unsurpassed legal heritage, which is the foundation of our freedom, safety, and prosperity.

As the Attorney General, it is my duty to ensure that the laws of the United States are enforced and that the Constitutional order is upheld.

No greater good can be done for the overall health and well-being of our Republic, than preserving and strengthening the impartial rule of law. Societies where the rule of law is treasured are societies that tend to flourish and succeed.

Societies where the rule of law is subject to political whims and personal biases tend to become societies afflicted by corruption, poverty, and human suffering.

To have a lawful system of immigration that serves the national interest, we cannot admit everyone who would like to come here. That is an open border policy and the American people have rightly rejected it.

Therefore, the nation must set and enforce a limit on how many immigrants we admit each year and that means all can not be accepted.

This does not mean they are bad people or that our nation disrespects or demeans them in any way. It means we are properly enforcing our laws as Congress has passed them.

It is with these principles and duties in mind, and in light of imminent litigation, that we reviewed the Obama Administration's DACA policy.

Our collective wisdom is that the policy is vulnerable to the same legal and constitutional challenges that the courts recognized with respect to the DAPA program, which was enjoined on a nationwide basis in a decision affirmed by the

Fifth Circuit.

The Fifth Circuit specifically concluded that DACA had not been implemented in a fashion that allowed sufficient discretion, and that DAPA was “foreclosed by Congress’s careful plan.”

In other words, it was inconsistent with the Constitution’s separation of powers. That decision was affirmed by the Supreme Court by an equally divided vote.

If we were to keep the Obama Administration’s executive amnesty policy, the likeliest outcome is that it would be enjoined just as was DAPA. The Department of Justice has advised the President and the Department of Homeland Security that DHS should begin an orderly, lawful wind down, including the cancellation of the memo that authorized this program.

Acting Secretary Duke has chosen, appropriately, to initiate a wind down process. This will enable DHS to conduct an orderly change and fulfill the desire of this administration to create a time period for Congress to act—should it so choose. We firmly believe this is the responsible path.

Simply put, if we are to further our goal of strengthening the constitutional order and the rule of law in America, the Department of Justice cannot defend this type of overreach.

George Washington University Law School Professor Jonathan Turley in testimony before the House Judiciary Committee was clear about the enormous constitutional infirmities raised by these policies.

He said: “In ordering this blanket exception, President Obama was nullifying part of a law that he simply disagreed with. If a president can claim sweeping discretion to suspend key federal laws, the entire legislative process becomes little more than a pretense...The circumvention of the legislative process not only undermines the authority of this branch but destabilizes the tripartite system as a whole.”

Ending the previous Administration’s disrespect for the legislative process is an important first step. All immigration policies should serve the interests of the people of the United States—lawful immigrant and native born alike.

Congress should carefully and thoughtfully pursue the types of reforms that are right for the American people. Our nation is comprised of good and decent people who want their government’s leaders to fulfill their promises and advance an immigration policy that serves the national interest.

We are a people of compassion and we are a people of law. But there is nothing compassionate about the failure to enforce immigration laws.

Enforcing the law saves lives, protects communities and taxpayers, and prevents human suffering. Failure to enforce the laws in the past has put our nation at risk of crime, violence and even terrorism.

The compassionate thing is to end the lawlessness, enforce our laws, and, if Congress chooses to make changes to those laws, to do so through the process set forth by our Founders in a way that advances the interest of the nation.

That is what the President has promised to do and has delivered to the American people.

Under President Trump’s leadership, this administration has made great progress in the last few months toward establishing a lawful and constitutional immigration system. This makes us safer and more secure.

It will further economically the lives of millions who are struggling. And it will enable our country to more effectively teach new immigrants about our system of government and assimilate them to the cultural understandings that support it.

The substantial progress in reducing illegal immigration at our border seen in recent months is almost entirely the product of the leadership of President Trump and his inspired federal immigration officers. But the problem is not solved. And without more action, we could see illegality rise again rather than be eliminated.

