Consolidated Case Nos. 18-15068, 18-15069, 18-15070, 18-15071, 18-15072, 18-15128, 18-15133, 18-15134

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

REGENTS OF THE UNIVERSITY OF CALIFORNIA, et al.,
Plaintiffs/Appellees

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, et al.,
Defendants/Appellants

On Appeal from the United States District Court
for the Northern District of California, Honorable William H. Alsup, Presiding

PLAINTIFFS' SUPPLEMENTAL EXCERPTS OF RECORD
VOLUME VI OF VI

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and JANET NAPOLITANO, in her official capacity as President of the University of California,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF XIANZHAN ZHENG

STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA, Plaintiffs, v. U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA, Defendants.	CASE NO. 17-CV-05235-WHA
CITY OF SAN JOSE, a municipal corporation, Plaintiffs, v. DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA, Defendants.	CASE NO. 17-CV-05329-WHA
DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN, Plaintiffs, v. UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security, Defendants.	CASE NO. 17-CV-05380-WHA

COUNTY OF SANTA CLARA and SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 521, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States, JEFFERSON BEAUREGARD SESSIONS, in his official capacity as Attorney General of the United States; ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security; and U.S. DEPARTMENT OF HOMELAND SECURITY, Defendants.	CASE NO. 17-CV-05813-WHA

I, Xianzhan "Perry" Zheng, declare and state as follows:

1. I arrived in the United States in 1999 when I was 9 years old. I lived in New York City, then moved to Augusta, Georgia 3 years later, in 2002, when I was 12 years old. I moved to Louisville, KY in senior year of my high when I was 17 years old.

2. I then went to Duke University in 2006 and graduated in 2010 with a double major in Computer Science and Economics and a minor in mathematics.

3. I first applied for Deferred Action for Childhood Arrivals ("DACA") in 2012 and received it in 2013.

4. After receiving work authorization, I was able to work as a software engineer at Amazon, where I migrated a legacy cache system to a more distributed system. I next worked as a software engineer at Twitter in San Francisco, where I worked on the ads analytics team to improve efficiencies. Then I moved to work as a software engineer at Lyft, where I became one of the tech leads in my team and the in-house expert in Amazon Redshift, an analytics database that we used.

5. As a DACA recipient with employment authorization, I was also able to apply for a Social Security number ("SSN").

6. Receiving a SSN was incredibly important for me and my parents. I was able to apply for a car loan and a bank credit card to build my credit.

7. As a frugal entrepreneur and investor, I paid off my car loan in 15 months to avoid the high interest rate and have kept my used car since 2013. Every year, I pay about $350 in car tab costs to the Washington Department of Licensing.

8. More recently, my credit has allowed me to purchase homes for me and my parents in San Francisco, California and Seattle, Washington. Since 2015 I have also purchased 4 additional multi-unit properties.

9. According to my files, I will pay $12,000 and $13,000 in property taxes to San Francisco County, California and King and Pierce Counties, Washington, respectively in 2017. Going forward, my property taxes will be approximately $13,000 and $15,000, respectively, per year.

10. I pay between $80,000 to $120,000 in local, state, and federal income taxes each year.

11. I have renewed my DACA status twice since I first applied. My current DACA status expires in March 2019.

12. Having disclosed my personal identifying information to the U.S. government as part of the DACA application, I fear that this information might be used in enforcement efforts against me and/or my parents.

13. I also have a dream of becoming a real estate investor and investing in bigger multi-family properties. With DACA expiring soon, I am afraid lenders will not be able to lend to me due to my immigration status.

14. And without work authorization, I would lose employment and be unable to support myself and my parents. Even in a short time, I have been able to accomplish a lot in my career and I derive a large part of my self-identity, as well as great meaning and joy, from my job. Taking that away would leave me feeling empty.

15. I also fear the stigma of going back to being undocumented. Before receiving my DACA status, my life was very different from other Americans' lives. Not only was I unable to do basic things like drive a car or work, but I could not even talk about my inability to do those things. DACA allowed me to emerge from the shadows.

16. Unfortunately, my parents still live in the shadows and live in a constant state of fear. Their whole lives depend on me, so losing my DACA status impacts more than just me.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on October 18, 2017, in Seattle, Washington.

Xianzhan Zheng

EXHIBIT 107

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and JANET NAPOLITANO, in her official capacity as President of the University of California,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF BRAD WELLS

STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA, Plaintiffs, v. U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA, Defendants.	CASE NO. 17-CV-05235-WHA
CITY OF SAN JOSE, a municipal corporation, Plaintiffs, v. DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA, Defendants.	CASE NO. 17-CV-05329-WHA
DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN, Plaintiffs, v. UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security, Defendants.	CASE NO. 17-CV-05380-WHA

COUNTY OF SANTA CLARA and SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 521, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States, JEFFERSON BEAUREGARD SESSIONS, in his official capacity as Attorney General of the United States; ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security; and U.S. DEPARTMENT OF HOMELAND SECURITY, Defendants.	CASE NO. 17-CV-05813-WHA

I, Brad Wells, declare:

1. I am the current Associate Vice Chancellor, Business and Finance for the California State University ("CSU"). The CSU is the State of California acting in its higher education capacity. The CSU Board of Trustees is vested by statute with the authority to manage, administer and control the CSU's institutions of higher learning.

2. The CSU joined the University of California, the California Community Colleges, the Association of Independent California Colleges and Universities, and the California Department of Education in communicating the message that ending the Federal Deferred Action for Childhood Arrivals ("DACA") program unnecessarily punishes hundreds of thousands of bright young people who are contributing members of American society. Our letter to the California Congressional Delegation can be found here: https://www2.calstate.edu/attend/student-services/resources-for-undocumented-students/Documents/daca-ca-ed-leaders-letter-9-5-17.pdf. As stated in that letter, it is the CSU's position that ending DACA would not only derail the futures of those participating in the program, but would also deprive the State of California of revenue and of the contributions of the program participates to the California workforce, now and in the future.

3. Since the announcement of the DACA rescission, and in anticipation of the severe negative potential effect of that rescission on DACA participants who are students and employees, as well as the potential negative effect on the entire CSU community, the CSU has expended significant employee time. Evidence of the work involved in the CSU's response to DACA rescission can be found here: https://www2.calstate.edu/attend/student-services/resources-for-undocumented-students/Pages/rescission-of-daca.aspx.

4. In my role as Associate Vice Chancellor, Business and Finance, I have determined that DACA rescission would likely cause the CSU to lose revenue, due to the loss of tuition and fees currently paid by students participating in the DACA program.

5. Actual CSU student headcount enrollment for fiscal year 2016-17 was 472,427. Actual CSU annual tuition and fees collected for fiscal year 2016-17 totaled $2,838,185,912.00. Tuition and fees include state university tuition, as well as other mandatory fees required of resident students who enroll in or attend the university. Tuition and fees do not include fees such as student housing or parking, which

are optional, or non-resident tuition. The average annual tuition and fees per student headcount enrollment for fiscal year 2016-17 was calculated by dividing the annual tuition and fees by actual student headcount enrollment. The resulting figure is $6,008.00 per student.

6. For the fiscal year 2016-17, the CSU collected an average of $6,008.00 in annual tuition and fees per enrolled student. This figure, multiplied by the number of students affected by the rescission of DACA would yield a potential revenue loss to the CSU of $6,008.00 for each student or potential student participating in the DACA program who would be unable to enroll due to rescission of the DACA program.

7. Under Section 68130.5 of the California Education Code, certain non-resident students are exempt from paying non-resident tuition. This section of the statute became law after Assembly Bill 540 ("AB540") was signed. The CSU has a significant number of students who meet the AB540 guidelines, which include not holding a valid immigrant visa. Many of the AB540 students at CSU are undocumented.

8. CSU does not collect data according to DACA status. However, it is likely that a large number of current CSU students are participating in the DACA program. The CSU Director of Student Programs provided relevant fall 2016 enrollment data that I reviewed. The total number of AB540 students who earned a degree from CSU in 2016-17 was 2,016. Of those, 1,440 were undocumented.

9. Many of the AB540 and undocumented students at CSU are enrolled in academic programs that lead to a state license. These degree programs include the following: Nursing, Teacher Education, Counseling, Occupational Therapy, Physical Therapy, Social Work, Landscape Architecture, and Architecture. According to data provided by the CSU Director of Student Programs, as of Fall 2016, there were AB540 and undocumented students enrolled in these degree programs. In Fall 2016, 1,049 AB540 students were enrolled at CSU in academic programs that lead to a state license. Of those, 763 students were undocumented.

10. If the DACA program is eliminated, the State of California would likely lose trained and qualified students in license programs and would likely lose people who have already obtained licenses in important areas of need in California.

11. I have also reviewed data provided by the CSU Associate Vice Chancellor, Human Resources, which shows there are more than 700 current CSU employees who are potentially DACA

participants. If DACA is eliminated, it is likely that the CSU would lose current employees who we have invested in and trained.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 31, 2017, at Long Beach, California.

Brad Wells

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and JANET NAPOLITANO, in her official capacity as President of the University of California,

CASE NO. 17-CV-05211-WHA

DECLARATION OF JONATHAN JAYES-GREEN

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

CASE NO. 17-CV-05380-WHA

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

COUNTY OF SANTA CLARA and SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 521, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States, JEFFERSON BEAUREGARD SESSIONS, in his official capacity as Attorney General of the United States; ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security; and U.S. DEPARTMENT OF HOMELAND SECURITY, Defendants.	CASE NO. 17-CV-05813-WHA

I, Jonathan Jayes-Green, declare and state as follows:

1. I am a DACA recipient.

2. Participating in the DACA program has without question changed my life. The program allowed me to access financial capital, pursue job opportunities in my fields of interest and it gave me a sense of stability that has now been snatched away.

3. I was granted DACA status in March of 2013 when I was a junior in college. I was on the verge of dropping out because of my inability to pay tuition and fees. Having DACA allowed me to apply and receive a private student loan from a commercial bank to pay the remaining balance of my debt to Goucher College. It also allowed me to work full time to finish my Bachelor's degree in the summer of 2014. Moreover, the program allowed me to fulfill a

graduation requirement to study abroad: I studied Spanish and Environmental Studies in Ecuador the summer of 2014.

4. Upon graduation, because of the DACA program and the work authorization, I was able to accept a job offer in the public service field working in the Maryland Governor's office. I was able to put my passion for community service and justice to use at the state level working to make Maryland a more inclusive and fair state in policy and practice for all of us.

5. Afterwards, I accepted a job at a women-owned small business in Baltimore doing community and business development. In this position, I was able to learn about the business world, challenge myself professionally and support one of the many small businesses that are the engine of our economy.

6. I have also been able to access capital beyond my student loans. In the fall of 2013, I was able to purchase a car to travel to work, attend school and move around with more ease.

7. In 2015 I was able to purchase my first home. I obtained a mortgage from a commercial bank without a cosigner and took advantage of the homeownership incentives offered by the City of Baltimore believing that I would be in this country to meet my financial obligations - in this case the 30 year duration of my mortgage.

8. Now that DACA has been repealed, my options are limited. I recently attempted to apply for another car loan given that I gave my parents my car because their car had broken down. The financial institution—the same one that financed the car I currently own—informed me the loan length would be determined by the duration of my work authorization. Now that DACA has been repealed and there's no hope of extension, I have a set expiration date of

January 2019. There is no way I can finance a reliable new or moderately used car and pay the entirety of the note in a little over a year.

9. Now that I have a set expiration date of my work authorization, I am really concerned about my ability to work in this country and to continue to make my mortgage payments. I cannot return to traditional public service or small business jobs given my uncertain status. I am worried about the financial commitment I made to my lender but I am more concerned about the commitment I made to the City of Baltimore and the state of Maryland to be a part of the City's growth and fabric for years to come.

10. Lastly, but certainly not least, the rescission of DACA has had a huge toll on my mental and physical health. The increased instability of my status has been manifesting on my lower back with newfound aches and migraines that were not a part of my life before. And it has exacerbated my anxiety and depression due to the state of fear and uncertainty of the future this decision has caused.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on 10/31/17 in Baltimore, Maryland.

Jonathan Jayes-Green

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and JANET NAPOLITANO, in her official capacity as President of the University of California,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF JESSE GABRIEL IN SUPPORT OF PLAINTIFFS' MOTION FOR PROVISIONAL RELIEF

STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA, Plaintiffs, v. U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA, Defendants.	CASE NO. 17-CV-05235-WHA
CITY OF SAN JOSE, a municipal corporation, Plaintiffs, v. DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA, Defendants.	CASE NO. 17-CV-05329-WHA
DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN, Plaintiffs, v. UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security, Defendants.	CASE NO. 17-CV-05380-WHA

COUNTY OF SANTA CLARA and SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 521, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States, JEFFERSON BEAUREGARD SESSIONS, in his official capacity as Attorney General of the United States; ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security; and U.S. DEPARTMENT OF HOMELAND SECURITY, Defendants.	CASE NO. 17-CV-05813-WHA

I, JESSE GABRIEL, DECLARE:

1. I am an attorney at the law firm of Gibson, Dunn & Crutcher LLP, and counsel to Plaintiffs Dulce Garcia, Miriam Gonzalez Avila, Saul Jimenez Suarez, Viridiana Chabolla Mendoza, Norma Ramirez, and Jirayut Latthivongskorn (collectively, "Garcia Plaintiffs") in the above-captioned matter. I submit this declaration in support of Plaintiffs' Motion for Provisional Relief.

2. Attached hereto as Exhibit A is a true and correct copy of a Memorandum from INS General Counsel Sam Bernsen to INS Commissioner entitled "Legal Opinion Regarding Service Exercise of Prosecutorial Discretion," dated July 15, 1976, available at https://goo.gl/uXW6Sg. (App. at 1594–1601.)[1]

3. Attached hereto as Exhibit B is a true and correct copy of a Statement by President Dwight Eisenhower Concerning the Entry Into the United States of Adopted Foreign-Born Orphans, dated October 26, 1956, available at https://goo.gl/VDfcgW. (App. at 1602.)

4. Attached hereto as Exhibit C is a true and correct copy of a White House Statement Concerning the Admission of Additional Hungarian Refugees, dated December 1, 1956, available at https://goo.gl/D4DMuS. (App. at 1603.)

5. Attached hereto as Exhibit D is a true and correct copy of a letter from President John F. Kennedy to Secretary Abraham Ribicoff, dated January 27, 1961, available at https://goo.gl/Hnf1LL. (App. at 1604.)

6. Attached hereto as Exhibit E is a true and correct copy of a USCIS publication entitled "Refugee Timeline," last updated June 27, 2017, available at https://goo.gl/5fhA9y. (App. at 1605–1606.)

7. Attached hereto as Exhibit F is a true and correct copy of "Legalization and Family Fairness – An Analysis" by Alan Nelson, dated October 26, 1987. (App. at 1607–1611.)

[1] Pursuant to their concurrently filed Request for Judicial Notice, Plaintiffs respectful request that the Court take judicial notice of the documents attached hereto as Exhibits A, B, C, D, E, F, G, I, J, K, L, M, N, O, Q, R, S, T, U, V, W, AA, CC, DD, KK, LL, PP, QQ, RR, SS, TT, UU, VV, WW, YY, ZZ, AAA, BBB, and CCC.

8. Attached hereto as Exhibit G is a true and correct copy of a memorandum from INS Commissioner Gene McNary to Regional Commissioners entitled "Family Fairness: Guidelines for Voluntary Departure under 8 CFR 242.5 for the Ineligible Spouses and Children of Legalized Aliens," dated February 2, 1990, available at https://goo.gl/7wcLLy. (App. at 1612–1613.)

9. Attached hereto as Exhibit H is a true and correct copy of "As Growth Stalls, Unauthorized Immigrant Population Becomes More Settled" by Pew Research Center, dated September 3, 2014, available at https://goo.gl/JPw5U6. (App. at 1614–1639.)

10. Attached hereto as Exhibit I is a true and correct copy of a memorandum from Paul Virtue for the Acting Executive Associate Commissioner to Regional Directors, District Directors, Officers-in-Charge, and Service Center Directors, entitled "Supplemental Guidance on Battered Alien Self-Petitioning Process and Related Issues," dated May 6, 1997, available at https://goo.gl/QEp4kX. (App. at 1640–1649.)

11. Attached hereto as Exhibit J is a true and correct copy of a memorandum from Stuart Anderson to Johnny N. Williams, entitled "Deferred Action for Aliens with bona fide Applications for T Nonimmigrant Status," dated May 8, 2002, available at https://goo.gl/BUvRpU. (App. at 1650–1651.)

12. Attached hereto as Exhibit K is a true and correct copy of a memorandum from USCIS Associate Director of Operations William R. Yates to Director, Vermont Service Center, entitled "Centralization for Interim Relief For U Nonimmigrant Status Applications," dated October 8, 2003, available at https://goo.gl/tBvYwN. (App. at 1652–1658.)

13. Attached hereto as Exhibit L is a true and correct copy of a USCIS publication entitled "Victims of Human Trafficking & Other Crimes," last updated August 25, 2017, available at https://goo.gl/wwV6jF. (App. at 1659–1660.)

14. Attached hereto as Exhibit M is a true and correct copy of a USCIS Press Release entitled "USCIS Announces Interim Relief For Foreign Students Adversely Impacted By Hurricane Katrina," dated November 25, 2005, available at https://goo.gl/rRmaHm. (App. at 1661–1662.)

15. Attached hereto as Exhibit N is a true and correct copy of a memorandum from Donald Neufeld to USCIS Field Leadership, entitled "Guidance Regarding Surviving Spouses of Deceased U.S.

Citizens and their Children," dated September 4, 2009, available at https://goo.gl/cAXvUR. (App. at 1663–1671.)

16. Attached hereto as Exhibit O is a true and correct copy of a memorandum from Donald Neufeld to USCIS Executive Leadership, entitled "Additional Guidance Regarding Surviving Spouses of Deceased U.S. Citizens and their Children," dated December 2, 2009, available at https://goo.gl/T9dECx. (App. at 1672–1682.)

17. Attached hereto as Exhibit P is a true and correct copy of a brief filed in the Supreme Court by Former Federal Immigration And Homeland Security Officials As Amici Curiae In Support Of The United States in *United States v. Texas*, No. 15-674, dated March 8, 2016, available at http://www.scotusblog.com/wp-content/uploads/2016/03/USvTexas-AmicusBriefofFormer ImmigrationOfficials.pdf. (App. at 1683–1738.)

18. Attached hereto as Exhibit Q is a true and correct copy of Remarks on Immigration Reform and an Exchange with Reporters by President Barack Obama, dated June 15, 2012, available at https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration. (App. at 1739–1741.)

19. Attached hereto as Exhibit R is a true and correct copy of an archived USCIS publication of Frequently Asked Questions regarding DACA, available at https://www.uscis.gov/ archive/frequently-asked-questions. (App. at 1742–1761.)

20. Attached hereto as Exhibit S is a true and correct copy of a USCIS publication entitled "F5—General information… How do I request consideration of deferred action for childhood arrivals?," dated October 2013, available at https://www.uscis.gov/sites/default/files/files/nativedocuments/ daca.pdf. (App. at 1762–1764.)

21. Attached hereto as Exhibit T is a true and correct copy of a USCIS publication entitled "(DACA) Toolkit," dated June 2014, https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/ Deferred%20Action%20for%20Childhood%20Arrivals/DACA_Toolkit_CP_072914.pdf. (App. at 1765–1798.)

22. Attached hereto as Exhibit U is a true and correct copy of a USCIS publication entitled "Don't Let Your Work Permit Expire; Follow These DACA Renewal Tips," last updated June 5, 2015, https://www.uscis.gov/archive/dont-let-your-work-permit-expire-follow-these-daca-renewal-tips. (App. at 1799–1800.)

23. Attached hereto as Exhibit V is a true and correct copy of USCIS Form I-821D, entitled "Consideration of Deferred Action for Childhood Arrivals," dated January 9, 2017. (App. at 1801–1821.)

24. Attached hereto as Exhibit W is a true and correct copy of a letter from Secretary Jeh Johnson to Congresswoman Judy Chu, dated December 30, 2016, available at https://chu.house.gov/sites/chu.house.gov/files/documents/DHS.Signed%20Response%20to%20Chu%2012.30.16.pdf. (App. at 1822–1823.)

25. Attached hereto as Exhibit X is a true and correct copy of the transcript from "Town Hall Meeting with House Speaker Paul Ryan," which aired on CNN on January 12, 2017, available at http://cnn.it/2oyJXJJ. (App. at 1824–1839.)

26. Attached hereto as Exhibit Y is a true and correct copy of "Wary Democrats look to Kelly for answers on immigration" by Ted Hesson and Seung Min Kim, published in *Politico*, dated March 29, 2017, available at http://politi.co/2mR3gSN. (App. at 1840–1842.)

27. Attached hereto as Exhibit Z is a true and correct copy of the transcript from Associated Press White House Correspondent Julie Pace's interview with President Trump, dated April 24, 2017, available at https://www.cbsnews.com/news/transcript-of-ap-interview-with-trump. (App. at 1843–1858.)

28. Attached hereto as Exhibit AA is a true and correct copy of a letter from Tennessee Attorney General Herbert H. Slatery III to Senators Lamar Alexander and Bob Corker, dated September 1, 2017, available at http://static1.1.sqspcdn.com/static/f/373699/27673058/1504293882007/DACA%2Bletter%2B9-1-2017.pdf?token%3DstUlwSIo3qeVjBe7%252BUHbTCIuvts%253D. (App. at 1859–1860.)

29. Attached hereto as Exhibit BB is a true and correct copy of an open letter from Leaders of American Industry to President Trump, dated August 31, 2017, available at https://dreamers.fwd.us/business-leaders. (App. at 1861–1865.)

30. Attached hereto as Exhibit CC is a true and correct copy of Remarks on DACA, as prepared for delivery, by Attorney General Jefferson Sessions, dated September 5, 2017, available at https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-daca. (App. at 1866–1868.)

31. Attached hereto as Exhibit DD is a true and correct copy of "Statement from Acting Secretary Duke on the Rescission of Deferred Action for Childhood Arrivals (DACA)," dated September 5, 2017, available at https://www.dhs.gov/news/2017/09/05/statement-acting-secretary-duke-rescission-deferred-action-childhood-arrivals-daca. (App. at 1869–1870.)

32. Attached hereto as Exhibit EE is a true and correct copy of excerpts of the deposition transcript of James McCament, dated October 17, 2017. (App. at 1871–1908.)

33. Attached hereto as Exhibit FF is a true and correct copy of excerpts of the deposition transcript of Gene Hamilton, dated October 20, 2017. (App. at 1909–1931.)

34. Attached hereto as Exhibit GG is a true and correct copy of "Trump Administration Memo: DACA Recipients Should Prepare for 'Departure'" by Kristen Welker & Daniel Arkin, published in NBC NEWS, dated September 5, 2017, available at https://www.nbcnews.com/politics/immigration/white-house-memo-daca-recipients-should-prepare-departure-n799026. (App. at 1932.)

35. Attached hereto as Exhibit HH is a true and correct copy of excerpts of the deposition transcript of James Nealon, dated October 13, 2017. (App. at 1933–1947.)

36. Attached hereto as Exhibit II is a true and correct copy of "Executive Grants of Temporary Immigration Relief, 1956-Present" by American Immigration Counsel, dated October 2, 2014, available at https://tinyurl.com/y76nnve7. (App. at 1948–1957.)

37. Attached hereto as Exhibit JJ is a true and correct copy of a Tweet sent by President Trump at 5:38 pm on September 5, 2017, available at https://twitter.com/realDonaldTrump/status/905228667336499200. (App. at 1958.)

38. Attached hereto as Exhibit KK is a true and correct copy of the transcript of the testimony of Attorney General Jefferson Sessions before the Senate Judiciary Committee, dated October 18, 2017. (App. at 1959–1989.)

39. Attached hereto as Exhibit LL is a true and correct copy of a White House publication entitled "President Donald J. Trump's Letter to House and Senate Leaders & Immigration Principles and Policies," dated October 8, 2017, available at https://www.whitehouse.gov/the-press-office/2017/10/08/president-donald-j-trumps-letter-house-and-senate-leaders-immigration. (App. at 1990–2003.)

40. Attached hereto as Exhibit MM is a true and correct copy of "White House Makes Hard-Line Demands for Any 'Dreamers' Deal," by Michael D. Shear, published in *The New York Times*, dated October 8, 2017, available at https://www.nytimes.com/2017/10/08/us/politics/white-house-daca.html. (App. at 2004–2008.)

41. Attached hereto as Exhibit NN is a true and correct copy of excerpts of the deposition transcript of Donald Neufeld, dated October 18, 2017. (App. at 2009–2027.)

42. Attached hereto as Exhibit OO is a true and correct copy of excerpts from Defendants' Objections and Responses to Plaintiffs' First Set of Interrogatories to Defendants, *Batalla Vidal v. Duke*, Case No. 16–cv-4756 (E.D.N.Y.) (NGG)(JO), dated Oct. 16, 2017. (App. at 2028–2043.)

43. Attached hereto as Exhibit PP is a true and correct copy of excerpts of the transcript of the testimony of Secretary Elaine Duke before the Senate Committee on Homeland Security and Government Affairs, dated September 27, 2017. (App. at 2044–2057.)

44. Attached hereto as Exhibit QQ is a true and correct copy of a Department of Homeland Security publication entitled "Fact Sheet: Rescission Of Deferred Action For Childhood Arrivals (DACA)," dated September 5, 2017, available at https://www.dhs.gov/news/2017/09/05/fact-sheet-rescission-deferred-action-childhood-arrivals-daca. (App. at 2058–2060.)

45. Attached hereto as Exhibit RR is a true and correct copy of a USCIS publication entitled "Consideration of Deferred Action for Childhood Arrivals: Guidance for Employers," dated November 20, 2012, available at https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Deferred%20

Action%20for%20Childhood%20Arrivals/DACA-Fact-Sheet-I-9_Guidance-for-employers_nov20_2012.pdf. (App. at 2061–2062.)

46. Attached hereto as Exhibit SS is a true and correct copy of a letter from ICE Director John Morton to All Employees entitled "Secretary Napolitano's Memorandum Concerning the Exercise of Prosecutorial Discretion for Certain Removable Individuals Who Entered the United States as a Child," dated June 15, 2012, available at https://www.ice.gov/doclib/about/offices/ero/pdf/s1-certain-young-people-morton.pdf. (App. at 2063–2064.)

47. Attached hereto as Exhibit TT is a true and correct copy of a Social Security Administration publication entitled "Social Security Number and Card—Deferred Action For Childhood Arrivals," available at https://www.ssa.gov/pubs/deferred_action.pdf. (App. at 2065.)

48. Attached hereto as Exhibit UU is a true and correct copy of USCIS Form G-1145, entitled "e-Notification of Application/Petition Acceptance," available to download at https://www.uscis.gov/g-1145. (App. at 2066.)

49. Attached hereto as Exhibit VV is a true and correct copy of USCIS Form I-765, entitled "Application for Employment Authorization," dated January 17, 2017, available to download at https://www.uscis.gov/i-765. (App. at 2067–2087.)

50. Attached hereto as Exhibit WW is a true and correct copy of a letter from California Attorney General Xavier Becerra to President Trump, dated July 21, 2017, available at https://oag.ca.gov/system/files/attachments/press_releases/7-21-17%20%20Letter%20from%20State%20AGs%20to%20President%20Trump%20re%20DACA.final_.pdf. (App. at 2088–2091.)

51. Attached hereto as Exhibit XX is a true and correct copy of a publication by Center for American Progress, entitled "Study: The Impact of Deferred Action for Childhood Arrivals (DACA) Program Repeal on Jobs," available at https://dreamers.fwd.us/wp-content/uploads/2017/08/20170823-DACA-Job-Loss-Report.pdf. (App. at 2092–2099.)

52. Attached hereto as Exhibit YY is a true and correct copy of USCIS, "I-821D, Consideration of Deferred Action for Childhood Arrivals," last updated October 6, 2017, available at https://www.uscis.gov/archive/i-821d. (App. at 2100–2103.)

53. Attached hereto as Exhibit ZZ is a true and correct copy of a memorandum from INS Acting Executive Associate Commissioner Michael Cronin to Michael Pearson, entitled "Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) Policy Memorandum #2 – 'T' and 'U' Nonimmigrant Visas," dated August 30, 2001, available at http://www.asistahelp.org/documents/resources/Policy_Memo__Cronin__83001_DFC4BA7F5E85D.pdf. (App. at 2104–2109.)

54. Attached hereto as Exhibit AAA is a true and correct copy of a USCIS publication, entitled "DED Granted Country – Liberia," last updated September 30, 2016, available at https://www.uscis.gov/humanitarian/deferred-enforced-departure/ded-granted-country-liberia/ded-granted-country-liberia. (App. at 2110–2111.)

55. Attached hereto as Exhibit BBB is a true and correct copy of a Gerald R. Ford Library publication, entitled "Emergency Program for Parole of Refugees from Vietnam," dated April 16, 1975, available at https://www.fordlibrarymuseum.gov/library/document/0164/19077062.pdf. (App. at 2112–2184.)

56. Attached hereto as Exhibit CCC is a true and correct copy of a State Department communication regarding Executive Order 12711, dated June 1, 1990, available at https://www.state.gov/documents/organization/28450.pdf. (App. at 2185–2189.)

57. Attached hereto as Exhibit DDD is a true and correct copy of excerpts of the deposition transcript of Philip Miller, dated October 18, 2017. (App. at 2190–2198.)

58. Attached hereto as Exhibit EEE is a true and correct copy of a document, entitled "Talking Points – DACA Rescission," available at http://msnbcmedia.msn.com/i/MSNBC/Sections/NEWS/z-pdf-archive/170905-DACA-Talking-Points.pdf. (App. at 2199–2200.)

