

Congress of the United States

Washington, DC 20515

June 14, 2024

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

Dear President Biden:

Tomorrow, we will mark the 12th anniversary of the Deferred Action for Childhood Arrivals (DACA) program that you and then-President Barack Obama announced. Over the past 12 years, DACA has allowed young people to live, work, and thrive in the only country they have called home. As you know, the Fifth Circuit Court of Appeals will almost certainly rule DACA as unlawful, given its previous rulings against immigrant youth, sending the program once again to the U.S. Supreme Court. The rollercoaster of legal uncertainty around DACA is destabilizing and traumatizing, as our immigrant communities deserve to be safe, free from the extreme stress and fear that comes with the threat of deportation, and able to plan their futures.

As Members of Congress, we will continue to pursue legislative solutions to protect and create a path to citizenship that provides permanent stability for DACA recipients and their families, such as the American Dream and Promise Act and U.S. Citizenship Act. **However, we implore you to take all possible executive actions to modernize and strengthen DACA as a policy and to provide immigration relief outside of the program for DACA recipients, DACA-eligible and non-eligible youth, and their families and communities.**

Members of Congress have consistently outlined meaningful action your administration can take to better protect and support DACA recipients, immigrant youth, and long-term undocumented immigrants. Recent requests, which we reiterate today, include:

- Return discretion to immigration officers and judges to grant relief to categorical bars that prevent spouses of U.S. citizens from obtaining lawful status;
- Reduce processing times for provisional waiver applications;
- Streamline the process by which DACA holders may obtain immigrant or nonimmigrant status;
- Make cancellation of removal more accessible to those who are eligible;
- Extend and redesignate Temporary Protected Status to nations facing ongoing crises;
- Process DACA renewal applications as soon as possible, as delays place many individuals at risk of losing their work authorizations or valid driver's license, threatening their ability to work or go to school;
- Increase outreach to DACA recipients about other immigration pathways they may qualify for;
- Expand humanitarian pathways to provide administrative relief for vulnerable groups that include DACA recipients;
- Streamline the approval processes for DACA renewals and Advance Parole applications;
- Expand parole-in-place to include all U.S. citizens and their mixed-status families and extend significant public benefit parole to long-term workers;
- Provide work permits to the 600,000 eligible "Dreamers" under 18 years old who do not qualify for DACA.

In addition to these critical requests, your administration should take the following actions today to improve DACA as a policy:

- Modernize DACA. The June 15, 2012, cutoff date for DACA eligibility has kept the youngest immigrant youth ineligible, sunsetting the policy in practice. Further, applicants should only be required to prove continuous residence for five years before the time of application, as current requirements are unreasonable and unduly burdensome.
- Consecutive and automatic DACA Renewals. Currently, new DACA issuances begin on the date of approval, which can lead to a lapse in status or an overlap in status from one grant period to another. We recommend issuing DACA renewals and the corresponding work authorization grants consecutively rather than at the time of approval to help avoid potential lapses in status or overlaps in status. USCIS already uses this approach in other status-extension contexts. In addition, USCIS should automatically grant two-year period DACA/EAD grants to DACA recipients.
- Expand access to inadmissibility waivers. Many DACA recipients could qualify for existing immigration pathways, such as being sponsored for a green card or a nonimmigrant visa by their employer or an immediate relative. Unfortunately, the reality of how most DACA recipients came to the United States and the time that they have spent here means if they depart the United States to apply for immigration status, they may be subjected to immigration bars, like the three- and ten- year unlawful presence bars, which can prevent them from re-entering the United States for many years or even permanently. The Administration should take action to provide access to waivers and exemptions, so DACA recipients can access existing pathways without being impacted by immigration bars. Specific policy measures should include:
 - Expand provisional processing for other inadmissibility waivers. Provisional processing allows individuals to apply and be approved for waivers before leaving the country but is only available for one type of inadmissibility. The administration should expand this option for other inadmissibility waivers so that applicants for consular processing do not depart until all required waivers are approved. In addition, the administration should allow an approved waiver to cover multiple unlawful presence inadmissibility rather than the current rule of covering just one. This would reduce the risk that DACA recipients are not unknowingly subject to additional inadmissibilities and find themselves trapped outside of the United States indefinitely;
 - Clarify the definition of “extreme hardship.” Many waivers are only available if a U.S. citizen family member would suffer “extreme hardship” if the undocumented individual were subjected to immigration bars and prevented from re-entering. However, “extreme hardship” is not defined in law and can be very difficult to prove. Certifying relevant Board of Immigration Appeals decisions and issuing regulations to clarify the definition of “extreme hardship,” including affirming that family separation is sufficient to demonstrate extreme hardship, would allow more individuals to meet this standard and secure relief; and
 - Provide exemptions from the “permanent bars.” The administration should take steps to ensure DACA recipients and other undocumented individuals are not unfairly punished for immigration violations that were outside of their control. Specifically, the administration should work to provide exemptions from the “permanent bars” for conduct that may have occurred when an individual was a minor. The permanent bar is currently applied to individuals irrespective of their age; which is inconsistent with several other legal contexts recognizing that the standard for culpability for minors is lower than for adults.
- Process Applications received within valid periods. After the last Supreme Court decision on the