As a candidate, and now in office, President Trump has offered specific ideas and legislative solutions that will protect American workers, increase wages and salaries, defend our national security, ensure the public safety, and increase the general well-being of the American people.

He has worked closely with many members of Congress, including in the introduction of the RAISE Act, which would produce enormous benefits for our country. This is how our democratic process works.

There are many powerful interest groups in this country and every one of them has a constitutional right to advocate their views and represent whomever they choose.

But the Department of Justice does not represent any narrow interest or any subset of the American people. We represent all of the American people and protect the integrity of our Constitution. That is our charge.

We at Department of Justice are proud and honored to work to advance this vision for America and to do our best each day to ensure the safety and security of the American people.

Thank you.

Speaker:

Attorney General Jeff Sessions

Attachment(s):

Download ag letter re daca.pdf

Topic(s):

Immigration

Component(s):

Office of the Attorney General

Updated September 5, 2017

EXHIBIT G

THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.

RECEIPT NUMBER [REDACTED]		CASE TYPE I821D CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS	
RECEIPT DATE November 19, 2014	PRIORITY DATE	APPLICANT [REDACTED]	
NOTICE DATE July 15, 2017	PAGE 1 of 1		
[REDACTED]		Notice Type: Notice of Action	

This notice is to advise you of action taken on this case. The official notice has been mailed according to the mailing preferences noted on the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. Any relevant documentation was mailed according to the specified mailing preferences.

IF YOU HAVE ALREADY SUBMITTED YOUR REQUEST TO RENEW DEFERRED ACTION UNDER DACA, PLEASE DISREGARD THIS NOTICE.

Our records indicate that U.S. Citizenship and Immigration Services (USCIS) granted DACA in your case and that your current period of deferred action will expire in less than 180 days. If you wish to avoid a lapse in your period of deferred action and employment authorization, you must file a DACA renewal request with USCIS between 150 days and 120 days before the expiration date located on your current Form I-797 DACA approval notice and Employment Authorization Document (EAD). Form I-821D, Consideration of Deferred Action for Childhood Arrivals, was recently updated to allow for renewal filings and is available online at <http://www.uscis.gov/i-821d>. This form must be completed, properly signed and accompanied by a Form I-765, Application for Employment Authorization, and Form I-765WS, I-765 Worksheet.

Please be aware that if your current period of deferred action expires before you receive a renewal of DACA, you will accrue unlawful presence and will not be authorized to work. If you have not already done so, USCIS encourages you to submit your renewal request as soon as possible.

Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion and each case will be considered on an individual, case-by-case basis. USCIS will notify you of its decision in writing.

For additional information on DACA, including documentation requirements for renewal or to download the required forms, please visit www.uscis.gov/childhoodarrivals. If you have already filed your renewal request with USCIS, please disregard this notice. You can check your case status online by visiting <https://egov.uscis.gov/cris/Dashboard.do>.

This courtesy copy may not be used in lieu of official notification to demonstrate the filing or processing action taken on this case.

THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

CALIFORNIA SERVICE CENTER
US CITIZENSHIP & IMMIGRATION SVCS
24000 Avila Road
LAGUNA NIGUEL CA 92677
Customer Service Telephone: (800) 375-5283



If you are visiting a field office and need directions, including public transportation directions, please see www.uscis.gov/fieldoffices for more information.

Notice for Customers with Disabilities

USCIS is committed to providing customers with disabilities the same level of access to its programs and activities that customers without disabilities have (see the USCIS Web site for an explanation and examples of accommodations). If you need an accommodation for your appointment due to a disability that affects your access to a USCIS program or activity OR if a disability prevents you from going to the designated USCIS location for your appointment, please call the National Customer Service Center (NCSC) at 1-800-375-5283 (TTY: 1-800-767-1833) to request an accommodation.