I declare, under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct, and that I executed this Declaration on Nov. 1, 2017 in Los Angeles, California.

Jesse Gabriel

Jesse Gabriel

EXHIBIT A

CO 241.11-P

TO : Commissioner

DATE: 15 JUL 1976

FROM : Sam Bernsen
General Counsel

SUBJECT: Legal Opinion Regarding Service Exercise of Prosecutorial Discretion

You have asked for my opinion regarding the authority of the Service to exercise prosecutorial discretion in administrative proceedings arising under the Immigration and Nationality Act. You have also asked for my opinion regarding the appropriate time and manner for the exercise of such discretion.

Prosecutorial discretion refers to the power of a law enforcement official to decide whether or not to commence or proceed with action against a possible law violator. See generally, K. Davis, Administrative Law Treatise, 1970 Supp., §4.08, at 188. This power is not restricted to those termed prosecutors, but is also exercised by others with law enforcement functions such as police and officials of various administrative agencies. 1/ The power extends to both civil and criminal cases. 38 Op. Att'y Gen. 98, 102 (1934)

The reasons for the exercise of prosecutorial discretion are both practical and humanitarian. There simply are not enough resources to enforce all of the rules and regulations presently on the books. As a practical matter, therefore, law enforcement officials have to make policy choices as to the most effective and desirable way in which to deploy their limited resources. Thus, for example, police and prosecutors may choose to concentrate on apprehension and prosecution of perpetrators of violent crimes, while choosing not to proceed against those committing so-called "victimless crimes," such as certain consensual sex acts and possession of small amounts of marihuana. In addition, there are times when defects in the quality, quantity, or method of gathering evidence will make it difficult to prove the matter before a court.

Aside from purely practical considerations, it is also obvious that in enacting a statute the legislature cannot possibly contemplate all of the possible circumstances in which the statute may be applied. In some situations, application of the literal letter of the law would simply be unconscionable and would serve no useful purpose. For instance, a prosecutor may well decide not to proceed against a terminally ill individual, even in the presence of overwhelming evidence of guilt.

1/ See e.g., Vaca v. Sipes, 386 U.S. 171, 182 (1967) (General Counsel of NLRB has unreviewable discretion to refuse to institute unfair labor practice complaint).

General Authority of Executive Branch

The ultimate source for the exercise of prosecutorial discretion in the Federal Government is the power of the President. Under Article II, Section 1 of the Constitution, the executive power is vested in the President. Article II, Section 3, states that the President "shall take care that the laws be faithfully executed."

Most discussions of the exercise of prosecutorial discretion on the federal level center on the Attorney General, since he is the chief legal officer of the Federal Government. Nevertheless, prosecutorial discretion is also exercised by a wide variety of other government officials with law-enforcement responsibilities. 2/

The Attorney General has the authority "to determine when the United States shall sue, to decide for what it shall sue, and to be responsible that such suits shall be brought in appropriate cases." U.S. v. San Jacinto Tin Co., 125 U.S. 273, 279 (1888). The power of the Attorney General to exercise his prosecutorial discretion does not end with the entry of judgment, but also embraces execution of the judgment. U.S. v. Morris, 23 U.S. (10 Wheat.) 246 (1825); 38 Op. Att'y Gen. 98, 102 (1934).

In a 1934 opinion, Attorney General Cummings pointed to three sources for the Attorney General's exercise of prosecutorial discretion: (1) inherent authority, (2) court decisions, and (3) various statutory enactments. 38 Op. Att'y Gen. 98 (1934). 3/

The inherent authority can be traced to the common law, where a prosecuting attorney had authority to terminate a suit at any time. See Confiscation Cases, 74 U.S. (7 Wall.) 454 (1868). As Attorney General Taney stated in 2 Op. Att'y Gen. 482, 486 (1831):

> An attorney conducting a suit for a party has, in the absence of that party, a right to discontinue it whenever, in his judgment, the interest of his client requires it to be done. If he abuses this power, he is liable to the client whom he injures.... An attorney of the United States, except in so far as his power may be restrained by particular acts of Congress, has the same authority and control over the suits which he is conducting.

2/ Id.

3/ See also 2 Op. Att'y Gen. 482, 486 (1831); 22 Op. Att'y Gen. 491, 494 (1899); 23 Op. Att'y Gen. 507, 508-09 (1901). See generally Schwartz, Federal Criminal Jurisdiction and Prosecutors Discretion, 13 Law & Contemp. Prob. 64 (1948).

Numerous Supreme Court decisions have confirmed the power of the Attorney General to exercise his discretion in the institution, control, and settlement of suits in behalf of the United States. See e.g., Confiscation Cases, supra; U.S. v. San Jacinto Tin Co., supra; U.S. v. Throckmorton, 98 U.S. 61, 70 (1878); In re Neagle, 135 U.S. 1, 67 (1890); New York v. New Jersey, 256 U.S. 296, 308 (1921); Kern River Co. v. U.S., 257 U.S. 147, 155 (1921); Ponzi v. Fessendon, 258 U.S. 254, 262 (1922); Petite v. U.S., 361 U.S. 529 (1960). 4/

There is also a long line of lower court cases recognizing this authority. See e.g., U.S. v. Alessio, 528 F.2d 1079 (9 Cir. 1976); U.S. v. Cawley, 481 F.2d 702 (5 Cir. 1973); Inmates of Attica Correctional Facility v. Rockefeller, 477 F.2d 375, 379 (2 Cir. 1973); U.S. v. Kysar, 459 F.2d 422, 424 (10 Cir. 1972); Spillman v. U.S., 413 F.2d 527, 530 (9 Cir. 1969); Newman v. U.S., 382 F.2d 479 (D.C. Cir. 1967); U.S. v. Cox, 342 F.2d 167 (5 Cir. 1965), cert. denied, Cox v. Hauberg, 381 U.S. 935 (1965); Goldberg v. Hoffman, 225 F.2d 463 (7 Cir. 1955); District of Columbia v. Buckley, 128 F.2d 17, 20-21 (D.C. Cir. 1942); Pugach v. Klein, 193 F. Supp. 630, 635 (S.D.N.Y. 1961); U.S. v. Woody, 2 F.2d 263 (D. Mont. 1924).

A final source for the Attorney General's authority to exercise prosecutorial discretion can be found in the various statutes creating his office and conferring upon him the power to supervise and conduct the litigation and other legal affairs of the United States. 28 U.S.C. §§515-519, 547; Judiciary Act of 1789, Ch. 20, §35, 1 Stat. 92; Act of June 22, 1870, Ch. 150, 16 Stat. 162.

Most of the aforementioned federal cases dealing with prosecutorial discretion state that the power of the executive authorities is plenary and may not be reviewed by the judiciary. Nevertheless, dicta in several court decisions has indicated that selective prosecution based upon certain suspect classifications may violate the Constitution. 5/ Courts have also indicated that they will not tolerate an arbitrary exercise of prosecutorial discretion by an ad-

4/ See also Oyler v. Boles, 368 U.S. 448 (1962) (selective prosecution by state authorities not a violation of constitutional rights where not based upon unjustifiable standard); Linda R.S. v. Richard D., 410 U.S. 614 (1973) (private party has no standing to compel prosecution by state authorities).

5/ Oyler v. Boles, supra at note 4 (selection not based on unjustifiable standard such as race, religion, or other arbitrary classification); Nader v. Saxbe, 497 F.2d 676, 679 n. 19 (D.C. Cir. 1974) (exercise of prosecutorial discretion, like any other exercise of executive discretion, subject to statutory and constitutional limits enforceable through judicial review); U.S. v. Sacco, 428 F.2d 264, 271 (9 Cir. 1970), cert. denied, 400 U.S. 903 (1970) (selective prosecution not a constitutional violation where no allegation that it was based on constitutionally suspect classification).

ministrative agency. 6/

Prosecutorial Discretion in Immigration Cases

It has been pointed out that prosecutorial discretion may be exercised in administrative, as well as criminal contexts. 7/ One of the earliest manifestations of prosecutorial discretion in an immigration-related field is Department of Justice Circular Letter Number 107, dated September 20, 1909, dealing with the institution of proceedings to cancel naturalization. That letter states:

> In the opinion of the department, as a general rule, good cause is not shown for the institution of proceedings to cancel certificates of naturalization alleged to have been fraudulently or illegally procured unless some substantial results are to be achieved thereby in the way of betterment of the citizenship of the country.

This policy still governs denaturalization cases. See Interp. 340.1(f).

The Attorney General has exercised prosecutorial discretion in the immigration area in the cases of aliens deportable under §241(a)(4) of the Immigration and Nationality Act who are eligible to receive state court expungements at a future date. In a letter to the Commissioner of Immigration, dated January 17, 1961, Attorney General Rogers stated that the Service should "withhold or terminate proceedings under section 241(a)(4) of the Immigration and Nationality Act in the cases of youthful offenders who are eligible for an honorable discharge from the control of the California Youth Authority."

6/ Moog Industries, Inc. v. F.T.C., 355 U.S. 411 (1958) and F.T.C. v. Universal Rundle Corp., 387 U.S. 244, 251 (1967) (FTC does not have unbridled power to institute proceedings that will arbitrarily destroy one of many law violators in an industry); Lennon v. INS, 527 F.2d 187, 195 (2 Cir. 1975) (dictum) (courts will not condone selective prosecution based upon secret political grounds); Lennon v. United States, 387 F. Supp. 651, 564 (S.D.N.Y. 1975) (Government cannot institute deportation proceedings solely as penalty for exercise of constitutional rights). See also U.S. v. Berrios, 501 F.2d 1207, 1209 (2 Cir. 1974). See generally K. Davis, Administrative Law Treatise §28.16, at 982 (1958); Note, Reviewability of Prosecutorial Discretion: Failure to Prosecute, 75 Colum. L. Rev. 130 (1975).

7/ See e.g., Vaca v. Sipes, supra note 1. See also Bachowski v. Brennan, 502 F.2d 79, 87 (3 Cir. 1974), reversed on other grounds, Dunlop v. Bachowski, 421 U.S. 560 (1975), where the court stated that prosecutorial discretion could be exercised in administrative contexts, "which, like criminal prosecutions, involve the vindication of societal or governmental interest, rather than the protection of individual rights."

Numerous administrative decisions have affirmed the power of Service officers to exercise prosecutorial discretion. For instance, in Matter of Vizcarra-Delgadillo, 13 I&N Dec. 51, 53 (BIA 1968), the Board of Immigration Appeals upheld the authority of the District Director to move that proceedings be terminated as improvidently begun. The Board commented on the nature of the District Director's authority:

> Those charged with responsibility for enforcing the criminal laws have prosecutive discretion in determining whether to initiate criminal prosecution in a given case. A similar discretion not to proceed in a given case must be accorded to those responsible for immigration law enforcement. And where, following the formal start of deportation proceedings, additional facts or policy considerations arise which lead those responsible to conclude that this is not the sort of case in which such proceedings should have been started in the first place, 8 CFR 242.7 wisely provides the mechanics for termination on the ground that the proceeding was "improvidently begun." (Footnotes omitted)

Another case, Matter of Andrade, I.D. 2276 (BIA 1964), dealt with a minor who had been convicted of a marihuana violation which was expunged under a state law comparable to the Federal Youth Corrections Act. An order of deportation was initially entered. Thereafter, however, in connection with a petition for certiorari filed in the United States Supreme Court, the Solicitor General urged the Service to reconsider its policy with respect to such expungements and to administratively set aside the order of deportation. In response to this suggestion, the Service moved for termination of the deportation proceedings. The Board granted the Service's motion stating that, "the Service's determination not to initiate or press deportation proceedings in a given case or class of cases is a matter of prosecutorial judgment which we do not review."

Many other administrative decisions recognize and affirm the Service's power to exercise prosecutorial discretion. See e.g., Matter of Geronimo, 13 I&N Dec. 680 (BIA 1971); Matter of Wong, 13 I&N Dec. 701 (BIA 1971); Matter of Gallares, I.D. 2177 (BIA 1972); Matter of Merced, I.D. 2273 (BIA 1974), aff'd per curiam Merced v. INS, 514 F.2d 1070 (5 Cir. 1975); Matter of Lennon, I.D. 2304 (BIA 1974), rev'd on other grounds, Lennon v. INS, 527 F.2d 187 (2 Cir. 1975). See also Matter of Anaya, I.D. 2243 (BIA 1973), aff'd per curiam, Anaya v. INS, 500 F.2d 574 (5 Cir. 1974); Matter of Felix, I.D. 2149 (BIA 1972). See also Roberts, The Exercise of Administrative Discretion Under the Immigration Laws, 13 San Diego L. Rev. 144, 149-52 (1975).

The Service's power to exercise prosecutorial discretion is inherent in the nature of its enforcement function and does not depend upon any specific provision of the Immigration and Nationality Act. The Service has nevertheless promulgated regulations and operations instructions dealing with the exercise of prosecutorial discretion.

8 CFR 242.7(a) sets forth the authority of the District Director to cancel or move for cancellation of deportation proceedings if "he is satisfied that the respondent is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States, or that the proceeding was improvidently begun." (underscoring supplied).

It is obvious that the "improvidently begun" ground is in addition to the "not deportable" ground and includes individuals who are deportable, but whose departure the Service, for policy or humanitarian reasons, does not choose to enforce. Operations Instruction 103.1(c)(1)(ii) lists various factors to be considered in determining whether to place an alien in the "deferred action" (formerly "nonpriority") category, meaning that deportation proceedings will not be instituted or continued against the alien. 8/

In addition to the discretion not to institute deportation proceedings, prosecutorial discretion may be exercised in connection with various other discretionary remedies, such as voluntary departure, 9/ and stays of deportation. 10/

Courts have acknowledged that a determination whether or not to enforce a deportable alien's departure in a particular case is normally within the sound discretion of the Service officer having responsibility over the case. See e.g., Balanos v. Kiley, 509 F.2d 1023 (2 Cir. 1975); Vassiliou v. INS, 461 F.2d 1193 (10 Cir. 1972); Spata v. INS, 442 F.2d 1013 (2 Cir. 1971), cert. denied, 404 U.S. 857 (1971); Armstrong v. INS, 445 F.2d 1395 (9 Cir. 1971); Bowes v. District Director, 443 F.2d 30 (9 Cir. 1971); Manantan v. INS, 425 F.2d 693 (7 Cir. 1970); Discaya v. INS, 339 F. Supp. 1034 (N.D. Ill. 1972). See also Pignatello v. Attorney General, 350 F.2d 719, 725 (2 Cir. 1965). However, in Lennon v. U.S., 387 F. Supp. 561 (S.D.N.Y. 1975), the court indicated that a claim of selective deportation presents a proper issue for judicial review, and in Lennon v. INS, 527 F.2d 187, 195 (2 Cir. 1975), the court indicated in dictum that selective deportation based on political motives will not be tolerated. See also Lennon v. Richardson, 378 F. Supp. 39 (S.D.N.Y. 1974).

In Vergel v. INS, ____ F.2d _____, Civ. No. 75-1526 (8 Cir. June 2, 1976), the court sustained an order of deportation, but noted that there was a substantial

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8/ See also Wildes, The Nonpriority Program of the Immigration and Naturalization Service - A Measure of the Attorney General's Concern for Aliens, (two parts) 53 Interpreter Releases 25, 33 (1976).

9/ 8 CFR 244.1, 244.2. See Matter of Anaya, I.D. 2243 (BIA 1973), aff'd per curiam, 500 F.2d 574 (5 Cir. 1974); Matter of Felix, I.D. 2149 (BIA 1972)

10/ 8 CFR 243.4.

basis for allowing the alien to remain in the United States in the "deferred action category" under O.I. 103.1(a)(J)(ii). The court stated that it would be "appropriate for the District Director to make further inquiry to that end," and stayed its mandate for 90 days in order to allow the District Director to consider the alien's claim.

In several other cases, courts have upheld deportation orders while suggesting that the Service might appropriately exercise prosecutorial discretion to stay execution of the orders. See e.g., U.S. v. McAlister, 395 F.2d 852 (3 Cir. 1968); 11/ Lieggi v. INS, Civ. No. 75-1393 (7 Cir. January 27, 1976), reversing 389 F. Supp. 12 (N.D. Ill. 1975); 12/ Dunn v. INS, Civ. No. 72-2186 (9 Cir. February 20, 1974), cert. denied 419 U.S. 919 (1974). 13/

Proper Time for Exercise

Normally the appropriate time for the exercise of prosecutorial discretion is prior to the institution of proceedings. The primary reason for this is the humanitarian factor; it makes little sense to put an alien through the ordeal and expense of a deportation proceeding when his actual removal will not be sought.

In addition, there are practical considerations. Deportation proceedings tie up Government manpower and resources that could be used in performing other important functions. Given the present illegal alien problem such a use of scarce resources on aliens whom the Service does not ultimately intend to deport is indefensible. Moreover, once a final administrative order of deportation is issued, the Service cannot prevent the alien from seeking judicial review. When a case with extremely appealing factors goes to court, it may place the Service in an unfavorable light, both before the court and in the forum of public opinion.

There are some situations, however, where prosecutorial discretion is properly exercised after the institution or completion of deportation proceedings. The sympathetic or humanitarian factors may not arise or become apparent until after the case has been started. In other cases involving aliens who may have committed serious offenses but are allowed to remain on the representation that

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11/ "Therefore, we think it would be appropriate for the Department to make further inquiry to the end that, if justified, appellant's deportation at least be stayed during his good behavior."

12/ "We agree...that this is a hardship case. Therefore the Government should afford petitioner any administrative remedy that may still be available...."

13/ "While this is a case in which the administrative discretion of the INS might have been exercised with greater compassion the scope of our review in this area is extremely narrow."

they are the sole support of United States citizen families, it may be desirable to have a final order of deportation outstanding for immediate execution in the event of any further misconduct.

Conclusion

The power of various officers of the Executive Branch to exercise prosecutorial discretion is inherent and does not depend on express statutory authorization. Officers of the Service have been recognized as possessing such power, and provision for its exercise has been made in both the regulations and the operations instructions.

Although there is authority for the plenary nature of prosecutorial discretion, the trend, especially in administrative contexts, is towards judicial review of prosecutorial discretion to ascertain that it is not being exercised in a way that would be constitutionally suspect or grossly unfair. Consequently, the Service's attempts to set forth some standards for the exercise of prosecutorial discretion are particularly appropriate.

Finally, prosecutorial discretion may be exercised before, during, or after the completion of deportation proceedings. Normally, however, such discretion is best exercised prior to the institution of proceedings.

CC: W/F - Opinions of the General Counsel, 1976

CC: CO 840-P

PWS:anb

EXHIBIT B

• Dwight D. Eisenhower

Statement by the President Concerning the Entry Into the United States of Adopted Foreign-Born Orphans.
October 26, 1956

I HAVE BEEN particularly concerned over the hardship that ensues to American citizens who have adopted foreign-born orphans and who have then found that they cannot bring their adopted children into the United States because quotas under the Walter-McCarran Act and the Refugee Relief Act are exhausted. Many of these foster parents are members of our armed forces who have completed tours of duty overseas and are forced to leave their adopted children behind.

I requested the Secretary of State and the Attorney General to determine whether it is possible to alleviate this problem-within the framework of existing law. The Secretary of State and the Attorney General have just reported to me that this can be done. Provision for bringing these orphans to our country, pending action by Congress to amend the law, will be put into effect immediately.

Citation: Dwight D. Eisenhower: "Statement by the President Concerning the Entry Into the United States of Adopted Foreign-Born Orphans.", October 26, 1956. Online by Gerhard Peters and John T. Woolley, The American Presidency Project. http://www.presidency.ucsb.edu/ws/?pid=10677.

EXHIBIT C

• Dwight D. Eisenhower

White House Statement Concerning the Admission of Additional Hungarian Refugees.

December 1, 1956

THE PRESIDENT ANNOUNCED today that the United States will offer asylum to 21,500 refugees from Hungary. Of these, about 6500 will receive Refugee Relief Act visas under the emergency program initiated three weeks ago. The remaining 15,000 will be admitted to the United States under the provisions of Section 212 (d) (5) of the Immigration and Nationality Act. When these numbers have been exhausted, the situation will be re-examined.

The President emphasized that the flight of refugees into Austria had created an emergency problem which the United States should share with the other countries of the free world. Because of this emergency, those refugees who seek asylum in the United States will be brought here with the utmost practicable speed.

The President pointed out that the immigration visas available for Hungarian escapees under the Refugee Relief Act are practically exhausted and that the emergency compels the only other action which is available, namely, action under the provisions of the Immigration and Nationality Act which authorizes admission on parole.

Persons admitted into the United States on parole have no permanent status in the United States, but the President will request the Congress in January for emergency legislation which will, through the use of unused numbers under the Refugee Relief Act, or otherwise, permit qualified escapees who accept asylum in the United States to obtain permanent residence.

The President also stated that it was his intention to request the Congress to include in such legislation provisions which would allow at least some of the escapees who have proceeded to other countries for asylum to have the opportunity to apply for permanent resettlement in the United States, having in mind particularly the fact that many of those refugees undoubtedly have relatives here.

The President pointed out that other nations have already made increasingly generous offers of asylum and have waived the ordinary restrictions imposed upon immigration.

The President said that he had directed the Secretary of Defense to work out arrangements for the transportation of these refugees to the United States in accordance with agreements to be made with the Austrian Government and the Intergovernmental Committee for European Migration.

In making his announcement, the President said that providing asylum to these Hungarian refugees would give practical effect to the American people's intense desire to help the victims of Soviet oppression. It will also materially assist the Government of Austria, which has responded so generously to the refugees' needs, to carry out its policy of political asylum.

EXHIBIT F

Appendix I

LEGALIZATION AND FAMILY FAIRNESS -- AN ANALYSIS

I. GENERAL PURPOSE OF THE UNITED STATES IMMIGRATION LAWS AND THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)

On November 6, 1986, President Reagan signed the Immigration Reform and Control Act of 1986 (IRCA) into law. This legislation, the most comprehensive reform of our Immigration laws since 1952, makes great strides to control illegal immigration while preserving our heritage of legal immigration.

While the theme of this legislation is focused on gaining control of our borders and eliminating the illegal alien problem through firm yet fair enforcement, it also reflects the nation's concerns for aliens who have been long-time illegal residents of the United States.

This is accomplished through a generous legalization program that is based on the same concepts of fairness that underlie the lawful immigration system. Both paths offer an orderly transition to permanent residence for those who have established their eligibility and provide an opportunity for family members to immigrate under a process that does not reward people who have circumvented the law by entering illegally.

Immigration by close relatives of permanent residents and citizens of the United States forms the core of a lawful system centered on the reunification of families; the overwhelming majority of some six hundred thousand people who immigrate each year are such immediate family members. By legalizing their status, aliens who have been in this country since 1982 gain access to our family-oriented immigration policy, and ensure that their spouses and children may enter lawfully.

II. CONCEPT OF LEGALIZATION UNDER IRCA

IRCA is an enforcement law; its primary purpose is to stop illegal immigration. The legalization program is one part of a package that includes employer sanctions, enhanced border enforcement, the Systematic Alien Verification for Entitlements (SAVE) program, and a provision for removal of criminal aliens.

Legalization was the balance--a one-time program to legalize certain aliens, even though they were illegal, and allow them to become part of the American mainstream. This delicate balance was achieved through a statute that was carefully constructed to make passage of the bill possible. Even as crafted, legalization was still so controversial that the margin in favor of the provision in the House of Representatives was only seven votes.

The Congress accomplished the legalization balance by limiting the program to aliens with substantial equities in the United States. It did not intend to place all illegal aliens within a legal status. January 1, 1982, was set as the eligibility date for legalization, thus setting forth clear boundaries for establishing ties to this country. Those illegal aliens who arrived in the United States after January 1, 1982, remain illegal and are subject to deportation.

This Congressional intent as it applies to each alien is evidence in the plain meaning of the statute. This intent is further magnified by the legislative history of the bill, including the House Report, the State Report, the Conference Report, and the Congressional floor debates (1986). There is nothing in these documents that would indicate Congress wanted to provide immigration benefits to others who didn't meet the basic criteria, including families of legalized aliens. To the contrary, the Senate Judiciary Committee stated in its report that:

> It is the intent of the Committee that the families of legalized aliens will obtain no special petitioning right by virtue of the legalization. They will be required to "wait in line" in the same manner as immediate family members of other new resident aliens. S. Rep. No. 99-131, 99th Cong., 1 Sess. 343 (1985).

With the legislative history so clear, the authority of the Attorney General to grant resident status must extend only to aliens who qualify on the merits of their own case, and not through a broad, extralegal derivative basis.

III. HOW LEGALIZATION HAS WORKED

In the six months allowed to prepare for implementation of the program, the INS engaged in an unprecedented action which opened the full regulatory process to the public. Comments were solicited at the earliest stage, and the thousands of responses were carefully considered in developing the final product. Meanwhile, INS undertook an implementation effort never matched in the agency's history. By May 5, 1987, one hundred and seven (107) new offices were opened with 2,000 people hired to staff these offices; a major automated data system was developed and installed; the public information campaign was begun; and training was provided to all that were to work in the legalization program.

As of October 16, 1987, roughly 5 1/2 months after opening, we have accepted over 865,000 applications. Over 85% of these applications were filed directly with the INS, indicating that there is no "fear factor" — the alien population that has come forward exhibits trust in the Immigration Service. With this participation rate already doubling the results of all other legalization programs throughout the world in modern-day history, expectations are that 2 million illegal aliens will be processed by May 4, 1988.

IV. HOW LEGALIZATION SUPPORTS THE DUAL THEMES OF LEGAL IMMIGRATION AND FAMILY UNIFICATION

Through the legalization program made possible by IRCA, several million people will be able to shift from an illegal to a legal status. They will be able to come "out of the shadows", become full active participants in our society, and eventually become United States citizens. Many of these millions are in family units which have filed as a unit and have been found eligible for legalization. Many parents of United States citizen children have qualified on the merits of their own cases under IRCA.

The INS is exercising the Attorney General's discretion by allowing minor children to remain in the United States even though they do not qualify on their own, but whose parents (or single parent in the case of divorce or death of spouse) have qualified under the provisions of IRCA. The same discretion is to be exercised as well in other cases which have specific humanitarian considerations.

Many family members who would have otherwise been judged ineligible for legalization may now qualify due to recent policy decisions. Applicants who resided illegally in the United States prior to January 1, 1982, but who subsequently departed and then used legal nonimmigrant documents to re-enter the United States to resume their illegal residence, are now considered eligible for legalization benefits with the filing of a waiver to overcome the fraud at entry.

Upon being approved for permanent resident status, the legalized alien will be eligible to bring in immediate relatives under the current provisions of the Immigration and Nationality Act. Therefore, families of legalized aliens will be unified in the same manner as other immigrant families who have been waiting outside of the United States. (See the following chart for comparisons).

Legal Immigration

1. Married couple with wife in U.S. and husband in foreign country
2. Lawful resident wife files petition for husband
3. Petition approved; husband gains right to immigrate under preference system
4. Husband must wait for visa; cannot wait in U.S.
5. If husband comes to U.S. illegally, he is subject to deportation if routinely encountered
6. Husband must return to home country to obtain visa when it is available

Legalization

1. Married couple apply for legalization
2. Wife approved; husband denied
3. No effort to deport husband based on legalization application
4. Later INS contact (i.e., at place of work) could result in deportation proceedings against husband
5. Wife gains permanent resident status; files petition for husband
6. See steps 3 - 6 under Legal Immigration

V. FAMILY FAIRNESS

Congress, as well as the INS, recognized that there is a basic issue of fairness involved in the enactment of IRCA. Fairness dictates that illegal alien family members of persons eligible for legalization not be treated more favorably than the family members of legal permanent residents who may have to wait years to come to the United States due to the backlog of a demand for visas. To grant a derivative legalization benefit to unqualified aliens who are merely related to a qualified applicant would be unfair when put in this context. Such a break from fairness and tradition would also act as a magnet for others to enter the United States in an illegal manner, marry a qualified legalization

applicant, and attempt to gain benefits. This would create a second legalization program contrary to the intent of Congress and upset the delicate balance of IRCA.

Legalization is a unique act. Basic equity between those legal immigrants who patiently wait in foreign countries for legal visas and those who entered illegally, but have contributed to America and are being forgiven, should be maintained. However, unqualified family members will be in no worse a position than they were prior to the enactment of IRCA. In fact, as noted above, it is to the benefit of the unqualified to have their eligible relative apply for legalization in that it may qualify them in the future for permanent residence.

VI. UNFOUNDED BELIEF THAT UNLESS LEGALIZATION LAW BE EXPANDED, FAMILIES WILL BE BROKEN UP

As previously noted, legalization allows many families to stay in this country legally. Without legalization, individuals who are in the United States illegally have no right to any benefits of the immigration law and may not petition for relatives.

To the extent that there is a family separation, the separation was usually accomplished by the alien who left his or her family behind in the home country to seek an illegal life in the United States. If the family is separated because of legalization and decides not to wait for a legal means to bring the family unit together again in the United States, the option is always available for the family unit to return to the home country.

VII. INS PROCEDURES TO HANDLE FAMILY FAIRNESS ISSUES

Under the law no information from the legalization application will be used against any applicant or their family. Once family members are recorded on the application, there cannot be subsequent modifications. Thus it is in the ineligible alien's best interest to be recorded as a family member now.

The confidentiality factor of the application, which Congress included in the legislation, prevents INS from taking any action as a result of information provided in the application. The only way family members of a legalization applicant would come under deportation proceedings is if they are apprehended during a routine INS operation at a workplace.