DACA policy, the New York District Court reopened the program in December 2020, and USCIS received upwards of 90,000 initial applications, at least 84,000 of which were not processed in time before the policy was challenged again and the federal court in Texas closed processing of initial applications once more in July 2021. Those applications need to be processed and ready for a final decision, should the policy be reopened.

- Process 1+ year lapse in status as renewals. Currently, USCIS is treating renewal requests from individuals whose DACA status has lapsed for more than a year as an initial application that cannot be processed because of the Texas injunction. USCIS should stop treating lapsed renewals as initial applications so that individuals with lapsed DACA status can renew their status while DACA litigation remains ongoing. There is no court order or other policy that prevents USCIS from treating requests from prior DACA recipients, even those whose DACA expired more than a year ago, as a renewed request for DACA.
- Improve guidance on Advance Parole. USCIS should issue clarifying guidance to adjudicators for Advance Parole, laying out a comprehensive framework for determining what travel would satisfy Advance Parole requirements. USCIS should also clarify that Advance Parole can be granted for humanitarian purposes to reunify with family, even if the family member is not gravely ill. The administration must also issue written legal guidance on the meaning of the *Arrabally* decision from the Board of Immigration Appeals, which clarifies traveling on Advance Parole would not constitute a “departure” for immigration purposes and trigger additional immigration bars beyond unlawful presence.
- Strengthen data privacy provisions. A significant consideration for individuals who are deciding whether to apply for or renew their DACA grant is whether their information will be protected or will be shared with immigration enforcement agencies. USCIS should issue regulations and sub-regulatory guidance to strengthen its data privacy provisions on information-use and information-sharing.

The time for courageous actions and common-sense policies on immigration is now. We respectfully request that you fully consider each of these actions and use all possible avenues in your power to give families security, stability, and the freedom to move, stay, live, and thrive in the places they choose to call home.

We look forward to receiving your prompt response. We ask that you provide a response detailing which actions you intend to pursue and, if any actions are not practicable, why that is your determination.