Call the NCSC even if you indicated on your application or petition that you require an accommodation. Also, you must contact the NCSC to request an accommodation each time you have an appointment with USCIS. For example, you must call the NCSC to request an accommodation for your biometrics appointment and again for an accommodation for your interview appointment.

NOTICE: All domestic USCIS offices are accessible to individuals with physical disabilities. You do not need to request an accommodation if your **ONLY** need is an accommodation that would enable or facilitate you having physical access to a domestic USCIS office.

NOTE: Naturalization applicants should **not** call the NCSC to request an exception from the English and/or civics testing requirement. You **must** submit Form N-648, Medical Certification for Disability Exceptions to request an exception. See the form instructions for additional information.

EXHIBIT H

N.Y. / REGION

Post Office Fails to Deliver on Time, and DACA Applications Get Rejected

Dozens of young immigrants mailed renewal forms weeks before they were due. But their paperwork was delayed in the mail and then denied for being late.

Leer en español

By LIZ ROBBINS NOV. 10, 2017

The paperwork was mailed from New York in plenty of time. On Sept. 14, Allison Baker, a lawyer for the Legal Aid Society, sent a client's application to renew a permit that would let him stay and work in the United States legally as part of the Deferred Action for Childhood Arrivals program — long before the Oct. 5 deadline. It was sent certified mail to be safe.

Tracking data from the United States Postal Service shows the envelope arriving in Chicago on Sept. 16 on its way to the regional processing warehouse of the United States Citizenship and Immigration Services, the agency that administers the program known as DACA.

Then the packet started circling Chicago in a mysterious holding pattern. From Sept. 17 to Sept. 19, it was “in transit to destination.” Then its tracking whereabouts disappeared until Oct. 4. Once again, it was “on its way.”

On Oct. 6, a day too late, it was delivered. And the application, for a 24-year-old man who asked to be identified only as José because his legal status was uncertain, was rejected.

José was not alone. According to lawyers from across the New York region, in at least 33 other cases, unusually long Postal Service delays resulted in rejections of DACA applications, throwing the lives of their clients into frantic limbo. Lawyers in Boston and Philadelphia, which also send their applications to the Chicago processing center, say they have not seen evidence of an issue with the mail.

But in Chicago, in the backyard of the U.S. Citizenship and Immigration Services agency, there were at least 41 DACA recipients whose renewals, sent well before the deadline, arrived late, advocates said. According to Representative Luis V. Gutiérrez, Democrat of Illinois, an applicant sent a renewal on Sept. 13 and it arrived on Oct. 6. Another sent the paperwork on Sept. 21, and it was received on Oct. 9. “Because somebody else did not do their job correctly we are taking innocent young immigrants and making them deportable,” said Mr. Gutiérrez in a statement. “That is unacceptable.”

On Thursday, in a rare admission from a federal agency, the U.S. Postal Service took the blame. David A. Partenheimer, a spokesman for the post office, said there had been an “unintentional temporary mail processing delay in the Chicago area.”

But the U.S. Citizenship and Immigration Services agency said nothing more could be done; the decisions were final.

“According to U.S.C.I.S. regulations, a request is considered received by U.S.C.I.S. as of the actual date of receipt at the location for filing such request,” Steve Blando, a spokesman for the agency, wrote in a statement. He added: “U.S.C.I.S. is not responsible for the mail service an individual chooses, or for delays on the part of mail service providers.”

He later added, though, that “U.S.C.I.S. is committed to working with the U.S.P.S. to understand and address the U.S.P.S. error that occurred that delayed the mail.”

Because DACA is an executive order, signed by President Barack Obama in 2012, and not a statute, applicants cannot appeal the decision. Still, immigrants and their advocates viewed the agency’s unwillingness to revisit their applications as harsh and unfair.

“You can’t put the burden on the applicant to ensure the government agencies did their job,” said Camille Mackler, the director of legal initiatives for the New York Immigration Coalition. “Can you imagine if the I.R.S. didn’t pick up their mail for two weeks and you get a penalty because of it?”