INS district directors may exercise the Attorney General's authority to indefinitely defer deportation of anyone for specific humanitarian reasons. They will continue to examine any case that involves an immediate relative of a successful legalization applicant. The district directors are instructed to review all evidence submitted, make a recommended finding, and make available all such cases for review and concurrence. This unusual step is being taken to ensure the consistency of decisions throughout the Service.

Guidelines for INS officials regarding the basis for issuing voluntary departure are as follows:

1. Voluntary departure shall generally not be granted to the ineligible spouses of legalized aliens whose only claim to such discretionary relief is by virtue of the marriage itself. Likewise, such relief is not available to the ineligible parents of either legalized applicants or United States citizen children.

2. Instead, certain compelling or humanitarian factors must exist in addition to the family relationship and hardships caused by separation.

3. In general, indefinite voluntary departure shall be granted to unmarried children under the age of eighteen (18) years who can establish that they were in an unlawful status prior to November 6, 1986. Such children should be residing with their parents and the granting of voluntary departure should be conditioned on the fact that both parents (or, in the case of a single parent household, the parent the child lives with) have achieved lawful temporary resident status.

IX. CONCLUSION

The United States is now nearly half way through the largest program in world history to allow many illegal aliens to become legal. Legalization is a balance to enforcement efforts to deter and control illegal immigration through border enforcement, job market and entitlement enforcement to deny jobs and entitlements to illegal aliens and stronger efforts against criminal aliens. By May 1988, the United States will legalize an estimated 2 million people, five times those legalized by all other countries in the world.

Many of these 2 million being legalized are families. Additional exercise of the Attorney General's discretion by INS assures that minor children living with their parents will be covered. Spouse not directly eligible for legalization will be reviewed on a case-by-case basis and can be granted permission to remain if special humanitarian factors are present. Other ineligible spouses of legalized aliens are placed in the exact same position as spouses of legal immigrants -- they can become legal residents through the petition process.

Therefore, legalization itself is the most significant effort of the Congress and the Administration to pursue the goal of U.S. immigration laws -- family unification. Out of fairness to our legal system, to legal immigrants waiting patiently in line, and to adhere to Congressional intent, there is no basis to "blanket in" all ineligible spouses. They, like all American immigrants, must follow the laws and fundamental principles of fairness.

It is extremely important, however, that persons who believe they are eligible for legalization apply because of the unique protection the law offers through the confidentiality provision. They should appear at an INS Legalization Office or pursue their case through a church or other organization (Qualified Designated Entity) whether or not other family members qualify, in order to ensure that their family situation is resolved through the lawful immigration process.

Alan C. Nelson

Alan C. Nelson
Commissioner
U.S. Immigration & Naturalization Service

October 21, 1987

EXHIBIT I

Memorandum

Subject	Date
Supplemental Guidance on Battered Alien Self-Petitioning Process and Related Issues	MAY - 6 1997

To

Regional Directors
District Directors
Officers-in-Charge
Service Center Directors

From

Office of Programs

This memorandum outlines changes in the handling of I-360 self-petitions for immigrant status filed by battered spouses and children of U.S. citizens and permanent residents aliens and addresses related issues. It should be read as a supplement to the guidance issued by the Office of Programs on April 16, 1996.

Background

The issue of domestic violence and its potential impact on spouses and children who would normally be entitled to immigration benefits under the I-130 petitioning process was first addressed by Congress in the Violence Against Women Act ("VAWA") which was enacted as part of the Violent Crime Control Act of 1994 ("Crime Bill"). The VAWA contains provisions to limit the ability of an abusive U.S. citizen ("USC") or lawful permanent resident ("LPR") to utilize the spouse' or child's immigration status in order to perpetuate the abuse. The Service published an interim rule on March 26, 1996 (59 FR 13061-13079) establishing the procedures for qualified abused spouses and children to self-petition for immigrant classification using the Form I-360. This rule was accompanied by extensive field instructions in the Office of Programs' memorandum of April 16, 1996.

In the autumn of 1996, Congress enacted various new provisions relating to battered aliens, in both the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA" or "the welfare law") and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA" or "the immigration bill"). None of these new provisions directly affect the legal standards applicable to adjudication of I-360 applications. The new provisions do, however, provide additional benefits and protections for battered aliens, and have created the need for INS to restructure how we handle this category of very sensitive cases. This memorandum outlines those changes, and instructs field offices on the handling of pending cases and new cases received.

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Centralization at the Vermont Service Center

On April 7, 1997, the Service published a notice in the Federal Register at 16607-08 establishing the Vermont Service Center as the direct mail filing location for all Forms I-360 filed by self-petitioning battered spouses and children (Attachment A). This centralization was necessitated by the new welfare provisions which make certain battered aliens -- including self-petitioners and others -- eligible for public benefits. In addition to adjudicating I-360 self-petitions, the Vermont Service Center will serve as a central "clearinghouse" for inquiries from federal, state and local benefit-granting agencies regarding pending or recently-adjudicated cases, as discussed in more detail in the Verification section, below. Finally, as an alien may be eligible for public benefits not only upon the approval of the relevant immigrant status, but also upon having filed a petition which makes a prima facie case for such status, the Vermont Service Center will also begin making prima facie determinations pursuant to an interim rule expected to be published in the Federal Register prior to June 1, 1997.

While these are sensitive cases which require special handling, the move to centralized filing is expected to have only minimal impact on caseloads in the district offices. Since the beginning of the fiscal year, according to G-22 statistics, fewer than 500 cases have been filed Servicewide. Centralization allows the Service to have a small corps of officers well-versed in the complexity and sensitivity of VAWA adjudications, and will also allow for better monitoring of the caseload and any fraud trends.

Although the direct mail notice allows self-petitioners to continue to file locally until May 7, INS field offices and the other service centers are encouraged to forward to the Vermont Service Center those I-360s for which review/adjudication has not been initiated. All I-360 self-petitions received on or after May 7 shall be forwarded to the Vermont Service Center, but the 30 day transition period requires that no office refuse to receive an I-360 submitted before June 6, 1997. Immediate relatives, who were previously able to file concurrent I-360 self-petitions and I-485 adjustment applications, should be advised to retain their I-485s pending the Vermont Service Center's adjudication of the I-360 self-petition. The battered alien I-360s are to be mailed to:

INS Vermont Service Center
Attn: Family Services Product Line (VAWA)
75 Lower Weldon Street
St. Albans, VT 05479-0001

As inquiries from benefit-granting agencies can be expected in many cases, offices are encouraged to expedite handling of all pending cases which they do not forward to the Vermont Service Center. Nothing in this move to centralize direct mail filing changes the ability of the Vermont Service Center to transfer I-360s to district offices when an interview or investigation of suspected fraud is merited.

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Deferred Action and Employment Authorization

In the April 16 memorandum, INS offices were encouraged to utilize voluntary departure and deferred action in order to provide approved VAWA self-petitioners with employment authorization pending the availability of a visa number. Since that time, in IIRIRA, Congress has limited grants of voluntary departure to no more than 120 days, and INS regulations no longer allow for work authorization during any period of voluntary departure.

Starting June 1, when the Vermont Service Center approves a VAWA self-petition, it will then also assess, on a case-by-case basis, whether to place the alien in deferred action status pursuant to new deferred action guidelines in the Interim Enforcement Procedures (a forthcoming document which will be available on the 96Act bulletin board, as well as in printed versions). By their nature, VAWA cases generally possess factors that warrant consideration for deferred action. In an unusual case, there may be factors present that would militate against deferred action; cases should therefore receive individual scrutiny. Although the Vermont Service Center is not required to obtain Regional Director approval for deferred action, it will report all grants of deferred action to the Eastern Regional Office for statistical and tracking purposes. In addition, a process for periodic review of the deferred action decisions made by the Vermont Service Center is planned.

If the alien is placed in deferred action, the Vermont Service Center will notify the alien that he or she may submit an I-765, Application for Employment Authorization. After the initial deferred action decision and issuance of a one-year employment authorization document, the Vermont Service Center will hold these files and review the deferred action decision upon each application for extension of work authorization. When the Vermont Service Center is notified by the National Visa Center or by an INS district office that the alien is seeking a visa abroad or has filed an adjustment application, the Vermont Service Center will forward the file to the appropriate office.

In cases where the I-360 was approved prior to April 1, many aliens may have current grants of voluntary departure. Upon expiration of voluntary departure, and for other cases adjudicated before June 1, district offices are strongly encouraged to utilize deferred action to provide work authorization pending the availability of a visa. As described in more detail below, battered aliens are now eligible for certain public benefits, which are often necessary for the victim to be able to leave the abusive situation. To deny such aliens work authorization when they are able to obtain public assistance is counter to the spirit of welfare reform. Moreover, for many individuals, the ability to work is necessary in order to save the funds necessary to pay for the adjustment application and the penalty fee. As it has already been determined that these aliens face extreme hardship if returned to the home country and as removal of battered aliens is not an INS priority, the exercise of discretion to place these cases in deferred action status will almost always be appropriate.

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Non-Disclosure Provisions and Other Limitations in IIRIRA § 384

Section 384 of IIRIRA strictly prohibits the release of any information relating to a VAWA self-petitioner, and also precludes any INS officer from making an adverse determination of admissibility or deportability based solely on information furnished by an abusive relative. Any violation of this section can subject an INS officer to disciplinary action and a fine of up to $5,000. This provision is discussed in more detail in IIRIRA Implementation Memo #96act.036 (Attachment B).

Verification of Status for Benefit-Granting Agencies

Section 501 of IIRIRA amends the welfare law to provide that certain battered aliens are "qualified aliens" for purposes of eligibility for some public benefits. This includes not only those aliens who can self-petition for immigrant status under the VAWA provisions, but also other aliens who have been abused by a member of their household. In cases other than VAWA self-petitioning cases, it is the benefit-granting agency, not the INS, which will assess the claims of abuse. Benefit providers, however, will request that INS verify the alien's status or the fact that a petition is pending on behalf of the alien. Detailed procedures for verification of these and other categories of qualified aliens under welfare law are being provided to benefit-granting agencies by the Department of Justice in a document entitled "Interim Guidance on Verification," which is expected to be published in the Federal Register later this month. An INS field directive designed for immigration status verifiers will be issued in conjunction with publication of the Interim Guidance on Verification.

Although some verification inquiries relating to battered aliens will be handled through the normal status verification channels, many of the inquiries will fall outside the type of inquiries which status verifiers typically handle. For example, because of the dynamics of abusive relationships, the abuse victim will not always have access to approval notices or other documentation relating to their cases. Moreover, because aliens can be eligible for public benefits upon filing a petition which makes a prima facie case for status, benefit providers will sometimes be seeking information on pending cases, including a determination as to whether the petition makes a prima facie case for eligibility for the status sought.

The Vermont Service Center will serve as the "clearinghouse" for these unusual types of inquiries, which will be submitted by fax using an inquiry format patterned on the sample at Attachment C. It is anticipated that the Vermont Service Center will be able to handle the vast majority of inquiries, which should pertain to cases pending there or in one of the other service centers. For those inquiries which pertain to cases pending in district offices or sub-offices, the Vermont Service Center will forward the inquiries by fax to the attention of a designated Service

Center liaison officer in each district or sub-office. Each district and sub-office should complete the liaison designation form at Attachment D and fax to Lisa Batey at 202/514-9262 prior to May 20 (the list of designees will be shared with INS regional offices and all four Service Centers). The designated liaison should ensure that a response is provided to the requesting agency, with a copy to the Vermont Service Center, within five working days. Information on pending or completed cases should not be given over the telephone, but rather should be sent via facsimile.

As you will note, the sample inquiry format includes a limited waiver of the non-disclosure provisions of IIRIRA § 384. At present, such a waiver is necessary before INS can provide any information relating to a VAWA self-petitioner, even to another governmental entity for purposes of determining eligibility for public benefits. Because of IIRIRA § 642, no waiver is necessary in other categories of cases, such as where the alien seeking benefits is the beneficiary of a spousal I-130 petition, but has suffered abuse at the hands of another household member. If there is any doubt as to whether a waiver is required, the officer should seek guidance from his or her district counsel. If there are waiver questions which cannot be resolved locally, please contact Lisa Batey of the Headquarters Office of Programs, at 202/514-9089.

Providing Information on Filing of I-360 Self-Petitions

Some battered aliens who are eligible to self-petition have chosen not to do so, instead relying upon the I-130 petition filed by their abuser. This not only allows the abuser to continue to control the spouse's or child's immigration status by withdrawing the petition, but also places a battered spouse at risk should the abuser subsequently obtain a divorce before the spouse is able to adjust status. For these and other reasons, such as easier determinations as to welfare eligibility and employment authorization, an immigration officer who deals with a battered alien should inform that alien about the process for self-petitioning, despite the fact that an I-130 petition is still pending on his or her behalf. The Interim Guidance on Verification similarly urges benefit agency caseworkers to give such aliens the number for the INS Forms Line [1-800-870-3676] and for the National Domestic Violence Hotline [1-800-799-7233] for assistance in preparing self-petitions.

Making Prima Facie Determinations

As noted above, Section 501 of IIRIRA includes in the definition of "qualified alien" for public benefit purposes those aliens who have filed a self-petition, or are the beneficiary of a spousal or parental petition, which sets forth a prima facie case for immigrant status under a variety of provisions. Specifically, those with approved petitions or pending petitions which make a prima facie case for status under any of the following Immigration and Nationality Act ("INA") provisions are included:

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- spouse or child of a USC under 204(a)(1)(A)(i)
- spouse, child or unmarried son or daughter of an LPR under 204(a)(1)(B)(i)
- widow(er) of a USC under 204(a)(1)(A)(ii)
- self-petitioning battered spouse or child of a USC or LPR under 204(a)(1)(A)(iii)-(iv) or 204(a)(1)(B)(ii)-(iii)

In all but the latter category, battery or abuse will not be part of the INS adjudication, but rather will be assessed by the benefit-granting agency pursuant to the Interim Guidance on Verification.

In the case of self-petitioning battered spouses and children, the Vermont Service Center will begin making prima facie determinations no later than June 1, 1997, following publication of an interim rule in the Federal Register. If the self-petition and accompanying documentation are adequate, the self-petitioner will receive a decision or a Notice of Prima Facie Determination ("NPFD") within three weeks of filing. The approval notice or NPFD may be presented to benefit granting agencies as evidence of the applicant's status as a "qualified alien". The NPFD will be valid for 150 days, to allow time for the submission of any supplemental evidence and for adjudication of the self-petition.

In those cases which are not handled by the Vermont Service Center, benefit-granting agencies will be expecting decisions or prima facie determinations within a similar three-week time frame. As the non-VAWA cases are simpler adjudications based purely on family relationship, there are no plans to define what would constitute a prima facie case. Instead, when a benefit-granting agency inquires about a pending case, INS offices should expedite the adjudication of the case in order to minimize the time during which the alien is unable to receive public assistance for which he or she may be eligible.

Aliens Seeking Issuance of Notices to Appear

An individual may also be eligible for public benefits if he or she makes a prima facie case for cancellation of removal as a battered spouse or child under INA § 240A(b)(2). INS district offices shall promptly issue a Notice to Appear to any alien who makes a credible request to be placed in proceedings in order to raise a claim for cancellation of removal under section 240A(b)(2). District offices may want to do a search of the CLAIMS system to determine if a self-petition was filed and denied. It is important to note, however, that some individuals who are ineligible for status pursuant to the self-petitioning provisions will be eligible for cancellation (e.g., where the marriage has been terminated). Once proceedings have been initiated, the alien can contact the immigration court to seek a determination that he or she has demonstrated a prima facie case for cancellation of removal.

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Other District Office Issues

While centralizing I-360 adjudications was motivated in part by the goal of having a small corps of officers well-trained in domestic violence issues, district adjudications officers will still interact with self-petitioners during the adjustment process. The nature of domestic violence and the sensitivity needed in dealing with victims are topics to which few INS officers will have had exposure. District offices are strongly encouraged to identify two or more officers (depending upon the size of the district) to handle all adjustments following from I-360 approvals. The designated officers should have the experience, discretion and communications skills to be able to balance sensitivity in dealing with true victims with vigilance against fraud, and would ideally also serve as the designated Service Center liaison officer described at pages 4-5, above.

Recognizing the need for more training on complex and subtle domestic violence issues, Headquarters is looking into opportunities to provide informational materials and perhaps training sessions. In addition, a number of reputable non-profit organizations throughout the country provide training for personnel who work with domestic violence victims, and are willing to share their expertise with INS offices. Last year, for example, training for San Francisco adjudicators was provided by representatives of the Family Violence Prevention Fund. The training was well-received by district personnel, and was given at no cost to the district. Managers interested in obtaining materials or in fostering contacts with local organizations which work with victims of domestic violence should contact either of the persons named below for information about organizations active in their area.

* * * * *

The Office of Field Operations concurs with this memorandum. Addressees are strongly encouraged to distribute copies of this memorandum widely, particularly to adjudications and investigations officers. Questions about this policy or about the interim rule published in the Federal Register may be directed to Lisa Batey, Headquarters Office of Programs, 202/514-9089, or Karen FitzGerald, Headquarters Benefits Division, at 202/305-4904.

Paul W. Virtue
for Acting Executive Associate Commissioner

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Attachment C

[sample only – request to be submitted on letterhead of requesting agency]

Fax Request Form – from Benefit Agency to INS

To: INS Vermont Service Center, fax 802/527-3252
Attn: Battered Alien Review Unit This fax consists of ____ pages.

This request is being submitted by:

Name (printed): _____ Title: _____

Agency name and address: _____

_____

Fax number: _____ Phone number: _____

Agency case tracking number: _____

Item 1: An alien applicant is seeking benefits from the agency identified above, pursuant to recent welfare reform legislation. This applicant falls into one of two categories:

____ a) believes an INS Form I-360, Petition for Amerasian, Widow or Special Immigrant, was filed on the applicant's behalf by [illegible] or by the applicant herself/himself-petitioned as a widow(er) using Form I-360, Petition for Amerasian, Widow or Special Immigrant (complete part A, below);

____ b) has self-petitioned as a battered spouse or child using INS Form I-360, Petition for Amerasian, Widow or Special Immigrant (complete part B, below).

Item 2: The above-referenced agency requests that INS: (please check one)

☐ Verify that the attached documentation is a true copy of the I-797 approval notice, prima facie determination or receipt notice.

☐ Make a prima facie determination or expedite adjudication of the petition and notify the requesting agency of the outcome.

☐ Update the status of the agency's _____ (insert date) request for a prima facie determination or expedited adjudication. (Requesting agency should allow three weeks from the request for a prima facie determination or filing of a petition before making this request.)

☐ Determine whether the applicant has filed a petition or whether a petition has been filed on his or her behalf under (a) or (b), as indicated above. If so, please make a prima facie determination or expedited adjudication of the applicant's petition and notify the requesting agency of the outcome.

Date: _____ Agency Signature: _____

SAMPLE

61 d (TUE) 5:

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PART A: For an Applicant Who Is the Beneficiary of a Petition Filed by Spouse or Parent, or Who Has Self-Petitioned as a Widow(er)

Step 1: Does the alien applicant have a copy of an INS Form I-797 indicating that an I-130 was filed on his/her behalf? [If applicant has self-petitioned as a widow(er), check "No" and proceed to Step 2.]

Yes _____ → Attach a copy of I-797 to this fax (you need not complete Step 2)

No _____ → If the applicant has documentation, [illegible] documentation other than a Form I-797, proceed to Step 2

Step 2: If the applicant does not have a Form I-797, please fill out the following information. All blanks, except that noted "if available," must be completed.

Benefit Applicant's full name: _____

Benefit Applicant's date of birth: _____

Benefit Applicant's best guess as to [illegible] was filed: _____ (mo/yr)

Benefit Applicant's best guess as to [illegible] with which INS office petition was filed: _____

Petitioner's full name: _____

Petitioner is Applicant's spouse, _____, self [widow(er)] (check one)

Petitioner is a U.S. citizen or _____ lawful permanent resident ("green card holder")

Petitioner's date of birth: _____

Petitioner's Alien Registration Number, if available: A_____

Petitioner's current address for mailing purposes: _____

(street address, [illegible]) _____

PART B: For an Applicant Who Has Self-Petitioned as a Battered Spouse or Child

Step 1: Attach a copy of the receipt notice or other documentation evidencing that a Form I-360 has been filed with the INS. If that documentation does not include the following information, please complete the blanks:

Applicant/self-petitioner's full name: _____

Applicant/self-petitioner's date of birth: _____

Date I-360 was filed: _____

Location (city) of INS office where filed: _____

Step 2: A waiver signed by the alien appears below.

This waiver authorizes release of information by the Immigration and Naturalization Service to determine eligibility for federal, state or local public benefits. It does not authorize release of information to relatives of the alien or any agencies other than those specified in paragraph (3), below.

(1) My name is (print full name): _____

(2) My date of birth is _____, 19__

(3) I hereby waive any restrictions on the disclosure of information relating to me under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (the "Immigration Act") to any person or agency, including the Immigration and Naturalization Service ("INS") and/or the Executive Office for Immigration Review ("EOIR") to provide in writing to any federal, state or local public or private benefit-granting agency seeking to verify my immigration status, the following information required to determine my eligibility for federal, state or local public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Immigration Act: (a) whether an application has been filed by me or on my behalf under section 204(a)(1)(A) (as amended by section 204(a)(1)(B) (ii) or (iii), section 216(c)(4)(C), section 244(a)(3) as in effect prior to April 1, 1997, or section 240A(b)(2) of the Immigration and Nationality Act, and (b) whether INS or EOIR has made a prima facie determination or final determination of eligibility for relief under any of the above provisions, and, if so, the outcome of those determinations.

I declare, under penalty of perjury, that the foregoing is true and correct, and that I have executed this waiver knowingly and voluntarily.

Executed on (date): _____

_____

Signature of Applicant

(13)

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EXHIBIT J

U.S. Department of Justice
Immigration and Naturalization Service

HQADN 70/6.2

Office of the Executive Associate Commissioner

4257 Street NW
Washington, DC 20536

MAY 8 2002

MEMORANDUM FOR JOHNNY N. WILLIAMS
EXECUTIVE ASSOCIATE COMMISSIONER
OFFICE OF FIELD OPERATIONS

FROM: Stuart Anderson /S/
Executive Associate Commissioner
Office of Policy and Planning

SUBJECT: Deferred Action for Aliens with bona fide Applications for T Nonimmigrant Status

This memorandum outlines changes in Immigration and Naturalization Service (INS) procedures for deferred action determinations on behalf of victims of severe forms of trafficking whose applications for T nonimmigrant status have been determined to be bona fide but are still awaiting final adjudication by the Vermont Service Center (VSC). It should be read as a supplement to guidance by the Office of Programs on December 19, 2000, and September 7, 2001, and to a memorandum dated August 30,2001, that instructed INS offices to utilize deferred action as one means to provide possible victims the opportunity to avail themselves of the provisions of the Victims of Trafficking and Violence Protection Act of 2000, including applying for T or U nonimmigrant status.[1]

Effective the date of this memorandum, the VSC is responsible for assessing deferred action for all applicants whose applications have been determined to be bona fide. The duration of the initial deferred action assessment shall be at the discretion of the Service Center Director but shall not exceed 12 months. The initial assessment may be for less than 12 months if the director determines an application would be adjudicated within that time. Deferred action will not be considered or assessed for a T nonimmigrant status applicant if he or she is currently in

1 This memorandum does not, however, after the guidance outlined in those memoranda regarding the interim procedures to be followed while the regulations implementing the U nonimmigrant status are being promulgated. Aliens who are identified as possibly eligible for U nonimmigrant status should not be removed from the United States until they have had the opportunity to apply for such status. Existing authority and mechanisms such as parole, deferred action, and stays of removal should be used to achieve this objective.

Memorandum for Johnny N. Williams
Subject: Deferred Action for Aliens with Bona Fide Applications
for T Nonimmigrant Status

removal proceedings unless the case has been administratively closed by the Immigration Judge or the Board of Immigration Appeals. For purposes of this memorandum, removal proceedings are defined as the period between the filing of the Notice to Appear with the Immigration Judge and the issuance of the final decision.

If a deferred action determination is made, the VSC will notify the alien to submit Form I-765, Application for Employment Authorization. Applications for employment authorization based on an assessment of deferred action at the VSC must be filed with the VSC. After the initial deferred action decision and issuance of a one-year Employment Authorization Document, the VSC will hold those files and review each subsequent request for employment authorization and deferred action upon receipt of each application. Requests for extensions of employment authorization and deferred action will be reviewed and granted in increments of twelve months.

Field Offices (and other Service Centers) may continue to receive inquiries from T applicants regarding determination of deferred action. These may be initial requests or requests for an extension of deferred action. These requests should be mailed to: **USINS- Vermont Service Center, ATTN: Keith Canney, Box 1000, 75 Lower Weldon St., St. Albans, VT 05479-0001.**

If you have any questions regarding this memorandum or other T nonimmigrant status issues, please contact Laura Dawkins, Office of Adjudications at (202) 514-4754.

EXHIBIT M

Press Office
U.S. Department of Homeland Security

U.S. Citizenship and Immigration Services

Press Release

November 25, 2005

USCIS ANNOUNCES INTERIM RELIEF FOR FOREIGN STUDENTS ADVERSELY IMPACTED BY HURRICANE KATRINA

Washington, D.C. – U.S. Citizenship and Immigration Services (USCIS) announced specific interim relief today for the approximately 5,500 foreign academic students adversely impacted by Hurricane Katrina. The Notice, which was published in the *Federal Register*, will allow Katrina-impacted foreign academic students (F-1 visa holders) to:

- Apply for immediate, short-term employment authorization;
- Work additional hours on-campus, or work off-campus if granted employment authorization; and
- Reduce normal course load requirements if granted employment authorization.

The interim relief will remain in effect until February 1, 2006. Foreign vocational students (M-1 visa holders) and foreign exchange students (J-1 visa holders) are not eligible for this interim relief. DHS will continue to monitor the adverse impact of Hurricane Katrina in the affected areas to determine if modification of the interim relief is warranted and will announce any modifications in the *Federal Register*.

Eligible foreign academic students wishing to work additional hours on-campus must obtain approval from their designated school official. Eligible foreign academic students wishing to work off-campus must file an Application for Employment Authorization (Form I-765) directly with the Texas Service Center at:

U.S. Citizenship and Immigration Services, Texas Service Center,
P.O. Box 853062, Mesquite, TX 75815-3062.

Applicants should mark the front of the envelope on the bottom right-hand side with the phrase, "HURRICANE KATRINA SPECIAL STUDENT RELIEF." Applicants who are unable to pay the Form I-756 filing fee may request a fee waiver. Read our Frequently Asked Questions.

Katrina-impacted foreign academic students not covered by the Notice and their dependents (F-2 visa holders) may request deferred action and apply for employment authorization based on economic necessity. A grant of deferred action in this context means that, during the period that the grant of deferred action remains in effect, DHS will not seek the removal of the foreign academic student or his or her qualified dependents based upon the fact that the failure to maintain status is directly due to Hurricane Katrina. Deferred action requests are decided on a case-by-case basis. USCIS cannot provide any assurance that all such requests will be granted. A grant of deferred action does not provide an individual any legal immigration status in the United States. Therefore, in order to resume their nonimmigrant status, foreign academic students who are granted deferred action must apply for reinstatement following the period of deferred action, which shall expire no later than February 1, 2006.

Eligible foreign academic students and their qualified dependents wishing to request deferred action and apply for employment authorization based on economic necessity must submit a letter, substantiating their need for deferred action, and file an Application for Employment Authorization (Form I-765) directly with the Texas Service Center at the address above. Applicants should mark the front of the envelope on the

bottom right-hand side with the phrase, "HURRICANE KATRINA SPECIAL STUDENT RELIEF." Applicants who are unable to pay the Form I-756 filing fee may request a fee waiver.

For additional information, please refer to the *Federal Register* Notice or visit the USCIS website at http://uscis.gov/.

– USCIS –

On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing the integrity of our nation's security.

EXHIBIT N

EXHIBIT 14

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Domestic Operations (MS-2110)
Washington, DC 20529-2110

U.S. Citizenship and Immigration Services

SEP 4 2009

Memorandum

TO: Field Leadership

FROM: Donald Neufeld
Acting Associate Director, Office of Domestic Operations

SUBJECT: Guidance Regarding Surviving Spouses of Deceased U.S. Citizens and their Children

I. Purpose

This amended memorandum provides guidance to U.S. Citizenship and Immigration Services (USCIS) field offices and service centers regarding the processing of surviving spouses of deceased U.S. citizens and qualifying children of the surviving spouses. It affords a new process by which they may apply for deferred action. This policy guidance will be in effect until further notice and may be revised as needed. This memorandum revises and replaces in its entirety the June 15, 2009 "Guidance Regarding Surviving Spouses of Deceased U.S. Citizens and their Children".

II. Background

Section 205.1(a)(3)(i)(C) of title 8 of the Code of Federal Regulations (8 CFR) requires that the approval of Form I-130, *Petition for Alien Relative*, be automatically revoked upon the death of the petitioner if the beneficiary[1] has not adjusted status in the United States or been inspected and admitted as an immigrant. In such instances, the beneficiary may request a reinstatement of the approval and USCIS, in its discretion, may grant such a request for humanitarian reasons. 8 CFR 205.1(a)(3)(i)(C)(2).

However, no avenue of immigration relief exists for the surviving spouse of a deceased U.S. citizen if the surviving spouse and the U.S. citizen were married less than 2 years at the time of the citizen's death and (1) the immigrant petition filed by the citizen on behalf of the surviving spouse has not been adjudicated by USCIS at the time of the citizen's death, or (2) no petition was filed by the

[1] Depending on context, the term beneficiary in this guidance may include both actual and potential beneficiaries of Forms I-130 filed on their behalf.

citizen before the citizen's death. This issue has caused a split among the circuit courts of appeal and is also the subject of proposed legislation in the U.S. Congress (e.g., bills S. 815 and H.R. 1870).