Sincerely,



Delia C. Ramirez
Member of Congress



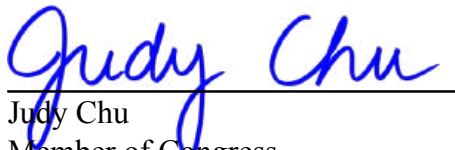
Sylvia R. Garcia
Member of Congress



J. Luis Correa
Member of Congress



Veronica Escobar
Member of Congress



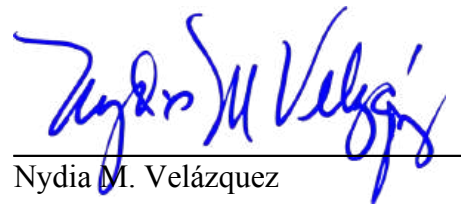
Judy Chu
Member of Congress



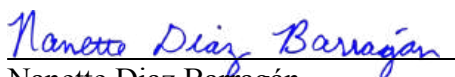
Jesús G. "Chuy" García
Member of Congress



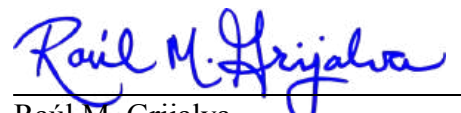
Robert Garcia
Member of Congress



Nydia M. Velázquez
Member of Congress



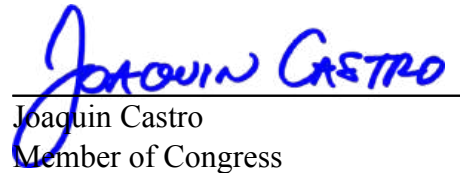
Nanette Diaz Barragán
Member of Congress




Raúl M. Grijalva
Member of Congress



Eleanor Holmes Norton
Member of Congress



Joaquin Castro
Member of Congress



Grace Meng
Member of Congress



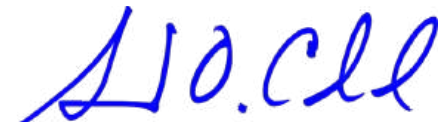
Katie Porter
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