The DACA program had offered temporary protection and work permits for about 800,000 young adults who had been brought to the United States illegally as children.

On Sept. 5, Attorney General Jeff Sessions announced after months of speculation that the Trump administration was canceling the program. Recipients were allowed to keep their permits until they expired at the end of the current two-year term. The administration also offered a brief renewal window for recipients whose permits were expiring before March 5, which set off a scramble across the country from legal service providers to assist applicants.

There are three U.S. Citizenship and Immigration Services intake locations, known as lockboxes, in the United States: in Phoenix, Chicago and Lewisville, Tex., a suburb of Dallas.

According to the immigration agency, its employees do not pick up the mail from the lockbox. The United States Department of the Treasury manages the process but uses a courier service that picks up the mail from post offices each morning. Express Mail items, the agency said, are picked up in the afternoon. Also, items are delivered to the lockbox by the courier services FedEx, DHL and the United Parcel Service.

In a memo after DACA was rescinded, the Department of Homeland Security said renewals had to be “accepted” by Oct. 5. Immigration lawyers contrasted that with a permanent residency opportunity the government offered in 2001, when applications only had to be postmarked by the deadline of April 30. Acknowledging the high volume of applications, the government offered a grace period for paperwork to be received by May 3.

Immigration lawyers questioned why that was not an option in this case.

Hasan Shafiqullah, director of the immigration unit of the Legal Aid Society in New York, was disturbed by the lack of compassion from the agency.

“From the clients’ perspective, they did the right thing,” Mr. Shafiqullah said. “Filing three weeks before should be sufficient, and U.S.C.I.S. needs to recognize that and needs to exercise discretion.”

According to an Oct. 18 deposition of an immigration official conducted as part of a federal lawsuit in Brooklyn, 4,000 DACA applications arrived late. One hundred and fifty-four thousand people were eligible to apply for renewal and 132,000 applications were received on time.

Tata Camara, 32, who came to the United States at age 15 from Guinea, sent her application on Sept. 29; she said it was the earliest she could afford to apply, since that day she got a donation for the \$495 application fee from the New Economy Project, a New York nonprofit. BronxWorks, a legal services agency, helped her prepare her application.

She had installed two apps on her phone to track her application in the mail, but she became anguished when they showed her envelope had arrived in Chicago on Oct. 1 but seemed to stall there. She called every supervisor she could in the Chicago post office.

“It doesn’t make any sense, I mail stuff all the time,” Ms. Camara said. “I can understand one day of delay. Two days at most. But you can’t even tell me where it is?”

According to the tracking record, her application arrived “at the unit” on Oct. 5, but was not actually delivered until Oct. 6.

She said she made an appointment to discuss the application with an immigration official next week. Five lawyers in New York said they had already received denials from the U.S. Citizenship and Immigration Services agency when pleading their case — via email, an 800-number and in person.

Linda Bennett-Rodriguez, a lawyer at the Empire Justice Center in White Plains, said one of her clients sent his application in on Sept. 12. She sent the

renewal form for his younger brother on Sept. 21, and it was accepted on Sept. 25.

The older brother's application was in transit for three weeks; it did not arrive at the regional facility in Chicago until Oct. 3. At that point, Ms. Bennett-Rodriguez raced to find a solution.

When it still had not arrived, hours before the deadline, she said that her client offered to fly from La Guardia Airport to Chicago to hand-deliver his application. But she learned there was no physical address listed for where he would go.

The post office tracking information showed his application arrived on Oct. 6.

"It was probably my worst day as an attorney," Ms. Bennett-Rodriguez said. "I knew the importance and I knew we filed with enough time."

Mr. Partenheimer, the post office spokesman, said the processing "issue has been resolved and we are investigating how it occurred." He added that the mail service would "work diligently" with the U.S. Citizenship and Immigration Services agency "concerning any potential issues this may cause for the affected individuals."

Correction: November 10, 2017

An earlier version of this article referred incorrectly to a deposition in a federal lawsuit. It was not conducted by the immigration advocacy group Make the Road and did not include the number of applications received on time.