III. Policy Guidance

This policy guidance covers only (1) surviving spouses of U.S. citizens who died before the second anniversary of the marriage, who have not remarried and were not legally separated or divorced from the citizen spouse at the time of the citizen's death, and who are residing in the United States,[2] and (2) such surviving spouses' qualifying children. For purposes of this policy guidance, "qualifying children" are any children of the surviving spouse of the deceased U.S. citizen who remain unmarried and under 21 years of age and are residing in the United States (age determinations for beneficiaries of Forms I-130 should be made as provided in section 201(f) of the INA).

This guidance applies to the aforementioned applicants without regard to their manner of entry into the United States. Such surviving spouses are covered without restrictions on how long the U.S. citizen spouse has been deceased as long as the surviving spouse has not remarried.[3]

This guidance does not cover surviving spouses or qualifying children of deceased U.S. citizens who are residing outside the United States or surviving spouses and children of a lawful permanent resident or other non-U.S. citizen. This guidance also does not cover surviving spouses or qualifying children of deceased U.S. citizens if the surviving spouse remarried at any time after the U.S. citizen's death (regardless of whether the subsequent marriage has been terminated). This guidance does not cover any beneficiary who was legally separated or divorced from his or her U.S. citizen spouse at the time of the citizen's death, or such beneficiary's children.

Since current section 201(b)(2)(A)(i) of the Immigration and Nationality Act (INA) treats covered widow(er)s of U.S. citizens and their children as immediate relatives based upon a self-petition, they are not covered by this guidance. They may file a Form I-360, *Petition for Amerasian, Widow(er), or Special Immigrant*, in accordance with the instructions on the Form.

In order to address humanitarian concerns arising from cases involving surviving spouses of U.S. citizens, USCIS is instituting the following policy guidance, which is effective immediately and until further notice.

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[2] Section III(A) of this memorandum, however, regarding humanitarian reinstatement, shall apply to surviving spouses outside the United States.

[3] This guidance is applicable to a beneficiary who entered the United States on a K-1 Nonimmigrant Visa and married a U.S. citizen, including cases in which the marriage was to a U.S. citizen other than the U.S. citizen petitioner who filed the I-129F. If the U.S. citizen spouse died before the second anniversary of the marriage, the widow(er) is eligible for deferred action or humanitarian reinstatement as described herein. Nothing in this memorandum, however, is intended to provide or imply eligibility for immigrant classification or adjustment of status of any person granted deferred action or humanitarian reinstatement, including widow(er) of U.S. citizens other than U.S. citizens who filed the Form I-129F who are subject to section 245(d) of the INA.

It is not necessary for the widow(ers) of citizens to seek deferred action under the guidance in this memorandum, in a case governed by First, Sixth or Ninth Circuit law. Courts in those jurisdictions have held that the visa petitioner's death does *not* end a surviving spouse's eligibility for classification as an immediate relative. *Taing v. Napolitano,* 567 F.3d 19 (1st Cir. 2009); *Lockhart v. Napolitano,* 561 F.3d 611 (6th Cir. 2009); *Freeman v. Gonzales,* 444 F.3d 1031 (9th Cir. 2006). Litigation on this issue is currently pending in the Supreme Court. *Robinson v. Napolitano,* No. 09-94 (Cert petition filed July 23, 2009). Until such time as the Supreme Court decides the *Robinson* case on the merits, however, the *Taing, Lockhart* and *Freeman* cases remain the law in their respective circuits.

In the First, Sixth and Ninth Circuits, therefore, an officer should approve a Form I-130, and should also treat a pre-approval death as still valid, if the Form I-130 is approvable, apart from the issue of the petitioner's death. No request for reinstatement of a pre-death approval will be necessary. Should the beneficiary in a First, Sixth or Ninth Circuit case bring to the attention of USCIS a Form I-130 that was denied or revoked on or after August 30, 2001, solely because the petitioner had died officers should consider the *Taing, Lockhart* and *Freeman* decisions as a proper basis for reopening, *on USCIS motion,* the Form I-130, as well as any related Form I-485.[4] It is not necessary for the beneficiary to file a formal motion or pay any filing fee; any written request, such as a letter, will suffice. For purposes of this paragraph, a Form I-130 will be considered a First, Sixth or Ninth Circuit case if:

- the Form I-130 is pending in, or the original decision was made by, a USCIS office in the First, Sixth or Ninth Circuit; or
- either the petitioner or the beneficiary resided in First, Sixth or Ninth Circuit at the time of the petitioner's death. [5]

Whether an alien is actually admissible is not an issue in the adjudication of a Form I-130. *Matter of O-,* 8 I&N Dec. 295 (BIA 1959). In light of the judgment in *Hootkins v. Napolitano,* ___ F.Supp. 2d ___ , 2009 WL 2222839 (C.D.Cal. 2009), an officer will not consider the presence or absence of Form I-864 from a substitute sponsor in deciding whether to approve or deny a Form I-130 in a First, Sixth or Ninth Circuit case. The *Hootkins* court ruled, however, that the Class Plaintiffs had failed to prove their claim that an alien widow(er) whose Form I-130 is approved under Freeman does not need a Form I-864 from a substitute sponsor. 2009 WL 2222839 at *17, n. 23. The widow(er), therefore, must submit a new Form I-864 to obtain approval of the Form I-485, unless the Form I-485 applicant is exempt from this requirement under 8 CFR 213a.2(a)(2)(ii). Thus, the officer will treat the provision in AFM 21.5(a)(4)(B)(2) that requires submission of a new Form I-864 from a

[4] No action is necessary if the Form I-130 was denied or revoked before August 30, 2001. A civil action must generally be brought against the United States within 6 years after the cause of action accrues. 22 U.S.C. 2401(a). August 30, 2001, is selected as the cut-off date for reopening First, Sixth and Ninth Circuit cases since that is 6 years before the filing of *Hootkins v. Napolitano,* ___ F.Supp. 2d ___ (C.D.Cal. 2009), which began as a putative nation-wide class action.

[5] The First Circuit includes Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico; the Sixth Circuit includes Kentucky, Michigan, Ohio, and Tennessee; and the Ninth Circuit includes Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, and Guam. 28 U.S.C. § 41.

substitute sponsor as applying *only* to the adjudication of the Form I-485, and not to the adjudication of the Form I-130.

A widow(er) who is not able to submit a new Form I-864 from a substitute sponsor may seek deferred action, even if the Form I-130 itself is approved. In the case of a widow(er) whose Form I-485 cannot be approved because of the lack of a new Form I-864 from a substitute sponsor, a final decision on the Form I-485 will be held in abeyance during the period in which a grant of deferred action is in effect.

The *Taing, Lockhart* and *Freeman* cases apply only to First, Sixth and Ninth Circuit cases involving Forms I-130 filed for the spouses of citizens. These cases do not apply to a Form I-130 filed by a citizen for a step-child. Even if the citizen's widow(er) may have a Form I-130 and Form I-485 approved, therefore, any children of the widow(er) who are also beneficiaries of Forms I-130 filed by the deceased citizen may seek deferred action under this guidance.

A. Form I-130 Approved Prior to the Death of the U.S. Citizen Spouse (Petitioner)

Upon the death of the U.S. citizen petitioner, the approved Form I-130 is automatically revoked pursuant to 8 CFR 205.1(a)(3)(i)(C). The beneficiary, however, may request reinstatement of the revoked petition pursuant to 8 CFR 205.1(a)(3)(i)(C)(2). USCIS may then exercise discretion and grant the reinstatement after considering the facts and humanitarian considerations of the particular case. If the request for humanitarian reinstatement is approved, the beneficiary may proceed to the adjustment of status or consular processing stage.

This memorandum does not alter the process for reviewing a Form I-130 returned to USCIS by a U.S. Consular Officer overseas when the beneficiary is seeking a humanitarian reinstatement. If USCIS reinstates the Form I-130 returned by the consular officer, the I-130 should be forwarded to the National Visa Center to allow the beneficiary to resume consular processing. Section III(A) of this guidance, relating to humanitarian reinstatement, applies to beneficiaries who are within or outside the United States.

If a beneficiary covered by this guidance requests humanitarian reinstatement, adjudicators should presume that humanitarian reasons support a grant of the request. Absent extraordinary factors or a failure to meet the regulatory requirements of 8 CFR 205.1(a)(3)(i)(C)(2), adjudicators should favorably exercise discretion accordingly. If the request for reinstatement cannot be granted for any reason other than confirmed or suspected fraud or issues of criminality or national security, the beneficiary should be informed that he or she may request deferred action in the manner described in III(E) below.

B. Form I-130 Pending at the Time of Death of the U.S. Citizen Spouse (Petitioner) – Married Less than 2 Years at Time of Death

Once USCIS has received a copy of the U.S. citizen petitioner's death certificate, the pending, stand-alone Form I-130 should be held in abeyance at the pending location. Petitions may be transferred to

the Vermont Service Center to be consolidated with the A-file housing a deferred action request, if such a request is made by the beneficiary (see further guidance below).

Any concurrently filed Form I-485, *Application to Register Permanent Residence or Adjust Status*, and Form I-130, should be held in abeyance at the National Benefits Center until further guidance is issued. The beneficiary will remain eligible to receive the interim benefits of advance parole and employment authorization on the basis of the pending adjustment of status application.

If a Form I-485 was not concurrently filed, the beneficiary should be informed that he or she may request deferred action in the manner described in section III (E) below.

Note: In instances where the beneficiary and deceased U.S. citizen petitioner were married for at least two years at the time of the petitioner's death, the pending Form I-130 should be handled under existing procedures, including conversion of the Form I-130 to a Form I-360 for special immigrant classification as a widow/widower to the extent provided by 8 CFR 204.2(i)(1)(iv).

C. Form I-130 Denied (Prior to the Issuance of this Guidance) due to the Death of the U.S. Citizen Spouse (Petitioner)

A beneficiary who is the surviving spouse of a U.S. citizen petitioner and whose petition was denied by USCIS (1) due to the death of the U.S. citizen petitioner, and (2) prior to the issuance of this guidance, may request deferred action in the manner described in section III(E) below.

D. Form I-130 Not Filed Prior to the Death of the U.S. Citizen Spouse

A beneficiary who was legally married to a now deceased U.S. citizen at the time of the U.S. citizen's death, but for whom no Form I-130 was filed, may request deferred action in the manner described in section III(E) below.

If the beneficiary was not legally married to, or was legally separated from, the deceased U.S. citizen at the time of the U.S. citizen's death, a qualifying relationship does not exist. The beneficiary is therefore not eligible to submit Form I-360 based on the specific policy guidance set forth in section III(E) below.

E. Required Documentation for Requests for Deferred Action

Beneficiaries may request deferred action by submitting the following:

1) A Form I-360, *Petition for Amerasian, Widow(er), or Special Immigrant*, with the appropriate, non-waiveable filing fee (currently $375), completed in the format explained below; and
2) All of the documents requested in the Form I-360 filing instructions for widow/widowers.

The beneficiary of the Form I-360 must check box "**m. Other, explain:**" in Part 2 of the petition and cite the basis for eligibility as "**Deferred Action -- Surviving spouse of a deceased U.S.**

citizen, married less than 2 years." The Form I-360 must be submitted to the Vermont Service Center for deferred action consideration. Note that while USCIS is utilizing Form I-360 for these deferred action requests, such filings are NOT special immigrant self-petitions under current law. They should be adjudicated as requests for deferred action only. In addition to the Part 2 information described above, the applicant must complete Parts 1, 3, 4, 7, 9, 10 and 11 of the Form I-360.

F. Decision on Requests for Deferred Action

Requests for deferred action based on the specific policy guidance set forth in this memorandum may only be considered for: 1) surviving spouses of U.S. citizens whose U.S. citizen spouse died before the second anniversary of the marriage and who are unmarried and residing in the United States; and 2) their qualifying children who are residing in the United States.

The following persons are ineligible for deferred action: 1) beneficiaries whose immigrant visa petition was denied or revoked for any reason other than or in addition to the death of the petitioning U.S. citizen spouse; 2) widow(er)s who have remarried or were legally separated or divorced from the U.S. citizen spouse at the time of the U.S. citizen's death; and 3) beneficiaries with other serious adverse factors, such as national security concerns, significant immigration fraud, commission of other crimes, or public safety reasons. A grant of deferred action is a discretionary action on the part of USCIS. It is intended that this discretion should be liberally applied to provide a humanitarian benefit to eligible beneficiaries. However, deferred action may be denied for serious adverse factors, whether or not such factors are specifically identified in this guidance.

Requests for deferred action based on the specific policy guidance set forth in this memorandum will not be considered for beneficiaries who: 1) are surviving spouses or qualifying children of non-U.S. citizens; 2) are residing outside the United States; 3) meet the conditional marriage period set forth in INA 201(b)(2)(A)(i); or 4) have remarried subsequent to the U.S. citizen's death (regardless of whether the subsequent marriage has been terminated).

Once a decision on the request for deferred action has been made, the decision must be communicated to the beneficiary via a decision letter. If the request has been granted, the deferred action grant letter must state that the beneficiary is eligible to file Form I-765, *Application for Employment Authorization*. If the request has been denied, the deferred action denial letter must cite the reasons for the denial. A decision on a request for deferred action falls within the discretion of the Secretary. A denial of a request for deferred action is not subject to administrative appeal or judicial review. See INA § 242(a)(2)(B), and (g).

G. Validity Period for Deferred Action

For any deferred action request received on or before May 27, 2011, the validity period of deferred action based on the policy guidance set forth in this memorandum is two (2) years from the date of grant of the Form I-360 request for deferred action.

H. Eligibility for Employment Authorization

The appropriate classification for Form I-765 filed on the basis of a deferred action grant is (C)(14) pursuant to 8 CFR 274a.12(c)(14). Beneficiaries may submit Form I-765, with the appropriate filing fee (currently $340), using this classification at any time after the grant (but prior to the expiration) of deferred action. However, they must demonstrate an economic necessity. The validity period for an employment authorization document (EAD) under the classification (C)(14), based on the specific policy guidance set forth in this memorandum is two (2) years, not to exceed the expiration date of the grant of deferred action.

All requests for employment authorization based on the policy guidance set forth in this memorandum must contain the appropriate required supporting documentation. Applicants must follow currently established filing procedures for the Form I-765 in accordance with the instructions on the form. Fee waiver of the Form I-765 fee is available on a case-by-case basis for substantiated inability to pay as provided in 8 CFR 103.7(c)(1).

A beneficiary whose Form I-485 is being held in abeyance may also file a Form I-765, with the appropriate filing fee. The appropriate classification for employment authorization filed on such a basis is (C)(9) pursuant to 8 CFR 274a.12(c)(9). Evidence of an economic necessity is not required if using this classification. A beneficiary whose application is being held in abeyance may have been issued an employment authorization document valid for one year under category (C)(9). When such an applicant files a Form I-765 for renewal of his or her EAD under the classification (C)(9) based on the specific policy guidance set forth in this memorandum, the validity period will be **two (2) years**. An applicant with a valid EAD under the classification (C)(9) may file for renewal no more than 90 days prior to the expiration date of the valid document. The employment authorization may then be granted for two (2) years based on the specific policy guidance set forth in this memorandum.

I. Effect of Grant of Deferred Action

The grant of deferred action by USCIS does not confer or alter any immigration status. It does not convey or imply any waivers of inadmissibility that may exist, regardless of whether that inadmissibility is known to DHS or other agencies at the time of the request for deferred action. A grant of deferred action also does not eliminate any period of prior unlawful presence. However, periods of time in deferred action do not count as unlawful presence for the purposes of sections 212(a)(9)(B) and (C) of the INA. Any period of time in deferred action qualifies as a period of stay authorized by the Secretary of Homeland Security for those purposes.

As noted earlier in this memorandum, in the case of a widow(er) whose Form I-485 cannot be approved because of the lack of a new Form I-864 from a substitute sponsor, a final decision on the Form I-485 will be held in abeyance during the period in which a grant of deferred action is in effect.

J. Eligibility for Advance Parole

Beneficiaries granted deferred action based on the policy guidance set forth in this memorandum or whose applications for adjustment of status are being held in abeyance may request advance parole. Such request may be made by filing Form I-131, *Application for Travel Document*, in accordance with the Form I-131 instructions and with the appropriate fee. Note, however, that departure from the United States and return, even under a grant of advance parole, may adversely affect eligibility for adjustment of status of aliens with past periods of unlawful presence.

K. Implementation

USCIS offices and centers are to begin implementing the instructions established in this memorandum immediately.

L. Contact Information

Questions regarding this memorandum should be directed to the Office of Domestic Operations through appropriate channels.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies or entities, its officers, employees, or agents, or any other person.

Distribution:

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EXHIBIT O

U.S. Department of Homeland Security
20 Massachusetts Ave., NW
Washington. DC 20529

U.S. Citizenship and Immigration Services

HQDOMO 70/6.1.1-P
70/6.1.3-P
AFM Update AD10-09

Interoffice Memorandum

To: Executive Leadership

From: Donald Neufeld
Acting Associate Director
Domestic Operations Directorate

Lori Scialabba
Associate Director
Refugee, Asylum, and International Operations Directorate

Pearl Chang
Acting Chief
Office of Policy and Strategy

Date: DEC - 2 2009

SUBJECT: Additional Guidance Regarding Surviving Spouses of Deceased U.S. Citizens and their Children (REVISED)

Effect of FY2010 DHS Appropriations Act on eligibility to immigrate after death of visa petitioner

Revisions to Adjudicator's Field Manual (AFM) Chapter(s) 21.2(a)(4) and (h)(1)(C)
(AFM Update AD10-09)

I. Purpose

This memorandum supersedes an earlier memorandum on this subject, dated November 13, 2009, and provides updated guidance to U.S. Citizenship and Immigration Services (USCIS) field offices and service centers regarding the processing of Forms I-130, petitions for alien relative, and I-485, application to register permanent residence or adjust status, filed by surviving spouses of deceased U.S. citizens and the qualifying children of the surviving spouses. This new guidance is based on the enactment of section 568(c) of the Department of Homeland Security Appropriations Act, 2010, Pub. L. No. 111-83, 123 Stat. 4142, 4186 (2009), which provides

relief for these aliens. Section 568(c) entered into force on October 28, 2009, the date of enactment.

Sections 568(d) and (e) of the FY2010 DHS Appropriations Act, which provide relief for aliens who are surviving beneficiaries of certain pending or approved petitions filed by certain qualifying categories of noncitizens, will be addressed in a separate memorandum.

II. Background

A. Prior Policy and Related Litigation

For many years, U.S. immigration policy has been that a Form I-130 could not be approved if the petitioner died while the Form I-130 was pending. *See Matter of Sano,* 19 I&N Dec. 299 (BIA 1985); *Matter of Varela,* 13 I&N Dec. 453 (BIA 1970). As far back as 1938, our immigration regulations have provided for the revocation of the approval of a visa petition upon the petitioner's death. More recently, the regulations, while maintaining that general policy, have provided for discretion, for "humanitarian reasons," to reinstate the approval. 8 C.F.R. § 205.1(a)(3)(i)(C)(2). Also, since 2006, 8 C.F.R. § 204.2(i)(1)(iv) and 205.1(a)(3)(i)(C)(1) have provided that the automatic revocation provision does not apply to a spousal immediate relative visa petition, if the deceased petitioner and the alien widow(er) had been married at least two years when the petitioner died.

Over the past several years, widow(er)s of citizens who had died before the second anniversary of the underlying marriages have challenged this long-standing policy as being inconsistent with the statute. The federal courts of appeals have split on the legal issue. *Compare Robinson v. Napolitano,* 554 F.3d 358 (3d Cir. 2009) (sustaining agency view that petitioner's death while a Form I-130 is pending ends the beneficiary's eligibility); *petition for cert. filed,* No. 09- 94 (U.S. filed July 23, 2009), *with Taing v. Napolitano,* 567 F.3d 19 (1st Cir. 2009) (holding agency policy violative of statute); *Lockhart v. Napolitano,* 561 F.3d 611 (6th Cir. 2009) (same); *and Freeman v. Gonzales,* 444 F.3d 1031 (9th Cir. 2006) (same). The issue has engendered much litigation before the federal district courts in recent months, with most courts ruling against the agency. Among the unfavorable decisions is the class action ruling in *Hootkins v. Napolitano,* ___ F. Supp. 2d ___, 2009 WL 2222839 (C.D. Cal. Apr. 28, 2009), which is on appeal to the Ninth Circuit Court of Appeals. Other cases are pending in district courts throughout the United States.

B. Section 568(c) of FY2010 DHS Appropriations Act

Congress, however, recently acted to resolve the issue. On October 28, 2009, the President signed into law the FY2010 DHS Appropriations Act. Section 568(c) of the new law amends the second sentence in section 201(b)(2)(A)(i) of the INA so that, for a widow(er) of a citizen to qualify as an immediate relative, it is no longer necessary for the couple to have been married at least two years when the citizen died. The second sentence of section 201(b)(2)(A)(i) now reads,

> In the case of an alien who was the spouse of a citizen of the United States and was not legally separated from the citizen at the time of the citizen's death, the alien (and each child of the alien) shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under [section 204(a)(1)(A)(ii) of the INA] within 2 years after such date and only until the date the spouse remarries.

When a widow(er) qualifies as an immediate relative under the second sentence in section 201(b)(2)(A)(i) of the INA, his or her children, as defined in sections 101(b)(1) and 201(f) of the INA, also qualify. The amendment made by section 568(c) applies equally to aliens abroad who are seeking immigrant visas and aliens in the United States who are seeking adjustment of status. The amendment applies to any alien whose spouse died before October 28, 2009, and who had a Form I-130 pending on October 28, 2009. If no Form I-130 was pending, then an alien whose U.S. citizen spouse died before October 28, 2009, and before the second anniversary of their marriage, may file a visa petition under section 204(a)(1)(A)(ii) of the INA so long as (a) the alien has not remarried, and (b) the petition is filed no later than October 28, 2011.

Section 568(c) relates only to the impact of the citizen's death on the alien's eligibility for classification as an immediate relative. All other requirements for approval of a visa petition remain in force. In particular, the alien must still establish that he or she was the citizen's legal spouse, and that the marriage was a bona fide marriage and not an arrangement solely to confer immigration benefits on the alien. If the alien was in removal proceedings at the time of the marriage, the "clear and convincing evidence" standard in section 245(e)(3) of the INA will still apply to the adjudication of the visa petition. If the necessary visa petition is approved, the alien may then seek an immigrant visa or adjustment of status. The alien must still establish that he or she is admissible as an immigrant and, in an adjustment case, that he or she meets all other adjustment eligibility requirements and merits a favorable exercise of discretion.

In light of this new legislation, the policy guidance stated in the November 8, 2007, memorandum entitled "Effect of Form I-130 Petitioner's Death on Authority to Approve the Form I-130" (*AFM* Update AD08-04) is obsolete. This memorandum amends the Adjudicator's Field Manual to remove the material added in that earlier memorandum.

III. Policy Guidance and AFM Update

AFM Update

1. Chapter 21.2 of the *AFM* entitled "Factors Common to the Adjudication of All Relative Visa Petitions" is amended by

   a. Removing chapter 21.2(a)(4)
   b. Removing the **Note** at the end of chapter 21.2(h)(1)(C).

A. Widow(er)s with pending cases

Section 568(c)(2)(A) of the FY2010 DHS Appropriations Act makes the amendment to the second sentence in INA section 201(b)(2)(A)(i) applicable to any visa petition or adjustment application "pending on or after the date of enactment." As noted, the date of enactment is October 28, 2009.

1. Reopening of pending Form I-130 cases

For purposes of this amendment, a Form I-130 will be deemed "pending" on October 28 2009, if the deceased citizen had filed a Form I-130 on or before that date but:

- USCIS has not adjudicated the Form I-130;
- USCIS denied the Form I-130, but USCIS granted a motion to reopen or reconsider, so that the Form I-130 is, again, pending;
- USCIS denied the Form I-130, but has not yet ruled on a motion to reopen or reconsider;
- USCIS denied the Form I-130, but the alien's appeal from that decision is pending before the Board of Immigration Appeals (BIA) or the period for appeal of the adverse USCIS decision to the BIA had not yet expired; or
- The USCIS or BIA decision denying the Form I-130 is the subject of pending litigation before a federal court (including cases in which the district court issued a decision before October 28, 2009, but the appeals period established by law had not yet expired).

Under 8 C.F.R. § 204.2(i), a citizen's spousal Form I-130 is automatically converted to a widow(er)'s Form I-360 if, on the date of the citizen's death, the beneficiary qualifies as a widow(er) under the second sentence in section 201(b)(2)(A)(i). Under section 568(c) of the FY2010 DHS Appropriations Act, these aliens now qualify under the second sentence. Thus, any Form I-130 that is "pending" as described in the preceding paragraph will be deemed to be, and adjudicated as, a widow(er)'s Form I-360.

In any Form I-130 case in which a motion to reopen or for reconsideration was filed, but not acted on, USCIS will grant the motion and make a new decision in light of section 568(c) of the FY2010 DHS Appropriations Act.

Any Form I-130 that is the subject of litigation in any federal court on the issue of the effect of the petitioner's death is, as of the date of this memorandum, reopened for a new decision in light of section 568(c) of the FY2010 DHS Appropriations Act. The beneficiary need not file a separate motion. Nor does it matter, for purposes of reopening the Form I-130, whether the beneficiary is currently in the United States or abroad. If the decision denying or terminating action on the Form I-130 was pending in any court on October 28, 2009, the decision is now

reopened. USCIS will therefore make a new decision in light of section 568(c) of the FY2010 DHS Appropriations Act.

Cases challenging the denial of a spousal immediate relative Form I-130 based on the petitioner's death have been filed in district courts throughout the United States. USCIS officers must consult with the appropriate regional or service center counsel to identify those cases that are the subject of litigation that was pending on October 28, 2009. Once a case is identified as subject to reopening under this memorandum, the USCIS officer will notify the alien in writing that the Form I-130 is reopened in light of section 568(c) of the FY2010 DHS Appropriations Act, and will be readjudicated as a Form I-360.

If it is determined that a Form I-130 had been filed but was not "pending" on October 28, 2009, because a USCIS decision denying the Form I-130 had become final before October 28, 2009 (and no administrative appeal or civil action challenging the denial was pending on October 28, 2009), please refer to part III(B) of this memorandum.

2. Reopening of pending Form I-485 cases

Section 568(c)(2)(A) of the FY2010 DHS Appropriations Act also makes the amendment applicable to any Form I-485 that was pending on the date of enactment. A Form I-485 is deemed "pending" on the date of enactment if it was filed before the deceased citizen's death but:

- USCIS has not adjudicated the Form I-485
- USCIS denied the Form I-485, but USCIS granted a motion to reopen or reconsider, so that the Form I-485 is, again, pending
- USCIS denied the Form I-485, but has not yet ruled on a motion to reopen or reconsider;
- The Form I-485 is the subject of litigation before a federal court (including cases in which the district court issued a decision before October 28, 2009, but the appeals period established by law had not yet expired).

With this guidance memo, USCIS also reopens, without the need for a formal motion, any Form I-485 that is the subject of litigation on this issue in any federal court, if USCIS still has jurisdiction to act on the Form I-485. As with the reopening of the related Form I-130, the USCIS officer will notify the applicant in writing that the Form I-485 is reopened in light of section 568(c) of the FY2010 DHS Appropriations Act.

In the case of a widow(er) who entered the United States as a K-1 nonimmigrant, and filed a Form I-485 after marrying the deceased citizen who had filed the Form I-129F, ordinarily there will not be a Form I-130. If the Form I-485 is still "pending" as described in this memo, and USCIS still has jurisdiction to act on it, the Form I-485 will also be reopened for a new decision in light of section 568(c) of the FY2010 DHS Appropriations Act, without the need for a formal

motion. Since no Form I-130 is required for a K-1 nonimmigrant to seek adjustment after marrying the K petitioner within the period specified by statute, the K-1 nonimmigrant will also be deemed the beneficiary of a Form I-360 if the K-1 nonimmigrant now qualifies as a widow(er). The K-1 nonimmigrant still may not adjust on any basis other than the K-1 nonimmigrant's having married the citizen petitioner who filed the Form I-129F.

Some aliens may have been placed into removal proceeding after USCIS denied their Forms I-485. Except for "arriving aliens," this factor would mean that USCIS no longer has jurisdiction to adjudicate the Form I-485. 8 C.F.R. § 245.2(a)(1) and 1245.2(a)(1). USCIS would have jurisdiction to adjudicate the Form I-485 only if the Executive Office for Immigration Review (EOIR) terminated the removal proceeding. Whether to support or oppose terminating a removal proceeding is a matter for U.S. Immigration and Customs Enforcement to decide, not USCIS. If a USCIS office reopens a Form I-130 involving an alien in removal proceedings, the USCIS office must, through the appropriate USCIS counsel, advise the local counsel for U.S. Immigration and Customs Enforcement.

Some aliens whose citizen spouses had died may have left the United States voluntarily, without obtaining a grant of advance parole. Others may have left after obtaining advance parole, but may have remained abroad after expiration of the Form I-512. Under 8 C.F.R. § 245.2(a)(ii)(4)(B), these aliens have abandoned their adjustment applications. Also abandoned is the adjustment application of an alien who left as the result of removal proceedings. 8 C.F.R. § 245.2(a)(4)(ii)(A). In these situations, a Form I-485 will not be deemed "pending" for purposes of section 568(c)(2)(A). However, where section 568(c) applies to the approved Form I-130, and the Form I-130 has been approved as a Form I-360, the alien approved on that I-360 who has left the United States may apply for an immigrant visa abroad.