André Carson
Member of Congress



Salud Carbajal
Member of Congress



James P. McGovern
Member of Congress



Danny K. Davis
Member of Congress



Rashida Tlaib
Member of Congress



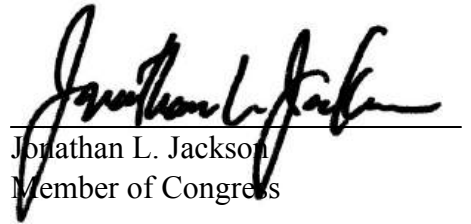
Cori Bush
Member of Congress



Andrea Salinas
Member of Congress



Jim Costa
Member of Congress



Jonathan L. Jackson
Member of Congress



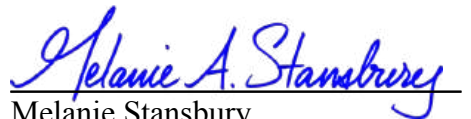
Adriano Espaillat
Member of Congress



Maxwell Alejandro Frost
Member of Congress



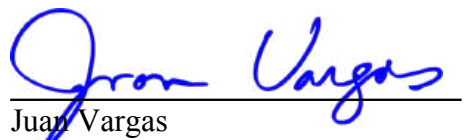
Dan Goldman
Member of Congress




Melanie Stansbury
Member of Congress




Deborah K. Ross
Member of Congress



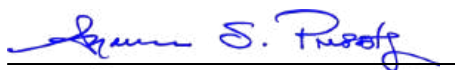
Juan Vargas
Member of Congress



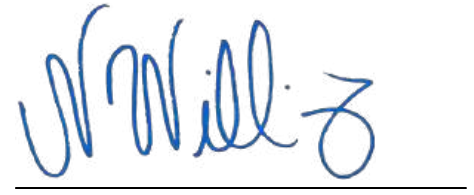
Gabe Vasquez
Member of Congress




Ro Khanna
Member of Congress



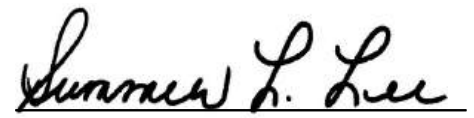
Ayanna Pressley
Member of Congress



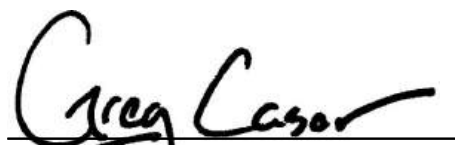
Nikema Williams
Member of Congress




Jamaal Bowman, Ed.D.
Member of Congress



Summer L. Lee
Member of Congress



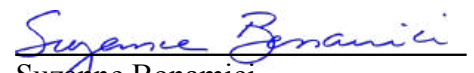
Greg Casar
Member of Congress




Jamie Raskin
Member of Congress



Darren Soto
Member of Congress



Suzanne Bonamici
Member of Congress



Ilhan Omar
Member of Congress



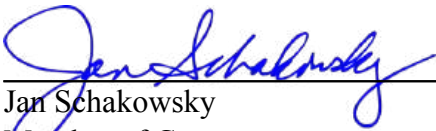
Pete Aguilar
Member of Congress



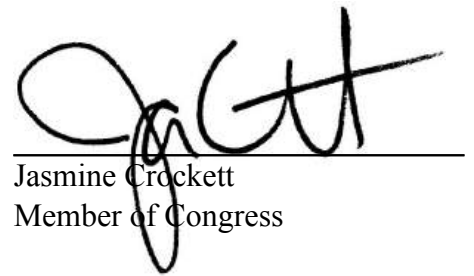
Diana DeGette
Member of Congress



Mark DeSaulnier
Member of Congress



Jan Schakowsky
Member of Congress



Jasmine Crockett
Member of Congress



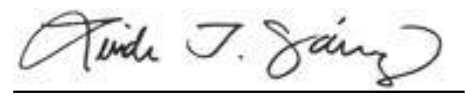
Betty McCollum
Member of Congress



Earl Blumenauer
Member of Congress



Tony Cardenas
Member of Congress



Linda T. Sanchez
Member of Congress



Maxine Waters
Member of Congress



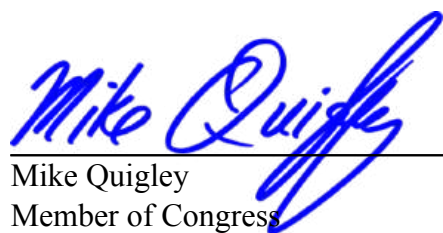
Shri Thanedar
Member of Congress



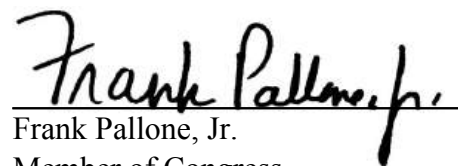
Mark Pocan
Member of Congress



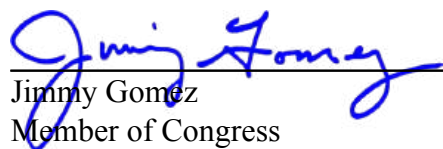
Ritchie Torres
Member of Congress



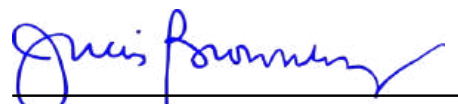
Mike Quigley
Member of Congress



Frank Pallone, Jr.
Member of Congress



Jimmy Gomez
Member of Congress



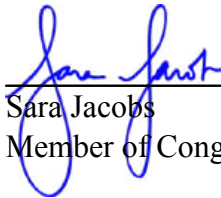
Julia Brownley
Member of Congress




Eric Swalwell
Member of Congress




Seth Moulton
Member of Congress




Sara Jacobs
Member of Congress




Sean Casten
Member of Congress



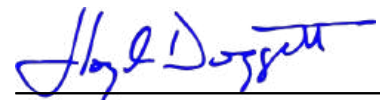
David J. Trone
Member of Congress



Frederica S. Wilson
Member of Congress



Teresa Leger Fernández
Member of Congress



Lloyd Doggett
Member of Congress



Al Green
Member of Congress

Cc: The Honorable Alejandro Mayorkas, Secretary, Department of Homeland Security