A version of this article appears in print on November 11, 2017, on Page A17 of the New York edition with the headline: Mail Is Late, and DACA Renewals Are Denied.

EXHIBIT I

U.S. Department of Homeland Security



U.S. Citizenship
and Immigration
Services

Dear Applicant,

We are sorry to inform you that we have rejected your application for the reasons indicated on the I-797 Reject Notice.

You are invited to resubmit your application package after you have corrected the reasons for rejection. If you have any questions please contact lockboxsupport@uscis.dhs.gov.

When you resubmit your application, please enclose this letter with your re-submission.

**Place this letter on top of your
application package.**

Thank you.

www.uscis.gov

102517 18:51 102417 Re: DACA_ELIS-5757

EXHIBIT J

----- Forwarded message -----

From: **lockbox support** <lockboxsupport@uscis.dhs.gov>

Date: Wed, Nov 22, 2017 at 10:49 AM

Subject: RE: A [REDACTED] ATTN: Improperly Rejected DACA Filing -- Re-submitted -- IOE-

To: Alexandra Lee [REDACTED]

Cc: Jessica Young [REDACTED], Keiry Sanchez [REDACTED]

Good afternoon:

The first DACA renewal submission for Maria Santamaria Rivas was rejected by lockbox (receipt number [REDACTED]) because the lockbox did not receive a payment for the required filing fee. The payment included was not a valid payment. The check date listed was September 28, 2012. As the payment was not valid, the submission had to be rejected. We apologize for the confusion in regards to the green sheet that was included with your rejected filing, which does invite applicants to refile once they have corrected the errors or omissions that led to its rejection, but that is only the case if the applicant is still eligible to file. Your DACA renewal resubmission ([REDACTED]) was rejected for untimely filed because it was received by USCIS on October 11, 2017 which was after the filing deadline of October 5, 2017.

With the announcement of the phase-out of the DACA program, the DACA renewal must be received on or before October 5, 2017 in order to be accepted. Beginning of October 6, 2017 USCIS is no longer accepting initial or renewal filings for DACA requests per the phase-out of the DACA program that is available on the USCIS web site, <https://www.uscis.gov/daca2017>.

The original received date cannot be assigned to a resubmission. A prior filing date may only be applied to a later submission if it is determined that the prior filing was rejected in error or that it was processed incorrectly as a result of USCIS error. Unfortunately, that is not the case with your original filing.

USCIS is *currently not accepting* initial or renewal filings for DACA requests. For more information, please refer to the following resources on our website.

- [DHS: Frequently Asked Questions: Rescission of DACA \(DHS\)](#)
- [DHS: Fact Sheet: Recission of DACA](#)
- [Letter from Attorney General Sessions to Acting Secretary Duke on the Rescission of DACA](#)
- [USCIS Archived Content About DACA](#)



Hillary

The Lockbox Support Team

U.S. Citizenship and Immigration Services

email us at: lockboxsupport@uscis.dhs.gov

From: Alexandra Lee [mailto:[REDACTED]]
Sent: Friday, November 17, 2017 12:35 PM
To: lockbox support
Cc: Jessica Young; Keiry Sanchez
Subject: A [REDACTED] ATTN: Improperly Rejected DACA Filing -- Re-submitted -- IOE-[REDACTED]/IOE-[REDACTED]

Dear Adjudicating Officer,

I am writing on behalf of Jessica Young, Esq., Supervising Attorney at the Westchester Hispanic Coalition.

This is a follow up email to the one previously sent on Wednesday November 15, 2017. Please see attached supplemental documents evidencing prior mailings through USPS on 09/29/17 and 10/10/17.

Also attached is USCIS Guidance on DACA Renewal Requests dated 11/15/17.

We respectfully request that you honor the ORIGINAL receipt date of 10/02/2017. Thank you for your attention in this matter.

Alexandra S. Lee, Esq.