3. Petition already approved before death

If a widow(er) is the beneficiary of a Form I-130 that was approved before the citizen petitioner's death, it is not necessary for the widow(er) to request humanitarian reinstatement of the approval. Under 8 C.F.R. § 204.2(i)(1)(iv), the approved Form I-130 is automatically converted to an approved Form I-360. Any children of the widow(er) will also be eligible to seek an immigrant visa or adjustment of status based on the converted petition.

There may be some cases in which a spousal immediate relative Form I-130 was approved, but the approval was revoked automatically under 8 C.F.R. 205.1(a)(3)(i)(C) upon the citizen petitioner's death. If the alien is now eligible for classification as the widow(er) of a citizen under section 568(c)(2)(A) of the FY2010 DHS Appropriations Act , the approval will be deemed to have been reinstated, effective October 28, 2009. No separate request for reinstatement is necessary. Under 8 C.F.R. § 204.2(i)(1)(iv), the Form I-130 will be deemed to be an approved Form I-360.

4. Admissibility issues

Whether an alien is actually admissible is not germane in adjudicating a Form I-130. *Matter of O-*, 8 I&N Dec. 295 (BIA 1959). The only issue resolved by enactment of section 568(c) of the FY2010 DHS Appropriations Act is that the death of the citizen spouse, by itself, does not make the widow(er) ineligible for immediate relative classification. Thus, the alien must still be admissible as an immigrant to obtain adjustment of status or an immigrant visa.

For those aliens, however, who had pending Form I-130 cases, and who now can benefit from section 568(c) of the FY2010 DHS Appropriations Act, two inadmissibility grounds warrant special consideration. The first is section 212(a)(9)(B)(i) of the Act, under which an alien is inadmissible if the alien seeks admission within a specified period after the alien leaves the United States, if the alien has accrued a lengthy period of unlawful presence. The second is section 212(a)(9)(A), under which an alien who has been removed (or who left the United States while under a final administrative order of removal) must obtain consent to reapply, if the alien seeks admission within the period set in section 212(a)(9)(A).

It is important to note that the special provisions in this memorandum relating to INA section 212(a)(9)(A) and (B) apply only to an alien who was the beneficiary of a Form I-130 that was filed by a now-deceased spouse petitioner, and that can now be approved as a Form I-360 under section 568(c) of the FY2010 DHS Appropriations Act. The purpose of these special provisions is simply to minimize the adverse effect on these aliens of the disputed, and now resolved, issue of the impact of the death of the petitioning spouse on the alien's eligibility.

a. <u>Unlawful presence</u>

By specifying, in section 568(c)(2)(A) of the FY2010 DHS Appropriations Act, that the amendment should apply to pending cases, Congress indicated its desire to resolve these cases fully. For this reason, for purposes of INA section 212(a)(9)(B)(i), if an alien remained in the United States while awaiting the outcome of Form I-130 that can now be approved as a Form I-360 under section 568(c) of the FY2010 DHS Appropriations Act, the alien will be deemed *not* to have accrued any unlawful presence. This protection applies even if the alien was not actually in a lawful status while the now-converted Form I-360 was pending.

An alien who had a Form I-130 pending on October 28, 2009, but who is present in the United States without a lawful admission or parole generally cannot obtain adjustment under INA section 245(a). Rather, the alien must generally seek adjustment under INA section 245(i). But this relief is not available to an alien who did not have a petition or labor certification filed before April 30, 2001. Thus, even if the Form I-130 can now be approved as a Form I-360, the alien may need to leave the United States to obtain an immigrant visa. But since, under this guidance memorandum, the alien will be deemed *not* to have accrued any unlawful presence, he or she will not be inadmissible under INA section 212(a)(9)(B)(i).

Again, these special provisions relating to the accrual of unlawful presence apply only to an alien who is the beneficiary of a spousal immediate relative Form I-130 that was pending on October

28, 2009, and that is now approved under section 568(c)(2)(A) of the FY2010 DHS Appropriations Act and 8 C.F.R. § 204.2(i)(1)(iv) as a widow(er)'s Form I-360: the widow(er) and his or her accompanying child(ren). Ordinarily, the pendency of a visa petition, itself, does not prevent accrual of unlawful presence. A pending adjustment application, by contrast, does prevent accrual of unlawful presence. *Adjudicator's Field Manual* chapter 40.9(b)(3)(A). Most aliens who have been in litigation because the death of a spouse led to denial of the Form I-130 are probably already protected from unlawful presence under the ordinary provisions in the AFM. This broader protection against unlawful presence, for this narrow class of cases, is designed to maximize the ability of those aliens whose specific situations gave rise to the new legislation to fully benefit from it.

b. Consent to reapply for admission after removal

These protections against accrual of unlawful presence apply even if the alien was actually removed from the United States under a removal order. Still, because the alien was removed under a valid order, the alien is inadmissible under INA section 212(a)(9)(A)(i) or (ii). USCIS, however, has discretion under section 212(a)(9)(A)(iii) to consent to the alien's re-application for admission. USCIS should generally exercise discretion favorably and grant an application for consent to reapply under section 212(a)(9)(A)(iii), if:

- The Form I-130 that had been filed by the alien's spouse has now been approved as a Form I-360 under section 568(c) of the FY2010 DHS Appropriations Act;
- The alien is otherwise admissible, and
- The alien's case does not present significant adverse factors beyond the removal itself.

A USCIS adjudicator will not deny a Form I-212 filed by an alien whose case was in litigation on October 28, 2009, and whose Form I-130 has been approved as a Form I-360 under section 568(c)(2)(A) of the FY2010 DHS Appropriations Act without consulting USCIS Headquarters through appropriate channels.

5. Remarriage

Any immediate relative Form I-130 that was filed on behalf of the spouse of a U.S. citizen, and that was pending on October 28, 2009, is no longer a spousal immediate relative Form I-130. By operation of 8 C.F.R. § 204.2(i)(1)(iv), what was filed as a spousal immediate relative Form I-130 is now a widow(er)'s Form I-360. The converted Form I-360 may be approved only if the beneficiary, who is now also deemed to be the petitioner, qualifies as the widow(er) of a citizen, as described in INA section 201(b)(2)(A)(i). Eligibility for classification as an immediate relative continues "only until the date the spouse remarries."

6. Ninth Circuit cases

In acting on the guidance in this memorandum, USCIS adjudicators must keep in mind that the *Hootkins* case was certified as a class action. Thus, an individual need not be a *named* Plaintiff in *Hootkins* in order for his or her Form I-130 and Form I-485 to be reopened under this memorandum. If an individual has not already been identified as a member of the *Hootkins* class, that individual may make a written request to have his or her Form I-130 and Form I-485 reopened and readjudicated. The purpose of the written request is simply to *identify* the case as a *Hootkins* case. The individual is not required to pay the filing fee for a motion to reopen. The case will be considered a *Hootkins* class member case if the case was denied on or after August 30, 2001,[1] and:

- either the citizen spouse petitioner or the alien spouse beneficiary lived in the Ninth Circuit when the citizen spouse died; or

- a USCIS office in the Ninth Circuit made the prior decision on the Form I-130 or Form I-485.

B. Widow(er)s without pending cases

The alien widow(er) of a citizen who died before October 28, 2009, but who did not have a Form I-130 pending on that date, may now file a Form I-360, provided that he or she does so no later than October 28, 2011, and has not remarried. FY2010 DHS Appropriations Act § 568(c)(2)(B). Section 568(c)(2)(B) applies if the citizen spouse did not file a Form I-130 on the alien spouse's behalf before dying. But it also applies if there was a Form I-130 filed, but the decision denying the Form I-130 had become administratively final before October 28, 2009, because the decision was not the subject of any type of administrative or judicial review that was pending on October 28, 2009. Note that section 568(c)(2)(B)(i) says the Form I-360 must be filed "not later than the date that is 2 years after the date of the enactment." Thus, a Form I-360 that is filed *on* October 28, 2011, will still be timely. A Form I-360 filed on or after October 29, 2011, will be untimely.

For any case in which a citizen dies on or after October 28, 2009, the alien widow(er) must file the Form I-360 within 2 years of the citizen's death.

C. Children of widow(er)s

The child of a widow(er) whose Form I-360 is approved may, as specified in the second sentence of INA section 201(b)(2)(A)(i) and in INA section 204(a)(1)(A)(ii), be included in the widow(er)'s petition. Whether an individual qualifies as the widow(er)'s "child" is determined according to INA sections 101(b)(1) and 201(f).

[1] Any case denied before August 30, 2001, is time-barred under 28 U.S.C. § 2401(a). But even if a Ninth Circuit case is not considered "pending" because of *Hootkins*, the alien may still be eligible to immigrate as the widow(er) of a citizen, if the alien has not remarried and files the Form I-360 no later than October 28, 2011.

In a case in which the deceased citizen had filed a Form I-130 for his or her spouse, and the Form I-130 can now be adjudicated as a Form I-360 widow(er)'s petition, the child(ren) of the widow(er) will be deemed to be included in the converted Form I-360. Thus, it will not be necessary to act on any separate Form(s) I-130 that the deceased citizen may have filed for the widow(er)'s children. And the child(ren) of the widow(er) will be deemed included in the converted Form I-360 even if the deceased citizen had not filed any Form(s) I-130 for the child(ren).

Note that, in light of INA section 201(f), whether an individual qualifies as the "child" of a widow(er) depends on the individual's age when the visa petition was filed. For those cases that were pending on October 28, 2009, the Form I-360 filing date is deemed to be the date on which the deceased citizen filed the prior Form I-130. If a widow(er) has an unmarried son or daughter who was under 21 when the deceased citizen filed the Form I-130, that individual will still be deemed to be under 21 for purposes of the widow(er)'s now-converted Form I-360.

D. Affidavits of support

Under section 212(a)(4)(C)(i)(I) of the INA, a Form I-864 (Affidavit of Support under Section 213A of the Act) is *not* required in the case of the widow(er) of a citizen and the widow(er)'s accompanying children.[2]

E. Conversion of deferred action applications filed under prior guidance

While remedial legislation was pending in Congress, the Secretary of Homeland Security directed the use of deferred action relief to allow widow(er)s of citizen whose cases may have been affected by the legislation to remain in the United States. In the September 4, 2009 Memorandum, "Guidance Regarding Surviving Spouses of Deceased U.S. Citizens and their Children," USCIS designated the Form I-360 as the form an individual would use to request deferred action under the Secretary's policy.

Now that Congress has enacted the legislation, any Form I-360 that had been filed to obtain deferred action relief, and that has not yet been adjudicated as a deferred action request, will now be considered to be, and adjudicated as, a widow(er)'s visa petition under 8 C.F.R. § 204.2(b). If the Form I-360 has already been approved as a deferred action request, it will be reopened and adjudicated as a visa petition under 8 C.F.R. § 204.2(b). It is not necessary for the alien to file a formal motion, nor to pay a new Form I-360 filing fee. Additionally, any prior grant of deferred action relief need not be rescinded and should remain undisturbed.

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[2] There may be an individual case in which, regardless of the Form I-864 issue, the factors specified in INA section 212(a)(4)(B) and the standard public charge guidance, as published at 64 Fed. Reg. 28689 (1999), will support a finding that a widow(er) is inadmissible as an alien likely to become a public charge. Even in this case, a Form I-864 is not required. Rather, since the statute does not specifically require the Form I-864, the Form I-134 can be used instead. 8 C.F.R. § 213a.5. It is important to note that, on a Form I-134, the sponsor does not have to meet the requirements in INA section 213A(f), and so does *not* need to be someone who could have been a "substitute sponsor" in a case in which a Form I-864 actually is required.

Under the deferred action guidance, an alien could file a Form I-765, application for employment authorization, only if the deferred action request had been granted. Now that a Form I-360 that was filed to request deferred action is deemed to be a widow(er)'s visa petition, the alien can, if otherwise eligible, file a Form I-485 even before the approval of the Form I-360. 8 C.F.R § 245.2(a)(2)(i)(B). Filing the Form I-485 permits the alien to file a Form I-765. 8 C.F.R. § 274a.12(c)(9).

F. Implementation

Section 568(c) of the FY2010 DHS Appropriations Act became effective on October 28, 2009, the date of enactment. USCIS offices and centers, therefore, are to begin implementing the instructions established in this memorandum immediately. USCIS adjudicators should note that Congress clearly intended to benefit the aliens affected by these provisions.

***AFM* Transmittal Memorandum Revisions. The *AFM* Transmittal Memorandum button is revised by adding a new entry, in numerical order, to read:**

AD 10-09 [Date of Signature]	**Chapter 21.2**	This memorandum removes chapter 21.2(a)(4) and the **Note** at the end of chapter 21.2(h)(1)(C) to reflect enactment of section 568(c) of Public Law 111-83.

H. Contact Information

Questions regarding this memorandum should be directed to the Office of Domestic Operations through appropriate channels. For cases adjudicated overseas, questions should be directed to the International Operations Division, Programs Branch.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies or entities, its officers, employees, or agents, or any other person.

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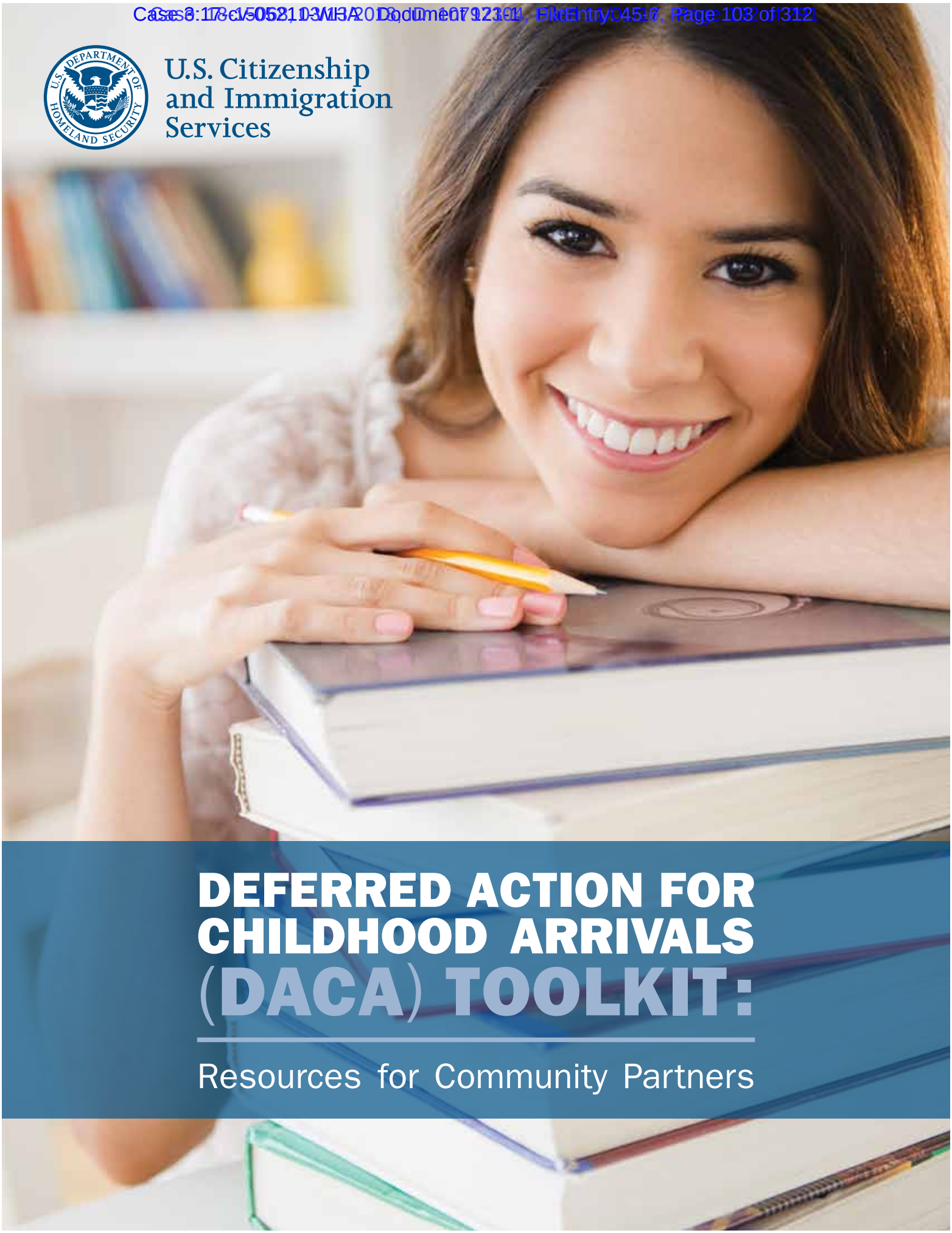
U.S. Citizenship and Immigration Services



DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) TOOLKIT:

Resources for Community Partners

In addition to the resources in this toolkit, USCIS has created a power point presentation on DACA to be used in stakeholder outreach events. To request a copy of the presentation, please contact the USCIS Public Engagement Division at **Public.Engagement@uscis.dhs.gov**.

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Background

- USCIS began accepting requests under the Deferred Action for Childhood Arrivals (DACA) program on August 15, 2012. The DACA process was created by the Secretary of Homeland Security to offer relief from removal (in 2-year increments) for undocumented immigrants who came to the United States as children and who met several key criteria. DACA is an exercise of prosecutorial discretion and does not provide lawful status.
- The first USCIS-approved DACA grants were issued in September 2012. The initial 2-year duration will begin to expire for certain individuals in September 2014. Those individuals will be able to request consideration for renewal of DACA for a 2-year period.
- Some individuals were granted DACA by U.S. Immigration and Customs Enforcement (ICE) between June 15, 2012, and August 15, 2012. In February 2014, USCIS provided guidance to these individuals on the process they should follow to request DACA renewals.
- USCIS has updated Form I-821D [dated 6/4/14] to allow individuals to request a 2-year renewal of DACA. Previous versions of the form will not be accepted after June 5, 2014. There will be no grace period for individuals to submit a previous version of Form I-821D to request a renewal of their deferred action.
- Individuals who have not yet requested consideration for DACA must also use the new Form I-821D.
- In addition to the new Form I-821D, all individuals must also submit a Form I-795, Application for Employment Authorization (along with the accompanying fees for that form), and a Form I-765WS, Worksheet, when requesting either initial DACA or renewal of DACA.
- Individuals who allow their initial 2-year period of DACA to expire and do not seek renewal will no longer be considered to be lawfully present for inadmissibility purposes and will no longer be authorized to work legally in the United States. To ensure that their deferred action does not lapse, USCIS recommends that current DACA recipients submit Forms I-821D, I-765, and I-765 Worksheet approximately 120 days (4 months) before their 2-year period of deferred action expires. However, USCIS may reject DACA requests received earlier than 150 days (5 months) before an individual's 2-year period of deferred action expires.
- For more information on requesting DACA, please visit our Web site at **www.uscis.gov/childhoodarrivals** or call our National Customer Service Center at (800) 375-5283.

Renewal DACA Requests

- An individual may be considered for renewal of DACA if he or she met the guidelines for initial DACA and he or she:
  - Did not depart the United States on or after June 15, 2007, without advance parole;
  - Has continuously resided in the United States since he or she submitted his or her most recent DACA request that was approved up until the present time; and
  - 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.
- Requests for renewal should be submitted to USCIS no less than 120 days, and no more than 150 days prior to the expiration of the current period of deferred action.

Initial DACA Requests

- USCIS will also continue to accept initial requests for DACA. An individual may be considered for initial DACA if he or she:
  - – Was under the age of 31 as of June 15, 2012;
  - – Came to the United States before reaching his or her 16th birthday;
  - – Has continuously resided in the United States since June 15, 2007, up to the present time;
  - – Was physically 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;
  - – Had no lawful status on June 15, 2012.
  - **NOTE:**

    No lawful status on June 15, 2012, means 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 15, 2012, had expired as of June 15, 2012.
  - – Is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a General Education Development (GED) certificate, or is an honorably discharged veteran of the Coast Guard or U.S. Armed Forces; and
  - – Has not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety;

- Individuals who were younger than 15 when DACA was first announced and are not in removal proceedings or have a final order may request DACA from USCIS any time after they have reached their 15th birthday. Individuals who are in removal proceedings or who have a final order may request DACA from USCIS even if they are younger than 15 at the time of filing.

Consideration of DACA

- USCIS has updated Form I-821D [dated 6/4/14] to allow individuals to request renewal of DACA for an additional 2-year period. Previous versions of the form will not be accepted after June 5, 2014.
- There will be no grace period for individuals to submit a previous version of Form I-821D to request a renewal of their deferred action.
- There is no fee for Form I-821D. The fee for Form I-765 and the required biometrics is $465.

Avoiding Immigration Scams

- Please be aware of immigration scams. Unauthorized practitioners of immigration law may try to take advantage of individuals by charging them money to obtain or submit forms related to DACA or communicate with USCIS on their behalf. Visit **www.uscis.gov/avoidscams** or **www.uscis.gov/eviteestafas** for tips on how to find authorized legal assistance and how to recognize and avoid immigration services scams.
- Protect yourself from immigration scams. Official U.S. Government Web sites should be your main source of information on DACA and immigration services. Go to **www.uscis.gov** to learn more.
- If you need legal immigration advice, be sure to use an authorized professional. This means an attorney in good standing or a Board of Immigration Appeals (BIA) accredited representative. Check the BIA Web site for a list of attorneys who provide immigration services for low to no cost and for a list of disciplined attorneys. You can also check the American Bar Association or your State bar association for legal services in your State.
- If you are a victim of an immigration scam, report it to the Federal Trade Commission at **www.ftc.gov/complaint** or **www.ftc.gov/queja** or by calling (877) FTC-HELP ((877) 372-4357).

General information F5

How do I request consideration of deferred action for childhood arrivals (DACA)?

U.S. Citizenship and Immigration Services

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several key guidelines may request consideration of deferred action for a period of 2 years, subject to renewal. Those granted deferred action are also eligible for work authorization.

Only individuals who can prove through verifiable documentation that they meet these guidelines will be considered for deferred action. Determinations will be made on a case-by-case basis under the guidelines in the Secretary's memorandum.

How do I know if I may request consideration of deferred action for childhood arrivals?

You may request consideration 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 with USCIS;
5. Had no lawful status on June 15, 2012, which means that:
   - You never had a lawful immigration status on or before June 15, 2012; or
   - Any lawful status or parole that you obtained prior to June 15, 2012, had expired as of June 15, 2012.
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a General Education Development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or U.S. Armed Forces; and
7. Have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

How do I request consideration of deferred action for childhood arrivals?

You must submit **Form I-821D**, Consideration of Deferred Action for Childhood Arrivals. This form must be completed, properly signed, and accompanied by a **Form I-765**, Application for Employment Authorization, and a **Form I-765WS**, Form I-765 Worksheet. Failure to submit a completed Form I-765, accompanied by the correct fees, will disqualify you from consideration for deferred action. While there is no filing fee for Form I-821D, you must submit the $380 filing fee and $85 biometric services fee for Form I-765, for a total fee of $465. Please read the form instructions to ensure that you submit all the required documentation to support your request. See **www.uscis.gov/I-821D** and **www.uscis.gov/I-765** for complete filing instructions. See **www.uscis.gov/childhoodarrivals** for additional information on the deferred action for childhood arrivals process.

Please Note: Once you receive a receipt confirming that your request is properly filed, you will be sent an appointment notice to visit an Application Support Center for biometric services (photograph and fingerprints). Please make sure you read and follow the directions in the notice. Failure to attend your biometrics appointment may delay processing or result in a denial of your request.

Where do I file my request for consideration of deferred action for childhood arrivals?

Requests for consideration of deferred action for childhood arrivals will be filed by mail to the USCIS Lockbox. Please visit **www.uscis.gov/I-821D** or contact the USCIS National Customer Service Center at **(800) 375-5283** for the most current information and instructions on where to mail your request.

What evidence should I submit with my initial request for consideration of deferred action for childhood arrivals?

For initial requests, the evidence should show that you meet the guidelines outlined above in "How do I know if I may request consideration of deferred action for childhood arrivals?" This includes evidence that you:

1. Were born after June 15, 1981;
2. Arrived in the United States before the age of 16;
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;
5. Had no lawful status on June 15, 2012;
6. Are currently in school, have graduated or received a certificate of completion from high school, obtained a General Educational Development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or U.S. Armed Forces; and
7. Are at least 15 years of age at the time of filing if you have never been in removal proceedings or if your case was terminated before you submit your request for consideration of deferred action for childhood arrivals.

For information about specific documents that may satisfy these guidelines, please read the instructions to Form I-821D at **www.uscis.gov/I-821D** and the frequently asked questions at **www.uscis.gov/childhoodarrivals**.

Does this process apply to me if I am currently in removal proceedings, have a final removal order, or have a voluntary departure order?

Yes. This process is open to any individuals who can demonstrate that they meet the guidelines, including those who have never been in removal proceedings as well as those in removal proceedings, with a final order, or with a voluntary departure order (as long as they are not in immigration detention). If you are not in immigration detention and want to affirmatively request consideration of deferred action, you must submit your request to USCIS. You do not need to be 15 years of age or older at the time of filing if you are in removal proceedings, have a final removal order, or have a voluntary departure order. All cases will be considered on an individual basis.

Submit a copy of the removal order or any document issued by the immigration judge or the final decision from the Board of Immigration Appeals, if available. This requirement applies only to people who have been in removal proceedings.

Do brief departures affect my ability to satisfy the continuous residence in the United States since June 15, 2007, guideline?

A brief, casual, and innocent absence from the United States will not interrupt your continuous residence. Any absence will be considered brief, casual, and innocent if it occurred before August 15, 2012, and was:

1. Short and reasonably calculated to accomplish the purpose for the absence;
2. Not because of an order of exclusion, deportation, or removal;
3. 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
4. The purpose of the absence and/or your actions while outside the United States were not contrary to law.

Any unauthorized travel outside of the United States on or after August 15, 2012, will interrupt your period of continuous residence and you will not be considered for deferred action under this process.

For information about specific documents that may show your absence was brief, casual, and innocent, please read the instructions at **www.uscis.gov/I-821D** and the frequently asked questions at **www.uscis.gov/childhoodarrivals**.

Will USCIS conduct a background check when reviewing my request for consideration of deferred action for childhood arrivals?

Yes. You must undergo background checks before USCIS will exercise prosecutorial discretion. You will not be considered for deferred action for childhood arrivals, unless there are exceptional circumstances, if you have been convicted of:

- Any felony;
- A significant misdemeanor offense;
- Three or more misdemeanor offenses (not occurring on the same date and not arising out of the same act, omission or scheme of misconduct); or
- You otherwise pose a threat to national security or public safety.

What happens after I submit my request for consideration of deferred action for childhood arrivals?

After receiving your Form I-821D, Form I-765, and Form I-765WS, USCIS will review them for completeness, including the required fees, initial evidence, and signatures. If the request is complete, USCIS will send you a receipt notice. USCIS will then send you a notice scheduling you to visit an Application Support Center for fingerprinting and photographing. You may choose to receive an email and/or text message notifying you that your form has been accepted by completing a **Form G-1145**, E-Notification of Application/Petition Acceptance. Please see **www.uscis.gov/G-1145** for instructions.

Each request for consideration of deferred action for childhood arrivals will be reviewed on an individual, case-by-case basis. You will be notified of USCIS' determination in writing. USCIS may request more information or evidence, or may request that you appear at a USCIS office. There is no appeal or motion to reopen/reconsider the denial of a request for consideration of deferred action for childhood arrivals.

Can I renew the period for which removal action will be deferred in my case?

Yes. You may request consideration of renewal of your deferred action for childhood arrivals. Your request for a renewal will be considered on a case-by-case basis. If USCIS renews its exercise of discretion under deferred action for childhood arrivals for your case, you will receive deferred action for another 2 years, and if you demonstrate an economic necessity for employment you may receive employment authorization throughout that period.

How do I know if I may request a renewal of my deferred action for childhood arrivals?

You may request consideration of renewal of deferred action for childhood arrivals if you met the guidelines for initial deferred action for childhood arrivals (see above) and you:

1. Did not depart the United States on or after August 15, 2012, without advance parole;
2. Have continuously resided in the United States since you submitted your most recent deferred action for childhood arrivals request that was approved up to the present time;

3. Have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and do not otherwise pose a threat to national security or public safety.

Requests for renewal should be submitted to USCIS around 120 days (but no more than 150 days) before the expiration of the current period of deferred action. To request renewal of your deferred action for childhood arrivals, submit Form I-821D, Form I-765, and Form I-765WS along with the $380 filing fee for the Form I-765 and a $85 biometric services fee, for a total of $465.

You do not need to provide any additional documents at the time you request renewal of deferred action for childhood arrivals unless you have **new** documents related to removal proceedings or criminal history that you did not submit to USCIS in a previously approved deferred action for childhood arrivals request.

If USCIS does not exercise deferred action in my case, will I be placed in removal proceedings?

If your request for consideration of deferred action for childhood arrivals is denied, USCIS will apply its policy guidance governing the referral of cases to U.S. Immigration and Customs Enforcement (ICE) and the issuance of Notices to Appear (NTA). If your case does not involve a criminal offense, fraud, or a threat to national security or public safety, your case will not be referred to ICE for removal proceedings except in exceptional circumstances. For more detailed information, visit **www.uscis.gov/nta**.

Does this process result in lawful status for people who receive deferred action for childhood arrivals?

No. Deferred action under this process is only a discretionary determination to defer removal action. It is an act of prosecutorial discretion and does not provide you with a lawful status.

What protections are in place to protect the information I share in my request from being used for immigration enforcement purposes?