Immigration Staff Attorney

Westchester Hispanic Coalition

[REDACTED]

[White Plains, NY 10605](#)

[REDACTED]

Phone [REDACTED]

Fax: [REDACTED]

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EXHIBIT K



U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, DC 20530

November 15, 2017

By ECF

The Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Batalla Vidal, et al., v. Duke, et al.*, 16-cv-4756 (NGG) (JO)

Dear Judge Garaufis:

Defendants write to notify the Court that this evening, United States Citizenship and Immigration Services (USCIS) issued the following statement:

USCIS Guidance on DACA Renewal Requests Affected by Mail Service Issues

U.S. Citizenship and Immigration Services (USCIS) has received reports that the U.S. Postal Service (USPS) has identified USPS mail service delays that affected a number of DACA renewal requests. Because the DACA policy has been rescinded and individuals can no longer request deferred action under DACA, and in light of the mail service delays identified by USPS, Acting Secretary of Homeland Security Elaine Duke has directed USCIS to accept DACA renewal requests from individuals who resubmit their DACA renewal request with individualized proof that the request was originally mailed in a timely manner and that the cause for receipt after the Oct. 5, 2017, deadline was the result of USPS mail service error. Affected DACA requestors who do not have such proof may contact USPS, which will review the cases on an individual basis and provide a letter if appropriate. USCIS will not accept requests that do not include individualized proof that the request was originally mailed in a timely manner to be received by the October 5 deadline, and that the cause for receipt after the Oct. 5, 2017, deadline was the result of USPS mail service error.

In addition, USCIS had discovered certain cases in which the DACA requests were received at the designated filing location (*e.g.*, at the applicable P.O. Box) by the filing deadline, but were rejected. USCIS will proactively reach out to those DACA requestors to inform them that they may resubmit their DACA request. If a DACA

requestor does not receive such a notification and believes that his or her DACA request was received at the designated filing location by the filing deadline, he or she may resubmit his or her DACA request with proof that the request was previously received at the designated filing location on or before the filing deadline.

Additional guidance is forthcoming.

The statement is available on the USCIS website at the following link:
<https://www.uscis.gov/news/alerts/uscis-guidance-daca-renewal-requests-affected-mail-service-issues>

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

BRIDGET M. ROHDE
Acting United States Attorney

BRETT A. SHUMATE
Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director, Federal Programs Branch

JOHN R. TYLER
Assistant Branch Director

BRAD P. ROSENBERG
Senior Trial Counsel

/s/ Stephen M. Pezzi
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271-A Cadman Plaza East, 7th Floor
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Tel: (718) 254-6288
Fax: (718) 254-7489
Email: joseph.marutollo@usdoj.gov

Counsel for Defendants

CC:

All Counsel of Record (by ECF)

EXHIBIT L



U.S. Citizenship and Immigration Services

Frequently Asked Questions: Rejected DACA Requests

Specific guidance will be provided soon about the steps that a DACA recipient must take to resubmit his or her renewal request to USCIS if the filing was rejected due to U.S. Postal Service mail-service delays.

Q1: Are any new DACA requests being accepted?

A1: No. The DACA policy for accepting new, initial DACA requests ended on Sept. 5, 2017.

Q2: Can I still submit a DACA renewal request?

A2: No. The due date for DACA renewal requests was Sept. 5, 2017 for recipients whose DACA expired before Sept. 5, 2017, and Oct. 5, 2017 for recipients whose DACA expired between Sept. 5, 2017 and March 5, 2018.

Q3: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. What do I need to do to have my DACA request reconsidered?

A3: USCIS will identify you and will send you a letter inviting you to resubmit your DACA request. You will have 33 days from the date of the letter to resubmit your request. You may wish to keep a copy of all materials included in your resubmission. USCIS expects to be able to identify and send letters to all persons in this situation.

Q4: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. However, I haven't been contacted by USCIS to resubmit my DACA request. What should I do?