The information you provide in your request is protected from disclosure to U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) for the purpose of immigration enforcement proceedings unless you meet the criteria for the issuance of a Notice to Appear or a referral to ICE under the criteria explained in USCIS' Notice to Appear guidance at **www.uscis.gov/nta**. Individuals whose cases are deferred under the consideration of deferred action for childhood arrivals process 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. These other purposes could include: for assistance in the consideration of deferred action for childhood arrivals, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense. This information-sharing clause covers family members and guardians, in addition to the person requesting deferred action.

This policy may be modified, superseded, or rescinded at any time without notice. It 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.

Key Information

Key USCIS forms referenced in this guide	Form #
Consideration of Deferred Action for Childhood Arrivals	I-821D
Application for Employment Authorization	I-765
I-765 Worksheet	I-765WS
E-Notification of Application/Petition Acceptance	G-1145

Key USCIS Web sites referenced in this guide	Web site link
Information about Deferred Action for Childhood Arrivals process and frequently asked questions	www.uscis.gov/childhoodarrivals
Consideration of Deferred Action for Childhood Arrivals Form	www.uscis.gov/I-821D
Application for Employment Authorization	www.uscis.gov/I-765
E-Notification of Application/Petition Acceptance Form	www.uscis.gov/G-1145
USCIS Notice to Appear Policy	www.uscis.gov/NTA

Other U.S. Government Services-Click or Call	
General Information	www.usa.gov
New Immigrants	www.welcometoUSA.gov
U.S. Immigration & Customs Enforcement	www.ice.gov

For more copies of this guide, or information about other customer guides, please visit **www.uscis.gov/howdoi**.

You can also visit **www.uscis.gov** to download forms, e-file some applications, check the status of an application, and more. It's a great place to start!

If you don't have Internet access at home or work, try your local library.

If you cannot find what you need, please call

Customer Service at: (800) 375-5283
TDD for hearing-impaired: (800) 767-1833.

Disclaimer: *This guide provides basic information to help you become generally familiar with our rules and procedures. For more information, or the law and regulations, please visit our Web site. Immigration law can be complex, and it is impossible to describe every aspect of every process. You may wish to be represented by a licensed attorney or by a nonprofit agency recognized by the Board of Immigration Appeals.*

Deferred Action for Childhood Arrivals (DACA) Tip Sheet

At a Glance: Initial vs. Renewal DACA Process

	Initial DACA	Renewal DACA
Guidelines	You may request consideration of initial DACA if you: • Were under the age of 31 as of June 15, 2012; • Came to the United States before reaching your 16th birthday; • Have continuously resided in the United States since June 15, 2007, up to the present time; • 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; • Had no lawful immigration status on June 15, 2012; • Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate (or other State-authorized exam in the United States), or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and • Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.	You may request consideration of renewal DACA if you met the guidelines for initial DACA and you: • Did not depart the United States on or after August Aw15, 2012, without advance parole; • Have continuously resided in the United States since you submitted your most recent request for DACA that was approved up to the present time; and • Have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and do not otherwise pose a threat to national security or public safety.
How to Request	• Complete and sign: ❑ Form I-821D, Consideration of Deferred Action for Childhood Arrivals; ❑ Form I-765, Application for Employment Authorization; and ❑ Form I-765W, Worksheet. • Submit all three forms, the $465 filing and biometrics fee and any required documentation to USCIS following the instructions on the forms.	• Complete and sign: ❑ Form I-821D, Consideration of Deferred Action for Childhood Arrivals; ❑ Form I-765, Application for Employment Authorization; and ❑ Form I-765W, Worksheet. ❑ Submit all three forms and the $465 filing and biometrics fee and any required documentation to USCIS following the instructions on the forms. ❑ Do not provide any additional documents at the time you request renewal of DACA unless you have new documents pertaining to removal proceedings or criminal history that you have not already submitted to USCIS in a previously approved DACA request.
When to File	You can file a request for initial DACA at any time.	USCIS encourages you to submit your request for renewal approximately 120 days (or four months) prior to the expiration of your current period of deferred action. However, if you file your renewal request more than 150 days (or 5 months) 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.

U.S. Citizenship and Immigration Services

M-555B (June 2014) N
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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 2 years, subject to renewal for a period of 2 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 15, 2012, had expired as of June 15, 2012.
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a General Educational Development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Have not been convicted of a felony, a significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

Individuals can call U.S. Citizenship and Immigration Services (USCIS) at 1-800-375-5283 with questions or to request more information on DACA. Those with pending requests can also use a number of **online self-help tools** which include the ability to check case status and processing times, change your address, and send an inquiry about a case pending longer than posted processing times or non-delivery of a card or document.

What is Deferred Action?

Deferred action is a discretionary determination to defer a removal action of an individual as an act of prosecutorial discretion. For purposes of future inadmissibility based upon **unlawful presence**, an individual whose case has been deferred is not considered to be unlawfully present during the period in which deferred action is in effect. An individual who has received deferred action is authorized by DHS to be present in the United States, and is therefore considered by DHS to be lawfully present during the period deferred action is in effect. However, deferred action does not confer **lawful status** upon an individual, nor does it excuse any previous or subsequent periods of unlawful presence.

Under existing regulations, an individual whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate "an economic necessity for employment." DHS can terminate or renew deferred action at any time, at the agency's discretion.

What is DACA?

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several key guidelines may request consideration of deferred action for a period of 2 years, subject to renewal, and would then be eligible for work authorization.

Individuals who can demonstrate through verifiable documentation that they meet these guidelines will be considered for deferred action. Determinations will be made on a case-by-case basis under the DACA guidelines.

Is there any difference between "deferred action" and DACA under this process?

DACA is one form of deferred action. The relief an individual receives under DACA is identical for immigration purposes to the relief obtained by any person who receives deferred action as an act of prosecutorial discretion.

If my removal is deferred under the consideration of DACA, am I eligible for employment authorization?

YES. Under existing regulations, if your case is deferred, you may obtain employment authorization from USCIS provided you can demonstrate an economic necessity for employment.

If my case is deferred, am I in lawful status for the period of deferral?

NO. Although action on your case has been deferred and you do not accrue unlawful presence (for admissibility purposes) during the period of deferred action, deferred action does not confer any lawful status.

The fact that you are not accruing unlawful presence does not change whether you are in lawful status while you remain in the United States. However, although deferred action does not confer a lawful immigration status, your period of stay is authorized by the Department of Homeland Security while your deferred action is in effect and, for admissibility purposes, you are considered to be lawfully present in the United States during that time. **Individuals granted deferred action are not precluded by Federal law from establishing domicile in the United States.**

Apart from the immigration laws, "lawful presence," "lawful status," and similar terms are used in various other Federal and State laws. For information on how those laws affect individuals who receive a favorable exercise of prosecutorial discretion under DACA, please contact the appropriate Federal, State, or local authorities.

Can I renew my period of deferred action and employment authorization under DACA?

YES. You may request consideration for a renewal of your DACA. Your request for a renewal will be considered on a case-by-case basis. If USCIS renews its exercise of discretion under DACA for your case, you will receive deferred action for another 2 years, and if you demonstrate an economic necessity for employment, you may receive employment authorization throughout that period.

DACA PROCESS

How do I request consideration of DACA?

To request consideration of DACA (either as an initial request or to request a renewal), you must submit **Form I-821D, Consideration of Deferred Action for Childhood Arrivals,** to USCIS. Please visit **www.uscis.gov/i-821d** before you begin the process to make sure you are using the most current version of the form available. This form must be completed, properly signed, and accompanied by a **Form I-765, Application for Employment Authorization**, and a **Form I-765WS, Worksheet**, establishing your economic need for employment. If you fail to submit a completed Form I-765 (along with the accompanying filing fees for that form, totaling $465), USCIS will not consider your request for deferred action. Please read the form instructions to ensure that you answer the appropriate questions (determined by whether you are submitting an initial or renewal request) and that you submit all the required documentation to support your initial request.

You must file your request for consideration of DACA at the USCIS Lockbox. You can find the mailing address and instructions at **www.uscis.gov/i-821d**. As of June 5, 2014, requestors must use the new version of the

form. After your Form I-821D, Form I-765, and Form I-765 Worksheet have been received, USCIS will review them for completeness, including submission of the required fee, initial evidence and supporting documents (for initial filings).

If it is determined that the request is complete, USCIS will send you a receipt notice. USCIS will then send you an appointment notice to visit an Application Support Center (ASC) for biometric services, if an appointment is required. Please make sure you read and follow the directions in the notice. Failure to attend your biometrics appointment may delay processing of your request for consideration of deferred action, or may result in a denial of your request. You may also choose to receive an email and/or text message notifying you that your form has been accepted by completing a **Form G-1145, E-Notification of Application/Petition Acceptance**.

Each request for consideration of DACA will be reviewed on an individual, case-by-case basis. USCIS may request more information or evidence from you, or request that you appear at a USCIS office. USCIS will notify you of its determination in writing.

Note: All individuals who believe they meet the guidelines, including those in removal proceedings, with a final removal order, or with a voluntary departure order (and not in immigration detention), may affirmatively request consideration of DACA from USCIS through this process. Individuals who are currently in immigration detention and believe they meet the guidelines may not request consideration of deferred action from USCIS but may identify themselves to their deportation officer or Jail Liaison. You may also contact the ICE Field Office Director. For more information visit ICE's Web site at **www.ice.gov/daca**.

Can I obtain a fee waiver or fee exemption for this process?

There are no fee waivers available for employment authorization applications connected to DACA. There are very limited fee exemptions available. Requests for fee exemptions must be filed and favorably adjudicated before an individual files his or her request for consideration of DACA without a fee. In order to be considered for a fee exemption, you must submit a letter and supporting documentation to USCIS demonstrating that you meet one of the following conditions:

- You are under 18 years of age, have an income that is less than 150 percent of the U.S. poverty level, and are in foster care or otherwise lacking any parental or other familial support; or
- You are under 18 years of age and homeless; or
- You cannot care for yourself because you suffer from a serious, chronic disability and your income is less than 150 percent of the U.S. poverty level; or
- You have, at the time of the request, accumulated **$10,000** or more in debt in the past 12 months as a result of unreimbursed medical expenses for yourself or an immediate family member, and your income is less than 150 percent of the U.S. poverty level.

You can find additional information on our **Fee Exemption Guidance** Web page. Your request must be submitted and decided before you submit a request for consideration of DACA without a fee. In order to be considered for a fee exemption, you must provide documentary evidence to demonstrate that you meet any of the above conditions at the time that you make the request. For evidence, USCIS will:

- Accept affidavits from community-based or religious organizations to establish a requestor's homelessness or lack of parental or other familial financial support;
- Accept copies of tax returns, bank Statements, pay stubs, or other reliable evidence of income level. Evidence can also include an affidavit from the applicant or a responsible third party attesting that the applicant does not file tax returns, has no bank accounts, and/or has no income to prove income level;
- Accept copies of medical records, insurance records, bank Statements, or other reliable evidence of unreimbursed medical expenses of at least **$10,000**;
- Address factual questions through Requests for Evidence (RFEs).

If individuals meet the guidelines for consideration of DACA and are encountered by U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE), will they be placed into removal proceedings?

DACA is intended, in part, to allow CBP and ICE to focus on priority cases. Under the direction of the Secretary of Homeland Security, if an individual meets the guidelines for DACA, CBP or ICE should exercise their discretion on a case-by-case basis to prevent qualifying individuals from being apprehended, placed into removal proceedings, or removed. If individuals believe that, in light of this policy, they should not have been apprehended or placed into removal proceedings, contact the Law Enforcement Support Center's hotline at (855) 448-6903 (staffed 24 hours a day, 7 days a week).

Does this process apply to me if I am currently in removal proceedings, have a final removal order, or have a voluntary departure order?

This process is open to any individual who can demonstrate he or she meets the guidelines for consideration, including those who have never been in removal proceedings as well as those in removal proceedings, with a final order, or with a voluntary departure order (as long as they are not in immigration detention).

If I am not in removal proceedings but believe I meet the guidelines for consideration of DACA, should I seek to place myself into removal proceedings through encounters with CBP or ICE?

NO. If you are not in removal proceedings but believe that you meet the guidelines, you should submit your DACA request to USCIS under the process outlined below.

Can I request consideration of DACA from USCIS if I am in immigration detention under the custody of ICE?

NO. If you are currently in immigration detention, you may not request consideration of DACA from USCIS. If you think you may meet the guidelines of this process, you should identify yourself to your deportation officer or Jail Liaison. You may also contact the ICE Field Office Director. For more information, visit ICE's Web site at **www.ice.gov/daca**.

If I am about to be removed by ICE and believe that I meet the guidelines for consideration of DACA, what steps should I take to seek review of my case before removal?

If you believe you can demonstrate that you meet the guidelines and are about to be removed, you should immediately contact the Law Enforcement Support Center's hotline at (855) 448-6903 (staffed 24 hours a day, 7 days a week).

What should I do if I meet the guidelines of this process and have been issued an ICE detainer following an arrest by a State or local law enforcement officer?

If you meet the guidelines and have been served a detainer, you should immediately contact the Law Enforcement Support Center's hotline at (855) 448-6903 (staffed 24 hours a day, 7 days a week).

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?

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.

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?

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.

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?

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.

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)?

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.

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

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.

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?

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.

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

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.

BACKGROUND CHECKS

Will USCIS conduct a background check when reviewing my request for consideration of DACA?

YES. You must undergo biographic and biometric background checks before USCIS will consider your DACA request.

What do background checks involve?

Background checks involve checking biographic and biometric information provided by the individuals against a variety of databases maintained by DHS and other Federal Government agencies.

What steps will USCIS and ICE take if I engage in fraud through the new process?

If you knowingly make a misrepresentation or knowingly fail to disclose facts, in an effort to obtain DACA or work authorization through this process, you will

be treated as an immigration enforcement priority to the fullest extent permitted by law and be subject to criminal prosecution and/or removal from the United States.

AFTER USCIS MAKES A DECISION

Can I appeal USCIS' determination?

NO. You cannot file a motion to reopen or reconsider, and cannot appeal the decision if USCIS denies your request for consideration of DACA.

You may request a review of your I-821D denial by contacting USCIS' Call Centers at (800) 375-5283 to have a Service Request created if you believe that you actually did meet all of the DACA guidelines and you believe that your request was denied due to one of the following errors:

- Denied the request based on abandonment, when you actually responded to an RFE or NOID within the prescribed time;
- Mailed the RFE or NOID to the wrong address although you had submitted a Form AR-11, Change of Address, or changed your address online at www.uscis.gov before USCIS issued the RFE or NOID;
- Denied the request on the grounds that you did not come to the United States prior to your 16th birthday, but the evidence submitted **at the time of filing** shows that you did arrive before reaching that age;
- Denied the request on the grounds that you were under age 15 **at the time of filing** but not in removal proceedings, while the evidence submitted **at the time of filing** show that you indeed were in removal proceedings when the request was filed;
- Denied the request on the grounds that you were 31 or older as of June 15, 2012, but the evidence submitted **at the time of filing** shows that you were **not yet** 31 years old as of that date;
- Denied the request on the grounds that you had lawful status on June 15, 2012, but the evidence submitted **at the time of filing** shows that you indeed were in an unlawful immigration status on that date;
- Denied the request on the grounds that you were not physically present in the United States on June 15, 2012, and up through the date of filing, but the evidence submitted **at the time of filing** shows that you were, in fact, present;
- Denied the request due to your failure to appear at a USCIS ASC to have your biometrics collected, when you in fact either did appear at a USCIS ASC to have this done or requested prior to the scheduled date of your biometrics appointment to have the appointment rescheduled; or
- Denied the request because you did not pay the filing fees for Form I-765, Application for Employment Authorization, when you actually did pay these fees.

If you believe your request was denied due to any of these administrative errors, you may contact our National Customer Service Center at (800) 375-5283 or (800) 767-1833 (TDD for the hearing impaired). Customer service officers are available Monday – Friday, 8 a.m. – 6 p.m, in each U.S. time zone.

If USCIS does not exercise deferred action in my case, will I be placed in removal proceedings?

If you have submitted a request for consideration of DACA and USCIS decides not to defer action in your case, USCIS will apply its policy guidance governing the referral of cases to ICE and the issuance of a Notice to Appear (NTA). If your case does not involve a criminal offense, fraud, or a threat to national security or public safety, your case will not be referred to ICE for purposes of removal proceedings except where DHS determines there are exceptional circumstances. For more detailed information on the applicable NTA policy, visit **www.uscis.gov/NTA**. If after a review of the totality of circumstances USCIS determines to defer action in your case, USCIS will likewise exercise its discretion and will not issue you an NTA.

Can my deferred action under the DACA process be terminated before it expires?

YES. DACA is an exercise of prosecutorial discretion and deferred action may be terminated at any time, with or without a Notice of Intent to Terminate, at DHS's discretion.

INITIAL REQUESTS FOR DACA

What guidelines must I meet to be considered for deferred action for childhood arrivals (DACA)?

Under the Secretary of Homeland Security's June 15, 2012 memorandum, in order to be considered for DACA, you must submit evidence, including supporting documents, showing that 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;
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a General Educational Development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

These guidelines must be met for consideration of DACA. U.S. Citizenship and Immigration Services (USCIS) retains the ultimate discretion to determine whether deferred action is appropriate in any given case even if the guidelines are met.

How old must I be in order to be considered for deferred action under this process?

- If you have never been in removal proceedings, or your proceedings have been terminated before your request for consideration of DACA, you must be at least 15 years of age or older at the time of filing and meet the other guidelines.
- If you are in removal proceedings, have a final removal order, or have a voluntary departure order, and are not in immigration detention, you can request consideration of DACA even if you are under the age of 15 at the time of filing and meet the other guidelines.
- In all instances, you cannot be the age of 31 or older as of June 15, 2012, to be considered for DACA.

I first came to the United States before I turned 16 years old and have been continuously residing in the United States since at least June 15, 2007. Before I turned 16 years old, however, I left the United States for some period of time before returning and beginning my current period of continuous residence. May I be considered for deferred action under this process?

YES, but only if you established residence in the United States during the period before you turned 16 years old, as evidenced, for example, by records showing you attended school or worked in the United States during that time, or that you lived in the United States for multiple years during that time. In addition to establishing that you initially resided in the United States before you turned 16 years old, you must also have maintained continuous residence in the United States from June 15, 2007, until the present time to be considered for deferred action under this process.

To prove my continuous residence in the United States since June 15, 2007, must I provide evidence documenting my presence for every day, or every month, of that period?

To meet the continuous residence guideline, you must submit documentation that shows you have been living

in the United States from June 15, 2007, up until the time of your request. You should provide documentation to account for as much of the period as reasonably possible, but there is no requirement that every day or month of that period be specifically accounted for through direct evidence.

It is helpful to USCIS if you can submit evidence of your residence during at least each year of the period. USCIS will review the documentation in its totality to determine whether it is more likely than not that you were continuously residing in the United States for the period since June 15, 2007. Gaps in the documentation as to certain periods may raise doubts as to your continued residence if, for example, the gaps are lengthy or the record otherwise indicates that you may have been outside the United States for a period of time that was not brief, casual, or innocent.

If gaps in your documentation raise questions, USCIS may issue a Request for Evidence to allow you to submit additional documentation that supports your claimed continuous residence.

Affidavits may be submitted to explain a gap in the documentation demonstrating that you meet the five-year continuous residence requirement. If you submit affidavits related to the continuous residence requirement, you must submit two or more affidavits, sworn to or affirmed by people other than yourself who have direct personal knowledge of the events and circumstances during the period as to which there is a gap in the documentation. Affidavits may only be used to explain gaps in your continuous residence; they cannot be used as evidence that you meet the entire 5-year continuous residence requirement.

Does "currently in school" refer to the date on which the request for consideration of deferred action is filed?

To be considered "currently in school" under the guidelines, you must be enrolled in school on the date you submit a request for consideration of deferred action under this process.

Who is considered to be "currently in school" under the guidelines?

To be considered "currently in school" under the guidelines, you must be enrolled in:

- A public, private, or charter elementary school, junior high or middle school, high school, secondary school, alternative program, or home-school program meeting State requirements;
- 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 postsecondary education, job training, or employment and where you are working toward such placement; or
- An education program assisting students either 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 State-authorized exam (e.g., HiSet or TASC) in the United States.

These education, literacy, career training programs (including vocational training), or education programs assisting students in obtaining a regular high school diploma or its recognized equivalent under State law, or in passing a GED exam or other State-authorized exam in the United States include but are not limited to programs funded, in whole or in part, by Federal, State, county or municipal grants or administered by nonprofit organizations. Programs funded by other sources may qualify if they are administered by providers of demonstrated effectiveness, such as institutions of higher education, including community colleges and certain community-based organizations.

In assessing whether such programs not funded in whole or in part by Federal, State, county, or municipal grants or administered by nonprofit organizations are of demonstrated effectiveness, USCIS will consider the duration of the program's existence; the program's track record in assisting students in obtaining a regular high school diploma or its recognized equivalent, in passing a GED or other State-authorized exam (e.g., HiSet or

TASC), or in placing students in postsecondary education, job training, or employment; and other indicators of the program's overall quality. For individuals seeking to demonstrate that they are "currently in school" through enrollment in such a program, the burden is on the requestor to show the program's demonstrated effectiveness.

How do I establish that I am currently in school?

Documentation sufficient for you to demonstrate that you are currently in school may include but is not limited to:

- Evidence that you are enrolled in a public, private, or charter elementary school, junior high or middle school, high school or secondary school; alternative program, or homeschool program meeting State requirements; or
- Evidence that you are enrolled in 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 postsecondary education, job training, or employment and where you are working toward such placement; and
  - The program is funded in whole or in part by Federal or State grants or is of demonstrated effectiveness; or evidence that you are enrolled in an education program assisting students in obtaining a high school equivalency diploma or certificate recognized under State law (such as by passing a GED exam or other such State-authorized exam (for example, HiSet or TASC), and that the program is funded in whole or in part by Federal, State, county or municipal grants or are administered by nonprofit organizations or, if funded by other sources is of demonstrated effectiveness.

Such evidence of enrollment may include: acceptance letters, school registration cards, letters from a school or program, transcripts, report cards, or progress reports which may show the name of the school or program, date of enrollment, and current educational or grade level, if relevant.

What documentation may be sufficient to demonstrate that I have graduated from high school?

Documentation sufficient for you to demonstrate that you have graduated from high school may include but is not limited to: a high school diploma from a public or private high school or secondary school, certificate of completion, certificate of attendance, or alternate award from a public or private high school or secondary school, or a recognized equivalent of a high school diploma under State law, or a GED certificate or certificate from passing another such State-authorized exam (e.g., HiSet or TASC) in the United States.

What documentation may be sufficient to demonstrate that I have obtained a GED certificate or certificate from passing another such State-authorized exam (e.g., HiSet or TASC)?

Documentation may include but is not limited to, evidence that you have passed a GED exam or other State-authorized exam (e.g., HiSet or TASC), and, as a result, have received the recognized equivalent of a regular high school diploma under State law.

If I am enrolled in a literacy or career training program, can I meet the guidelines?

YES, in certain circumstances. You may meet the guidelines if you are enrolled in an education, literacy, or career training program that has a purpose of improving literacy, mathematics, or English or is designed to lead to placement in postsecondary education, job training, or employment and where you are working toward such placement. Such programs include but are not limited to programs funded, in whole or in part by Federal, State, county or municipal grants, or are administered by nonprofit organizations, or, if funded by other sources, programs of demonstrated effectiveness.

If I am enrolled in an English as a Second Language (ESL) program, can I meet the guidelines?

YES, in certain circumstances. Enrollment in an ESL program may be used to meet the guidelines if the ESL program is funded in whole or in part by Federal, State, county or municipal grants, or administered by

nonprofit organizations, or, if funded by other sources, is a program of demonstrated effectiveness. You must submit direct documentary evidence that the program is funded in whole or part by Federal, State, county, or municipal grants, administered by a nonprofit organization, or of demonstrated effectiveness.

Will USCIS consider evidence other than that listed in Chart #1 to show that I have met the education guidelines?

NO. Evidence not listed in Chart #1 on the following page will not be accepted to establish that you are currently in school, have graduated or obtained a certificate of completion from high school, or have obtained a GED or passed another State-authorized exam (e.g., HiSet or TASC). You must submit any of the documentary evidence listed in Chart #1 to show that you meet the education guidelines.

Will USCIS consider evidence other than that listed in Chart #1 to show that I have met certain initial guidelines?

Evidence other than those documents listed in Chart #1 may be used to establish the following guidelines and factual showings if available documentary evidence is insufficient or lacking and shows that:

- You were physically present in the United States on June 15, 2012;
- You came to the United States before reaching your 16th birthday;
- You satisfy the continuous residence requirement, as long as you present direct evidence of your continued residence in the United States for a portion of the required period and the circumstantial evidence is used only to fill in gaps in the length of continuous residence demonstrated by the direct evidence; and
- Any travel outside the United States during the period of required continuous presence was brief, casual, and innocent.

However, USCIS will not accept evidence other than the documents listed in Chart #1 as proof of any of the following guidelines to demonstrate that you:

- Were under the age of 31 on June 15, 2012; and
- Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a GED certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.

For example, even if you do not have documentary proof of your presence in the United States on June 15, 2012, you may still be able to satisfy the guidelines. You may do so by submitting credible documentary evidence that you were present in the United States shortly before and shortly after June 15, 2012, which, under the facts presented, may give rise to an inference of your presence on June 15, 2012 as well. However, evidence other than that listed in Chart #1 will not be accepted to establish that you have graduated high school. You must submit the designated documentary evidence to satisfy that you meet this guideline.

CHART #1: on the next page, provides examples of documentation you may submit to demonstrate you meet the initial guidelines for consideration of deferred action under this process. Please see the instructions of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, for additional details of acceptable documentation.

CHART #1: EXAMPLES OF DOCUMENTS TO SUBMIT TO DEMONSTRATE YOU MEET THE GUIDELINES

Proof of identity	• Passport or national identity document from your country of origin • Birth certificate with photo identification • School or military ID with photo • Any U.S. Government immigration or other document bearing your name and photo
Proof you came to U.S. before your 16th birthday	• Passport with admission stamp • Form I-94/I-95/I-94W • School records from the U.S. schools you have attended • Any Immigration and Naturalization Service or DHS document stating your date of entry (Form I-862, Notice to Appear) • Travel records • Hospital or medical records • Rent receipts or utility bills • Employment records (pay stubs, W-2 Forms, etc.) • Official records from a religious entity confirming participation in a religious ceremony • Copies of money order receipts for money sent in or out of the country • Birth certificates of children born in the U.S. • Dated bank transactions • Automobile license receipts or registration • Deeds, mortgages, rental agreement contracts • Tax receipts, insurance policies
Proof of immigration status	• Form I-94/I-95/I-94W with authorized stay expiration date • Final order of exclusion, deportation, or removal issued as of June 15, 2012 • A charging document placing you into removal proceedings
Proof of presence in U.S. on June 15, 2012	• Rent receipts or utility bills • Employment records (pay stubs, W-2 Forms, etc.) • School records (letters, report cards, etc.) • Military records (Form DD-214 or NGB Form 22)
Proof you continuously resided in U.S. since June 15, 2007	• Official records from a religious entity confirming participation in a religious ceremony • Copies of money order receipts for money sent in or out of the country • Passport entries • Birth certificates of children born in the United States • Dated bank transactions • Automobile license receipts or registration • Deeds, mortgages, rental agreement contracts • Tax receipts, insurance policies
Proof of your education status at the time of requesting consideration of DACA	• School records (transcripts, report cards, etc.) from the school that you are currently attending in the United States showing the name(s) of the school(s) and periods of school attendance and the current of requesting consideration of DACA educational or grade level • U.S. high school diploma, certificate of completion, or other alternate award • High school equivalency diploma or certificate recognized under State law • Evidence that you passed a State-authorized exam, including the GED or other State-authorized exam (for example, HiSet or TASC) in the United States
Proof you are an honorably discharged veteran of the U.S. Armed Forces or the U.S. Coast Guard	• 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 • Military health records

May I file affidavits as proof that I meet the initial guidelines for consideration of DACA?

Affidavits generally will not be sufficient on their own to demonstrate that you meet the guidelines for USCIS to consider you for DACA. However, affidavits may be used to support meeting the following guidelines only if the documentary evidence available to you is insufficient or lacking:

- Demonstrating that you meet the 5-year continuous residence requirement; and
- Establishing that departures during the required period of continuous residence were brief, casual, and innocent.

If you submit affidavits related to the above criteria, you must submit two or more affidavits, sworn to or affirmed by people other than yourself, who have direct personal knowledge of the events and circumstances. Should USCIS determine that the affidavits are insufficient to overcome the unavailability or the lack of documentary evidence with respect to either of these guidelines, it will issue a Request for Evidence indicating that further evidence must be submitted to demonstrate that you meet these guidelines.

USCIS will not accept affidavits as proof of satisfying the following guidelines:

- You are currently in school, have graduated or obtained a certificate of completion or other alternate award from high school, have obtained a high school equivalency diploma or certificate (such as by passing the GED exam or other State-authorized exam [for example, HiSet or TASC]), or are an honorably discharged veteran from the Coast Guard or Armed Forces of the United States;
- You were physically present in the United States on June 15, 2012;
- You came to the United States before reaching your 16th birthday;
- You were under the age of 31 on June 15, 2012; and
- Your criminal history, if applicable.

If the only evidence you submit to demonstrate you meet any of the above guidelines is an affidavit, USCIS will issue a Request for Evidence indicating that you have not demonstrated that you meet these guidelines and that you must do so in order to demonstrate that you meet that guideline.

Will I be considered to be in unlawful status if I had an application for asylum or cancellation of removal pending before either USCIS or the Executive Office for Immigration Review (EOIR) on June 15, 2012?