A4: If you believe your DACA request was delivered by the filing deadline but have not been contacted by USCIS to resubmit your request, you may contact Lockbox Support and explain your situation prior to resubmitting your package for reconsideration. To contact Lockbox Support please email lockboxsupport@uscis.dhs.gov. Provide any information you feel is relevant to your belief that your DACA request was received by USCIS in a timely manner.

Q5: What will happen if my current DACA expires before my renewal is processed? Will I be at risk of removal while this issue is being resolved?

A5: Consistent with longstanding USCIS policy, you will not have deferred action if there is a gap of time between the end of your current DACA and the agency's adjudication of your renewal request. Therefore it is very important for you to resubmit your renewal request as soon as possible.

Information provided to USCIS for the DACA process will not make you an immigration priority for that reason alone. That information will only be proactively provided to ICE or CBP if the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). This information-sharing policy has not changed in any way since it was first announced, including as a result of the Sept. 5, 2017 memo starting a wind-down of the DACA policy. This policy, which may be modified, superseded, or rescinded at any time with or without notice (as has always been the case, and is noted in the archived USCIS DACA FAQs), is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q6: If my DACA renewal request is approved after expiration of my current DACA, will the renewed deferred action apply retroactively?

A6: No. In accordance with longstanding policy, an approved DACA request will not apply retroactively. An individual's deferred action under the DACA policy begins the day USCIS approves the renewal request and is generally valid for two years from the date of issuance.

Q7: I submitted my renewal request on time, but it was rejected by USCIS for other reasons. Can I resubmit it again?

A7: If USCIS rejected your timely filed renewal request because it was not properly filed, that is a valid reason for rejection and it will not be reconsidered. However, if you believe your request was improperly rejected, *i.e.*, it did include all required documents and information, and was properly signed and accompanied by the required fee or approved fee exemption, you may contact Lockbox Support for more information. The email address for Lockbox Support is lockboxsupport@uscis.dhs.gov. Please be prepared to identify and provide a detailed description of the error you believe was made. If you identify a clear error by USCIS in the processing of your renewal request, USCIS may exercise its discretion to review your request again.

The above FAQs, which may be modified, superseded, or rescinded at any time with or without notice, are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Last Reviewed/Updated: 11/30/2017

EXHIBIT M



U.S. Citizenship and
Immigration Services

Frequently Asked Questions: Rejected DACA Requests

Q1: Are any new DACA requests being accepted?

A1: No. The DACA policy for accepting new, initial DACA requests ended on Sept. 5, 2017.

Q2: Can I still submit a DACA renewal request?

A2: No. The due date for DACA renewal requests was Sept. 5, 2017 for recipients whose DACA expired before Sept. 5, 2017, and Oct. 5, 2017 for recipients whose DACA expired between Sept. 5, 2017 and March 5, 2018.

Q3: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. What do I need to do to have my DACA request reconsidered?

A3: USCIS will identify you and will send you a letter inviting you to resubmit your DACA request. You will have 33 days from the date of the letter to resubmit your request. You may wish to keep a copy of all materials included in your resubmission. USCIS expects to be able to identify and send letters to all persons in this situation.

Q4: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. However, I haven't been contacted by USCIS to resubmit my DACA request. What should I do?

A4: If you believe your DACA request was delivered by the filing deadline but have not been contacted by USCIS to resubmit your request, you may contact Lockbox Support and explain your situation prior to resubmitting your package for reconsideration. To contact Lockbox Support please email lockboxsupport@uscis.dhs.gov. Provide any information you feel is relevant to your belief that your DACA request was received by USCIS in a timely manner.

Q5: What will happen if my current DACA expires before my renewal is processed? Will I be at risk of removal while this issue is being resolved?

A5: Consistent with longstanding USCIS policy, you will not have deferred action if there is a gap of time between the end of your current DACA and the agency's adjudication of your renewal request. Therefore it is very important for you to resubmit your renewal request as soon as possible.