YES. If you had an application for asylum or cancellation of removal, or similar relief, pending before either USCIS or EOIR as of June 15, 2012, but had no lawful status, you may request consideration of DACA.

I was admitted for "duration of status" or for a period of time that extended past June 14, 2012, but violated my immigration status (e.g., by engaging in unauthorized employment, failing to report to my employer, or failing to pursue a full course of study) before June 15, 2012. May I be considered for deferred action under this process?

NO, unless the Executive Office for Immigration Review terminated your status by issuing a final order of removal against you before June 15, 2012.

I was admitted for "duration of status" or for a period of time that extended past June 14, 2012, but "aged out" of my dependent nonimmigrant status as of June 15, 2012. May I be considered for deferred action under this process?

YES. For purposes of satisfying the "had no lawful status on June 15, 2012," guideline alone, if you were admitted for "duration of status" or for a period of time that extended past June 14, 2012, but "aged out" of your dependent nonimmigrant status on or before June 15, 2012 (meaning you turned 21 years old on or before June 15, 2012), you may be considered for deferred action under this process.

I was admitted for "duration of status" but my status in SEVIS is listed as terminated on or before June 15, 2012. May I be considered for deferred action under this process?

YES. For the purposes of satisfying the "had no lawful status on June 15, 2012," guideline alone, if your status as of June 15, 2012, is listed as "terminated" in SEVIS, you may be considered for deferred action under this process.

I am a Canadian citizen who was inspected by CBP but was not issued an I-94 at the time of admission. May I be considered for deferred action under this process?

In general, a Canadian citizen who was admitted as a visitor for business or pleasure and not issued an I-94, Arrival/Departure Record, (also known as a "non-controlled" Canadian nonimmigrant) is lawfully admitted for a period of 6 months. For that reason, unless there is evidence, including verifiable evidence provided by the individual, that he or she was specifically advised that his or her admission would be for a different length of time, the Department of Homeland Security (DHS) will consider, for DACA purposes only, that the alien was lawfully admitted for a period of 6 months. Therefore, if DHS is able to verify from its records that your last non-controlled entry occurred on or before Dec. 14, 2011, DHS will consider your nonimmigrant visitor status to have expired as of June 15, 2012, and you may be considered for deferred action under this process.

I used my Border Crossing Card (BCC) to obtain admission to the United States and was not issued an I-94 at the time of admission. May I be considered for deferred action under this process?

Because the limitations on entry for a BCC holder vary based on location of admission and travel, DHS will assume that the BCC holder who was not provided an I-94 was admitted for the longest period legally possible—30 days—unless the individual can demonstrate, through verifiable evidence, that he or she was specifically advised that his or her admission would be for a different length of time. Accordingly, if DHS is able to verify from its records that your last admission was using a BCC, you were not issued an I-94 at the time of admission, and it occurred on or before May 14, 2012, DHS will consider your nonimmigrant visitor status to have expired as of June 15, 2012, and you may be considered for deferred action under this process.

Do I accrue unlawful presence if I have a pending initial request for consideration of DACA?

You will continue to accrue unlawful presence while the request for consideration of DACA is pending unless you are under 18 years of age at the time of the request. If you are under 18 years of age at the time you submit your request, you will not accrue unlawful presence while the request is pending, even if you turn 18 while your request is pending with USCIS. If action on your case is deferred, you will not accrue unlawful presence during the period of deferred action. However, having action deferred on your case will not excuse previously accrued unlawful presence.

RENEWAL OF DACA

When should I file my renewal request with U.S. Citizenship and Immigration Services (USCIS)?

USCIS encourages you to submit your request for renewal approximately 120 days (or 4 months) before your current period of deferred action under the Deferred Action for Childhood Arrivals (DACA) process expires. If you have filed approximately 120 days before your deferred action and Employment Authorization Document (EAD) expire and USCIS is unexpectedly delayed in processing your renewal request, USCIS may provide deferred action and employment authorization for a short period of time until your renewal is adjudicated. However, if you file your renewal 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.

How will USCIS evaluate my request for renewal of DACA?

You may be considered for renewal of DACA if you met the guidelines for consideration of Initial DACA (see above) AND you:

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

These guidelines must be met for consideration of DACA renewal. USCIS retains the ultimate discretion to determine whether deferred action is appropriate in any given case even if the guidelines are met.

Do I accrue unlawful presence if I am seeking renewal and my previous period of DACA expires before I receive a renewal of deferred action under DACA? Similarly, what would happen to my work authorization?

YES, if your previous period of DACA expires before you receive a renewal of deferred action under DACA, you will accrue unlawful presence for any time between the periods of deferred action unless you are under 18 years of age at the time you submit your renewal request.

Similarly, if your previous period of DACA expires before you receive a renewal of deferred action under DACA, you will not be authorized to work in the United States regardless of your age at time of filing until and unless you receive a new employment authorization document from USCIS.

However, if you have filed your renewal request with USCIS approximately 120 days before your deferred action and EAD expire and USCIS is unexpectedly delayed in processing your renewal request, USCIS may provide deferred action and employment authorization for a short period of time.

Do I need to provide additional documents when I request renewal of deferred action under DACA?

NO, unless you have new documents pertaining to removal proceedings or criminal history that you have not already submitted to USCIS in a previously approved DACA request. USCIS, however, reserves the authority to request at its discretion additional documents, information, or Statements relating to a DACA renewal request determination.

CAUTION: 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 5 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.

TRAVEL

May I travel outside of the United States before I submit an initial Deferred Action for Childhood Arrivals (DACA) request or while my initial DACA request remains pending with the Department of Homeland Security (DHS)?

Any unauthorized travel outside of the United States on or after Aug. 15, 2012, will interrupt your continuous residence and you will not be considered for deferred action under this process. Any travel outside of the United States that occurred on or after June 15, 2007, but before Aug. 15, 2012, will be assessed by U.S. Citizenship and Immigration Services (USCIS) to determine whether the travel qualifies as brief, casual, and innocent. (**See Chart #2 on the following page.**)

CAUTION: You should be aware that if you have been ordered deported or removed, and you then leave the United States, your departure will likely result in your being considered deported or removed, with potentially serious future immigration consequences.

If my case is deferred under DACA, will I be able to travel outside of the United States?

Not automatically. If USCIS has decided to defer action in your case and you want to travel outside the United States, you must apply for advance parole by filing a **Form I-131, Application for Travel Document** and paying the applicable fee ($360). USCIS will determine whether your purpose for international travel is justifiable based on the circumstances you describe in your request. Generally, USCIS will only grant advance parole

Travel Dates	Type of Travel	Does It Affect Continuous Residence
On or after June 15, 2007, but before Aug. 15, 2012	Brief, casual, and innocent	No
	For an extended time	
	Because of an order of exclusion, deportation, voluntary departure, or removal	Yes
	To participate in criminal activity	
On or after Aug. 15, 2012, and after you have requested deferred action	Any	In addition, if you have previously been ordered deported and removed and you depart the United States without taking additional steps to address your removal proceedings, your departure will likely result in your being considered deported or removed, with potentially serious future immigration consequences.

if your travel abroad will be in furtherance of:

- Humanitarian purposes, including travel to obtain medical treatment, attending funeral services for a family member, or visiting an ailing relative;
- Educational purposes, such as semester-abroad programs and academic research; or
- Employment purposes such as overseas assignments, interviews, conferences, training, or meetings with clients overseas.

Travel for vacation is not a valid basis for advance parole.

You may not apply for advance parole unless and until USCIS defers action in your case under the consideration of DACA. You cannot apply for advance parole at the same time as you submit your request for consideration of DACA. All advance parole requests will be considered on a case-by-case basis.

If USCIS has deferred action in your case under the DACA process after you have been ordered deported or removed, you may still request advance parole if you meet the guidelines for advance parole described above.

CAUTION: However, for those individuals who have been ordered deported or removed, before you actually leave the United States, you should seek to reopen your case before the Executive Office for Immigration Review (EOIR) and obtain administrative closure or termination of your removal proceeding. Even after you have asked EOIR to reopen your case, you should not leave the United States until after EOIR has granted your request. If you depart after being ordered deported or removed, and your removal proceeding has not been reopened and administratively closed or terminated, your departure may result in your being considered deported or removed, with potentially serious future immigration consequences. If you have any questions about this process, you may contact U.S. Immigration and Customs Enforcement (ICE) through the local ICE Office of the Chief Counsel with jurisdiction over your case.

CAUTION: If you travel outside the United States on or after Aug. 15, 2012, without first receiving advance parole, your departure automatically terminates your deferred action under DACA.

Do brief departures from the United States interrupt the continuous residence requirement?

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

1. The absence was short and reasonably calculated to accomplish the purpose for the absence;
2. The absence was not because of an order of exclusion, deportation, or removal;
3. 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
4. The purpose of the absence and/or your actions while outside the United States were not contrary to law.

Once USCIS has approved your request for DACA, you may file **Form I-131**, Application for Travel Document, to request advance parole to travel outside of the United States.

CAUTION: If you travel outside the United States on or after Aug. 15, 2012, without first receiving advance parole, your departure automatically terminates your deferred action under DACA.

May I file a request for advance parole concurrently with my DACA package?

Concurrent filing of advance parole is not an option at this time. DHS is, however, reviewing its policy on concurrent filing of advance parole with a DACA request. In addition, DHS is also reviewing eligibility criteria for advance parole. If any changes to this policy are made, USCIS will update this FAQ and inform the public accordingly.

CRIMINAL CONVICTIONS

If I have a conviction for a felony offense, a significant misdemeanor offense, or multiple misdemeanors, can I receive an exercise of prosecutorial discretion under this new process?

NO. If you have been convicted of a felony offense, a significant misdemeanor offense, or three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct, you will not be considered for Deferred Action for Childhood Arrivals (DACA) except where the Department of Homeland Security (DHS) determines there are exceptional circumstances.

What offenses qualify as a felony?

A felony is a Federal, State, or local criminal offense punishable by imprisonment for a term exceeding 1 year.

What offenses constitute a significant misdemeanor?

For the purposes of this process, a significant misdemeanor is a misdemeanor as defined by Federal law (specifically, one for which the maximum term of imprisonment authorized is 1 year or less but greater than 5 days) and that meets the following criteria:

1. Regardless of the sentence imposed, is an offense of domestic violence, sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence; or
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a State or local law enforcement agency honoring a detainer issued by U.S. Immigration and Customs Enforcement (ICE). Notwithstanding the above, the decision whether to defer action in a particular case is an individualized, discretionary one that is made taking

into account the totality of the circumstances. Therefore, the absence of the criminal history outlined above, or its presence, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion. DHS retains the discretion to determine that an individual does not warrant deferred action on the basis of a single criminal offense for which the individual was sentenced to time in custody of 90 days or less.

What offenses constitute a non-significant misdemeanor?

For purposes of this process, a non-significant misdemeanor is any misdemeanor as defined by Federal law (specifically, one for which the maximum term of imprisonment authorized is 1 year or less but greater than 5 days) and that meets the following criteria:

1. Is not an offense of domestic violence, sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence; and
2. Is one for which the individual was sentenced to time in custody of 90 days or less. The time in custody does not include any time served beyond the sentence for the criminal offense based on a State or local law enforcement agency honoring a detainer issued by ICE.

Notwithstanding the above, the decision whether to defer action in a particular case is an individualized, discretionary one that is made taking into account the totality of the circumstances. Therefore, the absence of the criminal history outlined above, or its presence, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion.

If I have a minor traffic offense, such as driving without a license, will it be considered a non-significant misdemeanor that counts towards the "three or more non-significant misdemeanors" making me unable to receive consideration for an exercise of prosecutorial discretion under this new process?

A minor traffic offense will not be considered a misdemeanor for purposes of this process. However, your entire offense history can be considered along with other facts to determine whether, under the totality of the circumstances, you warrant an exercise of prosecutorial discretion.

It is important to emphasize that driving under the influence is a significant misdemeanor regardless of the sentence imposed.

What qualifies as a national security or public safety threat?

If the background check or other information uncovered during the review of your request for deferred action indicates that your presence in the United States threatens public safety or national security, you will not be able to receive consideration for an exercise of prosecutorial discretion except where DHS determines there are exceptional circumstances. Indicators that you pose such a threat include, but are not limited to: gang membership, participation in criminal activities, or participation in activities that threaten the United States.

Will offenses criminalized as felonies or misdemeanors by State immigration laws be considered felonies or misdemeanors for purpose of this process?

NO. Immigration-related offenses characterized as felonies or misdemeanors by State immigration laws will not be treated as disqualifying felonies or misdemeanors for the purpose of considering a request for consideration of deferred action under this process.

Will DHS consider my expunged or juvenile conviction as an offense making me unable to receive an exercise of prosecutorial discretion?

Expunged convictions and juvenile convictions will not automatically disqualify you. Your request will be assessed on a case-by-case basis to determine whether, under the particular circumstances, a favorable exercise of prosecutorial discretion is warranted. If you were a juvenile, but tried and convicted as an adult, you will be treated as an adult for purposes of the DACA process.

Does this Administration remain committed to comprehensive immigration reform?

YES. The Administration has consistently pressed for passage of comprehensive immigration reform, including the DREAM Act, because the President believes these steps are critical to building a 21st century immigration system that meets our Nation's economic and security needs.

Is passage of the DREAM Act still necessary in light of the new process?

YES. The Secretary of Homeland Security's June 15, 2012, memorandum allowing certain people to request consideration for deferred action is one in a series of steps that DHS has taken to focus its enforcement resources on the removal of individuals who pose a danger to national security or a risk to public safety. Deferred Action for Childhood Arrivals (DACA) is an exercise of prosecutorial discretion and does not provide lawful status or a pathway to citizenship. As the President has Stated, individuals who would qualify for the DREAM Act deserve certainty about their status. Only the Congress, acting through its legislative authority, can confer the certainty that comes with a pathway to permanent lawful status.

Does deferred action provide me with a path to permanent resident status or citizenship?

NO. Deferred action is a form of prosecutorial discretion that does not confer lawful permanent resident status or a path to citizenship. Only the Congress, acting through its legislative authority, can confer these rights.

Can I be considered for deferred action even if I do not meet the guidelines to be considered for DACA?

This process is only for individuals who meet the specific guidelines for DACA. Other individuals may, on a case-by-case basis, request deferred action from U.S. Citizenship and Immigration Services (USCIS) or U.S. Immigration and Customs Enforcement (ICE) in certain circumstances, consistent with longstanding practice.

How will ICE and USCIS handle cases involving individuals who do not satisfy the guidelines of this process but believe they may warrant an exercise of prosecutorial discretion under the June 2011 Prosecutorial Discretion Memoranda?

If USCIS determines that you do not satisfy the guidelines or otherwise determines you do not warrant an exercise of prosecutorial discretion, then it will decline to defer action in your case. If you are currently in removal proceedings, have a final order, or have a voluntary departure order, you may then request ICE consider whether to exercise prosecutorial discretion.

How should I fill out question 9 on Form I-765, Application for Employment Authorization?

When you are filing a Form I-765 as part of a DACA request, question 9 is asking you to list those Social Security numbers that were officially issued to you by the Social Security Administration.

Will there be supervisory review of decisions by USCIS under this process?

YES. USCIS has implemented a successful supervisory review process to ensure a consistent process for considering requests for DACA.

Will USCIS personnel responsible for reviewing requests for DACA receive special training?

YES. USCIS personnel responsible for considering requests for consideration of DACA have received special training.

Must attorneys and accredited representatives who provide pro bono services to deferred action requestors at group assistance events file a Form G-28 with USCIS?

Under 8 C.F.R. §§ 292.3 and 1003.102, practitioners are required to file a Notice of Entry of Appearance as Attorney or Accredited Representative when they engage in practice in immigration matters before DHS, either in person or through the preparation or filing of any brief, application, petition, or other document. Under these rules, a practitioner who consistently violates the requirement to file a Form G-28 may be subject to

disciplinary sanctions; however on Feb. 28, 2011, USCIS issued a Statement indicating that it does not intend to initiate disciplinary proceedings against practitioners (attorneys and accredited representatives) based solely on the failure to submit a Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28) in relation to pro bono services provided at group assistance events. DHS is in the process of issuing a final rule at which time this matter will be reevaluated.

When must an individual sign a Form I-821D as a preparer?

Anytime someone other than the requestor prepares or helps fill out the Form I-821D, that individual must complete Part 5 of the form.

If I provide my employee with information regarding his or her employment to support a request for consideration of DACA, will that information be used for immigration enforcement purposes against me and/or my company?

You may, as you determine appropriate, provide individuals requesting DACA with documentation which verifies their employment. This information will not be shared with ICE for civil immigration enforcement purposes under section 274A of the Immigration and Nationality Act (relating to unlawful employment) unless there is evidence of egregious violations of criminal statutes or widespread abuses.

Can I request consideration for deferred action under this process if I live in the Commonwealth of the Northern Mariana Islands (CNMI)?

YES, in certain circumstances. The CNMI is part of the United States for immigration purposes and is not excluded from this process. However, because of the specific guidelines for consideration of DACA, individuals who have been residents of the CNMI are in most cases unlikely to qualify for the program. You must, among other things, have come to the United States before your 16th birthday and have resided continuously in the United States since June 15, 2007.

Under the Consolidated Natural Resources Act of 2008, the CNMI became part of the United States for purposes of immigration law only on Nov. 28, 2009. Therefore entry into, or residence in, the CNMI before that date is not entry into, or residence in, the United States for purposes of the DACA process.

USCIS has used parole authority in a variety of situations in the CNMI to address particular humanitarian needs on a case-by-case basis since Nov. 28, 2009. If you live in the CNMI and believe that you meet the guidelines for consideration of deferred action under this process, except that your entry and/or residence to the CNMI took place entirely or in part before Nov. 28, 2009, USCIS is willing to consider your situation on a case-by-case basis for a grant of parole. If this situation applies to you, you should make an appointment through INFOPASS with the USCIS ASC in Saipan to discuss your case with an immigration officer.

Someone told me if I pay them a fee, they can expedite my DACA request. Is this true?

NO. There is no expedited processing for deferred action. Dishonest practitioners may promise to provide you with faster services if you pay them a fee. These people are trying to scam you and take your money. Visit our **Avoid Scams** page to learn how you can protect yourself from immigration scams.

Make sure you seek information about requests for consideration of DACA from official government sources such as USCIS or the DHS. If you are seeking legal advice, visit our Find **Legal Services** page to learn how to choose a licensed attorney or accredited representative.

Am I required to register with the Selective Service?

Most male persons residing in the United States, who are ages 18 through 25, are required to register with Selective Service. Please see link for more information. [**Selective Service, www.sss.gov**].

Consideration of Deferred Action for Childhood Arrivals

Deferred action for childhood arrivals (DACA) allows certain individuals, who meet specific guidelines, to request consideration of deferred action from USCIS. 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 terminated. If you receive deferred action, you may be eligible for employment authorization. You may request deferred action for childhood arrivals if you meet the following guidelines:

Can I be considered?
Review Guidelines

You came to the United States before reaching your 16th birthday

You have continuously resided in the United States since June 15, 2007, up to the present time

You were under the age of 31 as of June 15, 2012

You never had a lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole that you obtained had expired as of June 15, 2012

You are currently in school, have graduated or obtained your certificate of completion from high school, have obtained your General Educational Development certification, or you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States

You have not been convicted of a felony, significant misdemeanor, or three or more misdemeanors, and do not otherwise pose a threat to national security or public safety

You 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

How do I file?

Collect documents as evidence you meet the guidelines

Complete USCIS Form I-821D, I-765 and I-765 Worksheet

Mail USCIS forms and fees (total $465)

Visit your local USCIS Application Support Center for a scheduled biometric services appointment

Check the status of your request online

Renew your DACA

Find your DACA expiration date

On your Form I-797, Notice of Action

OR

Form I-766 - The date your Employment Authorization Document (EAD) expires

SUBMIT renewal request

4 months or 120 days before your current period of DACA expires.

Ensure you meet the following

You met the initial DACA requirements

You did not depart the United States on or after August 15, 2012, without advance parole

You have continuously resided in the United States since you submitted your most recent DACA request that was approved

You have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and do not otherwise pose a threat to national security or public safety

Complete and mail forms to USCIS

1 Form I-821D, Consideration of Deferred Action for Childhood Arrivals

2 Form I-765, Application for Employment Authorization

3 Form I-765W, Worksheet

REMEMBER: Read instructions carefully • Sign the forms • Pay $465 fee

U.S. Citizenship and Immigration Services

If you have questions about your request, please call USCIS Customer Service at 1-800-375-5283 or 1-800-767-1833 (TDD).
www.uscis.gov/childhoodarrivals

U.S. Citizenship and Immigration Services

Learn how to protect yourself from immigration scams at
www.uscis.gov/avoidscams

THE WRONG HELP CAN HURT

BEWARE OF IMMIGRATION SCAMS

DOWNLOAD
free forms and instructions

LEARN
about filing fees

VERIFY
only BIA-accredited representatives or eligible attorneys provide you legal services

REPORT
scams to the Federal Trade Commission (FTC) or your state attorney general
www.ftc.gov/complaint
1-877-FTC-HELP

About Us

USCIS is your **official** source of information about immigration benefits and services. Contact us for more information on USCIS and its programs.

Contact Us

www.uscis.gov
1-800-375-5283

DACA RESOURCES

DEPARTMENT OF HOMELAND SECURITY

U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

DACA resource page

www.uscis.gov/childhoodarrivals
www.uscis.gov/acciondiferida

These English and Spanish Web pages contain important DACA information.

Avoid Immigration Scams resource center

www.uscis.gov/avoidscams
www.uscis.gov/eviteestafas

These English and Spanish Web pages contain information related to immigration scams, including resources for applicants, community groups, and legal service providers.

"How Do I" guides

www.uscis.gov/howdoi

This online repository for all USCIS "How Do I" guides includes "How Do I Request Consideration of Deferred Action for Childhood Arrivals (DACA)?"

Public Engagement Division Outreach page

www.uscis.gov/outreach

This page lists upcoming national engagements, including multilingual engagements, and local outreach events.

Multilingual resource center

www.uscis.gov/multilingual

This online resource has links to documents in 22 languages, including multilingual DACA resources.

Online customer service tools

www.uscis.gov/tools

USCIS offers customers a variety of online customer service tools, including the ability to change address, check processing times and case status information, and submit inquiries.

Systematic Alien Verification for Entitlements (SAVE)

www.uscis.gov/save

The SAVE program is an intergovernmental information service initiative which verifies the immigration status of benefit applicants.

E-Verify

www.uscis.gov/e-verify

E-Verify is an electronic system that enables employers to verify employment eligibility. The E-Verify program has a variety of resources for employees on worker rights.

OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES (CRCL)

Overview of CRCL resources

www.dhs.gov/topic/civil-rights-and-civil-liberties

The mission of CRCL is to advance and safeguard the civil rights and civil liberties of individuals and communities with respect to the Department's immigration-related policies and activities.

OFFICE OF THE CIS OMBUDSMAN

Overview of Office of the CIS Ombudsman resources

www.dhs.gov/topic/cis-ombudsman

The Office of the CIS Ombudsman provides individual immigration case assistance and makes recommendations to improve the administration of immigration benefits.

DEPARTMENT OF EDUCATION

DEPARTMENT OF EDUCATION

Free Application for Federal Student Aid (FAFSA)

www.studentaid.ed.gov/fafsa

This Web page provides an overview of the FAFSA requirements and process.

Resources for DACA and immigrant students

www2.ed.gov/about/overview/focus/immigration-resources.html

This resource page includes Q&As on Federal student aid and education records for DACA students and a financial aid guide.

Migrant Education Program

www2.ed.gov/programs/mep/index.html

The Migrant Education Program supports the development and funding of education and support services for migratory children.

DEPARTMENT OF JUSTICE

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR)

List of Board of Immigration Appeals (BIA) recognized organizations and accredited representatives

www.justice.gov/eoir/ra/raroster.htm

BIA accredited representatives working for BIA-recognized organizations are non-attorneys who are authorized to provide immigration legal services.

List of low cost and free immigration legal service providers

www.justice.gov/eoir/probono/states.htm

EOIR provides a list of free and low-cost immigration attorneys by State as a resource for applicants and petitioners.

ACCESS TO JUSTICE

Overview of Access to Justice resources

www.justice.gov/atj

Access to Justice works with Federal agencies, State, and local governments and State Access to Justice commissions to increase access to counsel and legal assistance and to improve the justice delivery systems that serve people who are unable to afford lawyers.

DACA resource guide

www.justice.gov/atj/daca-resourceguide-atj-feb-27-3013.pdf

This resource guide provides information on the DACA process and links to DACA-related resources.

OFFICE OF SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES

DACA flyer

www.justice.gov/crt/about/osc/pdf/publications/DACA_English2.pdf

The Office of Special Counsel enforces the anti-discrimination provisions of the Immigration and Nationality Act. This flyer provides DACA recipients with information about their right to work in the United States

DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

We Can Help website

www.dol.gov/wecanhelp

This Web site provides useful information for workers to understand their rights in the workplace and how to file a complaint, regardless of their immigration status.

YouthRules! Web site

www.youthrules.dol.gov

This Web site provides critical information on the jobs and hours a minor is allowed to work.

U.S. Citizenship and Immigration Services

NATIONAL CUSTOMER SERVICE CENTER:
(800) 375-5283 or 1-800-767-1833 (TDD for hearing impaired)

Public.engagement@uscis.dhs.gov

PED.DACA.070914

EXHIBIT V

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		Receipt	Action Block
	A-		
	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

➡ _____

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 *(First Name)*

1.c. Middle Name

2. A-Number *(if any)*

▶ **A-**

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

3.d.

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

4.d.

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

5.d.

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 office .

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 discha ged veteran of the U.S. Armed Forces or U.S. Coast Guard; and

7. Has not been convicted of a felony, a significant misdemeano , 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 misdemeano , 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 IN 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 origina 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 [inser 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 translato ’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. Howeve , 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 DAC 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 identificatio

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 ceremo , rite, or passage (e.g., baptism, first communion, wedding); o

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, stat verification of the filing of state income tax returns, letters from employers, , 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, stat verification of the filing of state income tax returns, letters from employers, , 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 ischarge 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 ceremo , 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, stat verification of the filing of state income tax returns, letters from employers, , 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 Discha ge 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 ceremo , 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; o

(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, o 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; o

(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 attendanc

(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 Discha ge 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 agenc or applicable court order confirming that no cha ges 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 cha ges were filed, or if cha ges 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 misdemeano , 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. Howeve , 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 USCI 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 intervie . 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 togethe , 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 Strateg , 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 (i 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-certifie 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 discha ged 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 W

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.

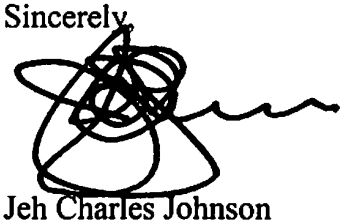
For decades, even dating back before DACA, it has been the long-standing and consistent practice of DHS (and its predecessor INS) to use information submitted by people seeking deferred action or other benefits for the limited purpose of adjudicating their requests, and not for immigration enforcement 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 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,



Jeh Charles Johnson

EXHIBIT Y

POLITICO

Homeland Security Secretary John Kelly sought to mollify senators who have for weeks been outraged by the Trump administration's hard-edged immigration policies. | AP Photo

Wary Democrats look to Kelly for answers on immigration

Senate Democrats wanted reassurances from Homeland Security Secretary John Kelly.

By **TED HESSON** and **SEUNG MIN KIM** | 03/29/2017 09:13 PM EDT

Senate Democrats met with Homeland Security Secretary John Kelly on Wednesday to seek reassurances that there would be boundaries to President Donald Trump's plan to intensify immigration enforcement.

In some cases, Kelly delivered. The former Marine general told senators that border agents would not separate mothers and children at the border, unless a mother was sick or injured. He also said his department would not target enrollees in the Deferred Action for

Childhood Arrivals Program, which grants deportation relief to undocumented immigrants brought to the U.S. at a young age.

But an undercurrent of frustration ran through the meeting, according to interviews with roughly half the more than 20 senators in attendance.

Privately, Kelly sought to mollify senators who have for weeks been outraged by the Trump administration's hard-edged immigration policies. During the meeting at the Capitol, which lasted nearly two hours, the DHS secretary told Democrats that the administration was still mainly targeting for deportation those who had committed crimes, and that they didn't even have the manpower to deport all undocumented immigrants in the country, according to one senator.

Several Democrats weren't convinced, including Sen. Bob Menendez of New Jersey. "Basically, even though the secretary portrays that we're only going after the bad apples, and criminals and this and that, the reality is — I pointed out to him — that his new memo on priorities makes everybody technically eligible for deportation," Menendez said in an interview after the meeting. "He didn't deny that."

CONGRESS
Senate steps up as House Russia probe flails
By **AUSTIN WRIGHT** and **MARTIN MATISHAK**

Several other senators echoed that sentiment.

"Frustration would be a good word," said Sen. Patty Murray (D-Wash.). "He stated that he was not separating children from their parents, but that's not been our experience." On the topic of keeping families together, Sen. Kamala Harris (D-Calif.) said, "He didn't guarantee it."

Speaking with reporters after the meeting, Kelly generally affirmed his positions on families at the border and DACA enrollees. He also called on members of Congress to change laws if they don't agree with them. "They may not like what I have to say, in terms of how we're doing business, but they deserve as elected representatives of the people to hear what I have to say," he said. "Honest men and women should be able to disagree on a lot of things and we do."

Of the DACA program, Kelly said both the government and individuals have an obligation to honor the terms of the policy. "The DACA status is a commitment, not only by the government towards the DACA person, or the so-called Dreamer, but by that person to obey

the law," Kelly said. "I don't care what you read, or what people say, we have not, in my time picked up someone who was covered by DACA. We have not done that."