Information provided to USCIS for the DACA process will not make you an immigration priority for that reason alone. That information will only be proactively provided to ICE or CBP if the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). This information-sharing policy has not changed in any way since it was first announced, including as a result of the Sept. 5, 2017 memo starting a wind-down of the DACA policy. This policy, which may be modified, superseded, or rescinded at any time with or without notice (as has always been the case, and is noted in the archived USCIS DACA FAQs), is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q6: If my DACA renewal request is approved after expiration of my current DACA, will the renewed deferred action apply retroactively?

A6: No. In accordance with longstanding policy, an approved DACA request will not apply retroactively. An individual's deferred action under the DACA policy begins the day USCIS approves the renewal request and is generally valid for two years from the date of issuance.

Q7: I submitted my renewal request on time, but it was rejected by USCIS for other reasons. Can I resubmit it again?

A7: If USCIS rejected your timely filed renewal request because it was not properly filed, that is a valid reason for rejection and it will not be reconsidered. However, if you believe your request was improperly rejected, *i.e.*, it did include all required documents and information, and was properly signed and accompanied by the required fee or approved fee exemption, you may contact Lockbox Support for more information. The email address for Lockbox Support is lockboxsupport@uscis.dhs.gov. Please be prepared to identify and provide a detailed description of the error you believe was made. If you identify a clear error by USCIS in the processing of your renewal request, USCIS may exercise its discretion to review your request again.

Q8: I believe that my DACA request was delivered to the USCIS designated filing location after the deadline because of U.S. Postal Service (USPS) mail-service delays. What do I need to do to have my DACA request reconsidered?

A8: The USPS is working with USCIS to identify DACA requests that were received after the deadline due to USPS mail-service

delays. As soon as USPS completes its assessment, identifies such requests, and provides this information to USCIS, USCIS will send affected DACA requestors a letter inviting them to resubmit their DACA request. If you receive such a letter, you will have 33 calendar days from the date of the letter to resubmit your request. You may wish to keep a copy of all materials included in your resubmission.

Q9: When will USPS complete its assessment?

A9: USPS anticipates that it will be able to identify DACA requests that were received after the deadline due to USPS mail-service delays and provide this information to USCIS by mid-December 2017.

Q10: When will USCIS send letters informing DACA requestors that they were affected by USPS mail-service delays?

A10: USCIS anticipates that it will be able to send letters to affected individuals approximately one week after USPS provides information to USCIS identifying the impacted requests.

Q11: Will individuals who resubmit their DACA request need to resubmit the required fee?

A11: Yes, unless they previously submitted evidence that USCIS had approved their request for a fee exemption, DACA requestors will need to resubmit the required fee. USCIS did not accept or process the fees for individuals whose DACA requests were rejected. When the agency rejected DACA requests, USCIS returned the entire package, including the fee if one was submitted.

Q12: What should I include in my resubmission package?

A12: Your resubmission package should include:

- Your original DACA request, including your completed and properly signed Form I-821D, Form I-765, Form I-765 Worksheet, if your originally submitted forms are still available to you, or you may submit newly completed forms; the correct filing fee or approved fee exemption request; and any required supporting evidence as described in the Instructions to the forms; and,
- The letter from USCIS inviting you to resubmit your DACA request.

Q13: What is the deadline for resubmitting DACA requests?

A13: Affected individuals will receive a letter from USCIS, and the resubmitted request must be properly filed and received by USCIS at the designated filing location within 33 calendar days of the date of USCIS' letter in order to be considered. You may wish to send your request with tracking information and/or take other steps to ensure your request is received by USCIS within the required timeframe.

As soon as USPS completes its assessment and USCIS sends DACA requestors affected by USPS mail service delays a letter inviting them to resubmit their DACA request, further guidance will be provided about how you may contact USPS and/or USCIS if you believe you were affected but you did not receive a letter from USCIS inviting you to resubmit your request.

The above FAQs, which may be modified, superseded, or rescinded at any time with or without notice, are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

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