Since Trump took office, though, several current or former DACA recipients have been arrested by federal immigration authorities, including a 24-year-old man in the Seattle area who was released on bail by an immigration judge Wednesday. Federal immigration officers contend he admitted to membership in a gang once they encountered him.

The news from Kelly seemed to placate some Democrats, if not win them over entirely. Sen. Dick Durbin (D-Ill.) said he "breathed a little sigh of relief" at Kelly's DACA stance, which he said "was the policy of the Obama administration, too." Durbin said the program "is still very much alive" — and credited Kelly for it.

"Many people would have doubted that that ever would be the case, and I think he is one of the major reasons for it," Durbin said.

At the meeting, Kelly spoke of the importance of addressing the factors that drive migrants north from Central American countries, such as Honduras, Guatemala and El Salvador. He said the administration plans to organize a conference in Miami before the summer with presidents and business leaders from those countries to discuss ways to improve social and economic conditions in the region.

Kelly said Mexico wants to co-host the event and that Canada and Colombia would attend as observers. "We're trying to improve the state of life in the Central American republics so those people don't have to come up here," he said.

Elana Schor contributed to this report.

EXHIBIT Z

AP / *April 24, 2017, 11:27 AM*

Transcript of AP interview with Trump

President Trump waves as he boards Air Force One at Joint Base Andrews outside Washington before traveling to Palm Beach, Florida, for the Good Friday holiday and Easter weekend April 13, 2017. / **REUTERS/YURI GRIPAS**

A transcript of an Oval Office interview Friday with President Donald Trump by AP White House Correspondent Julie Pace. Where the audio recording of the interview is unclear, ellipses or a notation that the recording was unintelligible are used.

AP: I do want to talk to you about the 100 days.

TRUMP: Good.

AP: I want to ask a few questions on some topics that are happening toward the end of the interview.

TRUMP: Did you see Aya (Hijazi, an Egyptian-American charity worker who had been detained in the country for nearly three years) ...

AP: Can you tell me a little bit about how that came about?

TRUMP: No, just — you know, I asked the government to let her out. ...

TRUMP: You know Obama worked on it for three years, got zippo, zero.

AP: How did you hear about this story?

TRUMP: Many people, human rights people, are talking about it. It's an incredible thing, especially when you meet her. You realize — I mean, she was in a rough place.


Duterte may be too "tied up" to accept Trump's invite


CBS News in the White House


What does Trump see best moment of his fir days?

TRUMP: Yeah, it's funny: One of the best chemistries I had was with (German Chancellor Angela) Merkel.

(Crosstalk) AP: Really?

TRUMP: Chancellor Merkel.

TRUMP: And I guess somebody shouted out, "Shake her hand, shake her hand," you know. But I never heard it. But I had already shaken her hand four times. You know, because we were together for a long time.

AP: Did you expect you would have good chemistry with her?

TRUMP: No. Because, um, I'm at odds on, you know, the NATO payments and I'm at odds on immigration. We had unbelievable chemistry. And people have given me credit for having great chemistry with all of the leaders, including el-Sissi. ...

TRUMP: So it was a great thing to see that happen.

AP: Do you feel like you have changed the office of the presidency, how the presidency can be used to effect change?

TRUMP: I think the 100 days is, you know, it's an artificial barrier. It's not very meaningful. I think I've established amazing relationships that will be used the four or eight years, whatever period of time I'm here. I think for that I would be getting very high marks because I've established great relationships with countries, as President el-Sissi has shown and others have shown. Well, if you look at the president of China, people said they've never seen anything like what's going on right now. I really liked him a lot. I think he liked me. We have a great chemistry together. ...

TRUMP: I've developed great relationships with all of these leaders. Nobody's written that. In fact, they said, "Oh, well, he's not treating them nicely," because on NATO, I want them to pay up. But I still get along with them great, and they will pay up. In fact, with the Italian prime minister yesterday, you saw, we were joking, "Come on, you have to pay up, you have to pay up." He'll pay.

AP: Did he say that? In your meeting? Your private meeting?

TRUMP: He's going to end up paying. But you know, nobody ever asked the question. Nobody asked. Nobody ever asked him to pay up. So it's a different kind of a presidency.

AP: Do you feel like that's one thing that you've changed, that you maybe are actually asking the direct questions about some of these things?

TRUMP: Yeah. Let me give me an example. A little before I took office there was a terrible article about the F-35 fighter jet. It was hundreds of billions of dollars over budget. It was seven years behind schedule. It was a disaster. So I called in Lockheed and I said, "I'm sorry, we're going to have to bid this out to another company, namely Boeing," or whoever else. But Boeing. And I called in Boeing and I started getting competing offers back and forth. ...

CBS News Special Report

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From "60 Minutes"


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because of me. I mean, because that's what I do.

TRUMP: Now if you multiply that times 3,000 planes, you know this is on 90 planes. In fact, when the Prime Minister (Shinzo) Abe of Japan came in because they bought a certain number of those ... The first thing he said to me, because it was right at the time I did it, he said, "Could I thank you?" I said, "What?" He said, "You saved us $100 million." Because they got a $100 million savings on the 10 or 12 planes that they (bought). Nobody wrote that story. Now you know that's a saving of billions and billions of dollars, many billions of dollars over the course of — it's between 2,500 and 3,000 planes will be the final order. But this was only 90 of those 2,500 planes.

AP: And you expect those savings to carry out across that full order?

TRUMP: More. I'm gonna get more than that. This was a thing that was out of control and now it's great. And the woman that runs Lockheed, Marillyn (Hewson), she was great. But all of a sudden it was a different kind of a thing. You know?

AP: Do you feel like you've been able to apply that kind of a relationship to your dealings with Congress as well?

TRUMP: I have great relationships with Congress. I think we're doing very well and I think we have a great foundation for future things. We're going to be applying, I shouldn't tell you this, but we're going to be announcing, probably on Wednesday, tax reform. And it's — we've worked on it long and hard. And you've got to understand, I've only been here now 93 days, 92 days. President Obama took 17 months to do Obamacare. I've been here 92 days but I've only been working on the health care, you know I had to get like a little bit of grounding right? Health care started after 30 day(s), so I've been working on health care for 60 days. ...You know, we're very close. And it's a great plan, you know, we have to get it approved.

AP: Is it this deal that's between the Tuesday Group and the Freedom Caucus, is that the deal you're looking at?

TRUMP: So the Republican Party has various groups, all great people. They're great people. But some are moderate, some are very conservative. The Democrats don't seem to have that nearly as much. You know the Democrats have, they don't have that. The Republicans do have that. And I think it's fine. But you know there's a pretty vast area in there. And I have a great relationship with all of them. Now, we have government not closing. I think we'll be in great shape on that. It's going very well. Obviously, that takes precedent.

AP: That takes precedent over health care? For next week?

TRUMP: Yeah, sure. Next week. Because the hundred days is just an artificial barrier. The press keeps talking about the hundred days. But we've done a lot. You have a list of things. I don't have to read it.

AP: You did put out though, as a candidate, you put out a 100-day plan. Do you feel like you should be held accountable to that plan?

TRUMP: But things change. There has to be flexibility. Let me give you an example. President Xi, we have a, like, a really great relationship. For me to call him a currency manipulator and then say, "By the way, I'd like you to solve the North Korean problem," doesn't work. So you have to have a certain flexibility, Number One. Number Two, from the time I took office till now, you know, it's a very exact thing. It's not like generalities. Do you want a Coke or anything?

AP: I'm OK, thank you. No. ...

TRUMP: But President Xi, from the time I took office, he has not, they have not been currency manipulators. Because there's a certain respect because he knew I would do something or whatever. But more importantly than him not being a currency manipulator the bigger picture, bigger than even currency manipulation, if he's helping us with North Korea, with nuclear and all of the things that go along with it, who would call, what am I going to do, say, "By the way, would you help us with North Korea? And also, you're a currency manipulator." It doesn't work that way.

AP: Right.

TRUMP: And the media, some of them get it, in all fairness. But you know some of them either don't get it, in which case they're very stupid people, or they just don't want to say it. You know because of a couple of them said, "He didn't call them a currency manipulator." Well, for two reasons. Number One, he's not, since my time. You know, very specific formula. You would think it's like generalities, it's not. They have — they've actually — their currency's gone up. So it's a very, very specific formula. And I said, "How badly have they been," ... they said, "Since you got to office they have not manipulated their currency." That's Number One, but much more important, they are working with us on North Korea. Now maybe that'll work out or maybe it won't. Can you imagine? ...

AP: So in terms of the 100-day plan that you did put out during the campaign, do you feel, though, that people should hold you accountable to this in terms of judging success?

TRUMP: No, because much of the foundation's been laid. Things came up. I'll give you an example. I didn't put Supreme Court judge on the 100 (day) plan, and I got a Supreme Court judge.

AP: I think it's on there.

TRUMP: I don't know. ...

AP: "Begin the process of selecting." You actually exceeded on this one. This says, "Begin the process of selecting a replacement."

TRUMP: That's the biggest thing I've done.

AP: Do you consider that your biggest success?

TRUMP: Well, I — first of all I think he's a great man. I think he will be a great, great justice of the Supreme Court. I have always heard that the selection and the affirmation of a Supreme Court judge is the biggest thing a president can do. Don't forget, he could be there for 40 years. ... He's a young man. I've always heard that that's the biggest thing. Now, I would say that defense is the biggest thing. You know, to be honest, there are a number of things. But I've always heard that the highest calling is the nomination of a Supreme Court justice. I've done one in my

as we make more planes. If I can save that on a small number of planes — Gen. (Jim) Mattis (the defense secretary) said, "I've never seen anything like this," because he had to sign the ultimate (unintelligible) ... He had to sign the ultimate, you know. He said, "I've never seen anything like this before, as long as I've been in the military." You know, that kind of cutting.

AP: Right.

TRUMP: Now, if I can do that (unintelligible) ... As an example, the aircraft carriers, billions of dollars, the Gerald Ford, billions and billions over budget. That won't happen.

AP: Is that something you're going to take on?

TRUMP: (unintelligible) But as we order the other ones, because they want to order 12, the other ones are going to come in much less expensive. ...

AP: Can I ask you, over your first 100 days — you're not quite there yet — how do you feel like the office has changed you?

TRUMP: Well the one thing I would say — and I say this to people — I never realized how big it was. Everything's so (unintelligible) like, you know the orders are so massive. I was talking to —

AP: You mean the responsibility of it, or do you mean —

TRUMP: Number One, there's great responsibility. When it came time to, as an example, send out the 59 missiles, the Tomahawks in Syria. I'm saying to myself, "You know, this is more than just like, 79 (sic) missiles. This is death that's involved," because people could have been killed. This is risk that's involved, because if the missile goes off and goes in a city or goes in a civilian area — you know, the boats were hundreds of miles away — and if this missile goes off and lands in the middle of a town or a hamlet .... every decision is much harder than you'd normally make. (unintelligible) ... This is involving death and life and so many things. ... So it's far more responsibility. (unintelligible) ....The financial cost of everything is so massive, every agency. This is thousands of times bigger, the United States, than the biggest company in the world. The second-largest company in the world is the Defense Department. The third-largest company in the world is Social Security. The fourth-largest — you know, you go down the list.

AP: Right.

TRUMP. It's massive. And every agency is, like, bigger than any company. So you know, I really just see the bigness of it all, but also the responsibility. And the human responsibility. You know, the human life that's involved in some of the decisions.

AP: You've talked a little bit about the way that you've brought some business skills into the office. Is there anything from your business background that just doesn't translate into the presidency, that just simply is not applicable to this job?

TRUMP: Well in business, you don't necessarily need heart, whereas here, almost everything affects people. So if you're talking about health care — you have health

TRUMP: In fact, in business you're actually better off without it.

AP: What's making that switch been like for you?

TRUMP: You have to love people. And if you love people, such a big responsibility. (unintelligible) You can take any single thing, including even taxes. I mean we're going to be doing major tax reform. Here's part of your story, it's going to be a big (unintelligible). Everybody's saying, "Oh, he's delaying." I'm not delaying anything. I'll tell you the other thing is (unintelligible). I used to get great press. I get the worst press. I get such dishonest reporting with the media. That's another thing that really has — I've never had anything like it before. It happened during the primaries, and I said, you know, when I won, I said, "Well the one thing good is now I'll get good press." And it got worse. (unintelligible) So that was one thing that a little bit of a surprise to me. I thought the press would become better, and it actually, in my opinion, got more nasty.

AP: But in terms of tax reform, how are you going to roll that out next week?

TRUMP: Well I'm going to roll (out) probably on Wednesday, around Wednesday of next week, we're putting out a massive tax reform — business and for people — we want to do both. We've been working on it (unintelligible). Secretary Mnuchin is a very talented person, very smart. Very successful (unintelligible). ... We're going to be putting that out on Wednesday or shortly thereafter. Let me leave a little room just in case (unintelligible). ... And that's a big story, because a lot of people think I'm going to put it out much later.

AP: Do you have any details on that in terms of rates?

TRUMP: Only in terms that it will be a massive tax cut. It will be bigger, I believe, than any tax cut ever. Maybe the biggest tax cut we've ever had. ...

AP: Obviously, that's going to come in a week where you're going to be running up against the deadline for keeping the government open. If you get a bill on your desk that does not include funding for the wall, will you sign it?

TRUMP: I don't know yet. People want the border wall. My base definitely wants the border wall, my base really wants it — you've been to many of the rallies. OK, the thing they want more than anything is the wall. My base, which is a big base; I think my base is 45 percent. You know, it's funny. The Democrats, they have a big advantage in the electoral college. Big, big, big advantage. I've always said the popular vote would be a lot easier than the electoral college. The electoral college — but it's a whole different campaign (unintelligible). The electoral college is very difficult for a Republican to win, and I will tell you, the people want to see it. They want to see the wall, they want to see security. Now, it just came out that they're 73 percent down. ... That's a tremendous achievement. ... Look at this, in 100 days, that down to the lowest in 17 years and it's going lower. Now, people aren't coming because they know they're not going to get through, and there isn't crime. You know the migration up to the border is horrible for women, you know that? (Unintelligible.) Now, much of that's stopped because they can't get through.

AP: It sounds like maybe you're beginning to send a message that if you do get a spending bill that doesn't have border funding in there, you would sign it.

less. That's not a lot of money relative to what we're talking about. If we stop 1 percent of the drugs from coming in — and we'll stop all of it. But if we stop 1 percent of the drugs because we have the wall — they're coming around in certain areas, but if you have a wall, they can't do it because it's a real wall. That's a tremendously good investment, 1 percent. The drugs pouring through on the southern border are unbelievable. We're becoming a drug culture, there's so much. And most of it's coming from the southern border. The wall will stop the drugs.

AP: But, just trying to nail you down on it one more time, will you sign a spending bill if it doesn't have —

TRUMP: I don't want to comment. I just don't know yet. I mean, I have to see what's going on. I really do. But the wall's a very important thing to — not only my base, but to the people. And even if it wasn't, I mean I'll do things that aren't necessarily popular. ... The wall is very important to stopping drugs.

AP: If you don't have a funding stream, your message to your base is what?

TRUMP: My base understands the wall is going to get built, whether I have it funded here or if I get it funded shortly thereafter, that wall's getting built, OK? One hundred percent. One hundred percent it's getting built. And it's also getting built for much less money — I hope you get this — than these people are estimating. The opponents are talking $25 billion for the wall. It's not going to cost anywhere near that.

AP: You think $10 billion or less.

TRUMP: I think $10 billion or less. And if I do a super-duper, higher, better, better security, everything else, maybe it goes a little bit more. But it's not going to be anywhere near (those) kind of numbers. And they're using those numbers; they're using the high numbers to make it sound impalatable (sic). And the fact it's going to cost much less money, just like the airplane I told you about, which I hope you can write about.

(Off-the-record discussion.)

TRUMP: They had a quote from me that NATO's obsolete. But they didn't say why it was obsolete. I was on Wolf Blitzer, very fair interview, the first time I was ever asked about NATO, because I wasn't in government. People don't go around asking about NATO if I'm building a building in Manhattan, right? So they asked me, Wolf ... asked me about NATO, and I said two things. NATO's obsolete — not knowing much about NATO, now I know a lot about NATO — NATO is obsolete, and I said, "And the reason it's obsolete is because of the fact they don't focus on terrorism." You know, back when they did NATO there was no such thing as terrorism.

AP: What specifically has NATO changed?

TRUMP: (Cites Wall Street Journal article) ... I did an interview with Wolf Blitzer, and I said NATO was obsolete — I said two things — obsolete, and the country's aren't paying. I was right about both. I took such heat for about three days on both, because nobody ever criticized NATO. I took heat like you wouldn't believe. And then some expert on NATO said, "You know, Trump is right." But I said it was

AP: This morning you tweeted that after the possible terrorist attack in Paris, that it will have a big effect on the upcoming French election. What did you mean by that?

TRUMP: Well, I think it will have a big effect on who people are going to vote for in the election.

AP: Do you think it's going to help Marine Le Pen?

TRUMP: I think so.

AP: Do you believe that she should be the president?

TRUMP: No, I have no comment on that, but I think that it'll probably help her because she is the strongest on borders and she is the strongest on what's been going on in France.

AP: Do you worry at all that by saying that, that a terrorist attack would have an impact on a democratic election, that it would actually embolden terrorists to try to —.

TRUMP: No. Look, everybody is making predictions who is going to win. I am no different than you, you could say the same thing. ...

AP: I just wonder if you are encouraging, you are the president of the United States, so to say that you worry that it encourages terrorists ...

TRUMP: No, I am no different than — no, I think it discourages terrorists, I think it discourages. I think what we've done on the border discourages it. I think that my stance on having people come in to this country that we have no idea who they are and in certain cases you will have radical Islamic terrorism. I'm not going to have it in this country. I'm not going to let what happened to France and other places happen here. And it's already largely, you know — we have tens — we have hundreds of thousands of people that have been allowed into our country that should not be here. They shouldn't be here. We have people allowed into our country with no documentation whatsoever. They have no documentation and they were allowed under the previous administrations, they were allowed into our country. It's a big mistake.

AP: Just so that I am clear. You are not endorsing her for the office, but you are —

TRUMP: I am not endorsing her and I didn't mention her name.

AP: Right, I just wanted to make sure I have that clear.

TRUMP: I believe whoever is the toughest on radical Islamic terrorism and whoever is the toughest at the borders will do well at the election. I am not saying that person is going to win, she is not even favored to win, you know. Right now, she is in second place.

AP: I have a question on the markets, actually. One thing that I think has been different about this White House is that you do point to the markets as a sign of progress. Do you worry, though — I mean, the markets go up and down.

TRUMP: You live by the sword, you die by the sword, to a certain extent. But we

AP: What about NAFTA? What's the plan on NAFTA?

TRUMP: What would you like to know?

AP: I would like to know what your plan is in terms of renegotiating.

TRUMP: I am very upset with NAFTA. I think NAFTA has been a catastrophic trade deal for the United States, trading agreement for the United States. It hurts us with Canada, and it hurts us with Mexico. Most people don't even think of NAFTA in terms of Canada. You saw what happened yesterday in my statements, because if you look at the dairy farmers in Wisconsin and upstate New York, they are getting killed by NAFTA.

AP: Is your plan still, though, to renegotiate the whole deal?

TRUMP: I am going to either renegotiate it or I am going to terminate it.

AP: Termination is still on the table.

TRUMP: Absolutely. If they don't treat fairly, I am terminating NAFTA.

AP: What's a timeline for that decision?

TRUMP: It's a six-month termination clause, I have the right to do it, it's a six-month clause.

AP: If I could fit a couple of more topics. Jeff Sessions, your attorney general, is taking a tougher line suddenly on Julian Assange, saying that arresting him is a priority. You were supportive of what WikiLeaks was doing during the campaign with the release of the Clinton emails. Do you think that arresting Assange is a priority for the United States?

TRUMP: When Wikileaks came out ... never heard of Wikileaks, never heard of it. When Wikileaks came out, all I was just saying is, "Well, look at all this information here, this is pretty good stuff." You know, they tried to hack the Republican, the RNC, but we had good defenses. They didn't have defenses, which is pretty bad management. But we had good defenses, they tried to hack both of them. They weren't able to get through to Republicans. No, I found it very interesting when I read this stuff and I said, "Wow." It was just a figure of speech. I said, "Well, look at this. It's good reading."

AP: But that didn't mean that you supported what Assange is doing?

TRUMP: No, I don't support or unsupport. It was just information. They shouldn't have allowed it to get out. If they had the proper defensive devices on their internet, you know, equipment, they wouldn't even allow the FBI. How about this — they get hacked, and the FBI goes to see them, and they won't let the FBI see their server. But do you understand, nobody ever writes it. Why wouldn't (former Hillary Clinton campaign chairman John) Podesta and Hillary Clinton allow the FBI to see the server? They brought in another company that I hear is Ukrainian-based.

AP: CrowdStrike?

TRUMP: That's what I heard. I heard it's owned by a very rich Ukrainian, that's

TRUMP: I am not involved in that decision, but if Jeff Sessions wants to do it, it's OK with me. I didn't know about that decision, but if they want to do it, it's OK with me.

AP: On Iran, which is another thing you talked a lot on the campaign —

TRUMP: And the other thing that we should go after is the leakers. ...

AP: On Iran, you also talked about it quite a bit on the campaign trail. And you said in the press conference yesterday that you think that Iran is violating the spirit of the agreement. When you say that, do you mean in terms of the actual nuclear accord, or do you mean what they are doing in the region?

TRUMP: In terms of what they are doing all over the Middle East and beyond.

AP: So you believe that they are complying with the agreement?

TRUMP: No, I don't say that. I say that I believe they have broken the spirit of the agreement. There is a spirit to agreements, and they have broken it.

AP: In terms of what they are doing elsewhere in the Middle East?

TRUMP: In terms of what they are doing of all over.

AP: When you talk to European leaders, when you talk to Merkel, for example, or Teresa May, what do they say about the nuclear deal? Do they want you to stay in that deal?

TRUMP: I don't talk to them about it.

AP: You don't talk to them about the Iran deal?

TRUMP: I mention it, but it's very personal when I talk to them, you know, it's confidential. No, they have their own opinions. I don't say that they are different than my opinions, but I'd rather have you ask them that question.

AP: At this point, do you believe that you will stay in the nuclear deal?

TRUMP: It's possible that we won't.

AP: Dreamers, you've talked about them, you've talked about heart earlier. This is one area where you have talked —

TRUMP: No, we aren't looking to do anything right now. Look, the dreamers ... this is an interesting case, they left and they came back and he's got some problems, it's a little different than the dreamer case, right? But we are putting MS-13 in jail and getting them the hell out of our country. They've taken over towns and cities and we are being really brutal with MS-13, and that's what we should be. They are a bad group, and somebody said they are as bad as al-Qaida, which is a hell of a reference. So we are moving criminals out of our country and we are getting them out in record numbers and those are the people we are after. We are not after the dreamers, we are after the criminals.

AP: And that's going to be the policy of your administration to allow the dreamers to stay?

the sake of having fun. They are being thrown in jails and they are being ... all over the country and nobody's ever done it like us, so we are being unbelievably thorough with that. We are out in Long Island cleaning out the MS-13 scum, they are all scum, that's probably the worst gang anywhere on Earth. ...

AP: A lot of the dreamers have been hoping to hear something from you. I don't want to give them the wrong message with this.

TRUMP: Here is what they can hear: The dreamers should rest easy. OK? I'll give you that. The dreamers should rest easy. ...

(An aide talks about the president's address to Congress.)

TRUMP: A lot of the people have said that, some people said it was the single best speech ever made in that chamber.

AP: You seem like you enjoyed it.

TRUMP: I did. I did. I believed in it and I enjoyed it. It was a great feeling to introduce the wife of a great young soldier who died getting us very valuable information. Have you seen the tremendous success? ... That's another thing that nobody talks about. Have you seen the tremendous success we've had in the Middle East with the ISIS (an abbreviation for the Islamic State group)? When (current Iraqi Prime Minister Haider al) Abadi left from Iraq, he said Trump has more success in eight weeks than Obama had in eight years. ... We have had tremendous success, but we don't talk about it. We don't talk about it.

AP: Do you mean you don't talk about it personally because you don't want to talk about it?

TRUMP: I don't talk about it. No. And the generals don't talk about it.

AP: You had put a request into the Pentagon to put forward an ISIS plan within 30 days. I know they have sent that over. Have you accepted a plan? Are you moving forward on a strategy?

TRUMP: We have a very strong plan, but we cannot talk about it, Julie.

AP: So you have decided on a plan?

TRUMP: Remember how many times have you been to the speech where I talked about Mosul.

AP: Right.

TRUMP. Right. Mosul. Four months we are going in, three months. We are still fighting Mosul. You know why? Because they were prepared. If we would have gone in and just done it, it would have been over three months ago.

AP: Can you say generally what the strategy is? Should people —

TRUMP: Generally is we have got to get rid of ISIS. We have no choice. And other terrorist organizations.

AP: Does that involve more troops on the ground, it sounds like?

TRUMP: Not many.

AP: So a small increase?

TRUMP: It could be an increase, then an increase. But not many more. I want to do the job, but not many more. ... This is an important story. I've done a lot. I've done more than any other president in the first 100 days and I think the first 100 days is an artificial barrier. And I'm scheduled ... the foundations have been set to do some great things. With foreign countries. Look at, look at President Xi. I mean ...

AP: What do you think it was about your chemistry?

TRUMP: We had good chemistry. Now I don't know that I think that's going to produce results but you've got a good chance.

AP: Uh-huh.

TRUMP: Look, he turned down many coal ships. These massive coal ships are coming where they get a lot of their income. They're coming into China and they're being turned away. That's never happened before. The fuel, the oil, so many different things. You saw the editorial they had in their paper saying they cannot be allowed to have nuclear, you know, et cetera. People have said they've never seen this ever before in China. We have the same relationship with others. There's a great foundation that's built. Great foundation. And I think it's going to produce tremendous results for our country.

AP: One more 100 days question.

TRUMP: That's fine.

AP: ... is do you think you have the right team in place for your next 100 days?

TRUMP: Yes. I think my team has been, well, I have different teams. I think my military team has been treated with great respect. As they should be. I think my other team hasn't been treated with the respect that they should get. We have some very talented people, and very diverse people.

AP: Do you mean your White House team when you say that?

TRUMP: Yeah, my White House team. I think Reince (Priebus) has been doing an excellent job. I think that, you know, this is a very tough environment not caused necessarily by me. Although the election has, you know, look, the Democrats had a tremendous opportunity because the electoral college, as I said, is so skewed to them. You start off by losing in New York and California, no matter who it is. If, if Abe Lincoln came back to life, he would lose New York and he would lose California. It's just the registration, there's nothing you can do. So you're losing the two biggest states, that's where you start. OK. The Electoral College is so skewed in favor of a Democrat that it's very, very hard. Look at Obama's number in the Electoral College. His numbers on the win were ... but the Electoral College numbers were massive. You lose New York, you lose Illinois. Illinois is impossible to win. And you look at, so now you lose New York, Illinois, no matter what you do, and California. Right. And you say, man. Now you have to win Florida, you

dollars more money than I spent. Hundreds of millions ... Yeah. Or more, actually because we were $375 she was at $2.2 billion. But whatever. She spent massive amounts of money more and she lost. Solidly lost, because you know it wasn't 270, it was 306. So there's anger. But there was massive anger before I got there, so it's not easy for a White House staff to realize that you are going into a situation where you are going to be at no, where are going to get no votes. I mean, here's a judge who is No. 1 at Columbia, No. 1 at Harvard and an Oxford scholar. And he got three votes.

AP: Three Democratic votes, but yeah.

TRUMP: Three Democratic votes. OK. He's an Oxford scholar at the highest level. The No. 1, you know, one of the great academics, one of the great writers. No bad decisions with all ... nothing. He's like a ...

AP: Do you think that you can break through that? I mean this —

TRUMP: Yeah, I do.

AP: Is one of the biggest challenges for a president.

TRUMP: I think (I) can to an extent. But there's a, there's a basic hard-line core that you can't break though, OK, that you can't break through. There's a hard-line group you can't break through, you can't. It's sad. You can't. Look, I met with Congressman Cummings and I really liked him, a lot. Elijah Cummings (of Maryland). I really liked him a lot. And during the conversation because we have a very strong mutual feeling on drug prices. He came to see me, at my invitation, because I saw him talking about, he came to see me about drug prices because drug prices are ridiculous. And I am going to get them way, way, way down and he liked that. He said you will be the greatest president. He said you will be, in front of five, six people, he said you will be the greatest president in the history of this country.

AP: He disputed that slightly.

TRUMP: That's what he said. I mean, what can I tell you?

AP: Yeah.

TRUMP: There's six people sitting here. What did he, what, what do you mean by slightly?

AP: He said, he said that he felt like you could be a great president if and then —

TRUMP: Well he said, you'll be the greatest president in the history of, but you know what, I'll take that also, but that you could be. But he said, will be the greatest president but I would also accept the other. In other words, if you do your job, but I accept that. Then I watched him interviewed and it was like he never even was here. It's incredible. I watched him interviewed a week later and it's like he was never in my office. And you can even say that.

AP: And that's one of the difficulties I think presidents have had is that you can have these personal relationships with people from the other party, but then it's hard to actually change how people vote or change how people —

TRUMP: No I have. it's interesting. I have. seem to get very high ratings. I

TRUMP: It had 9.2 million people. It's the highest they've ever had. On any, on air, (CBS "Face the Nation" host John) Dickerson had 5.2 million people. It's the highest for "Face the Nation" or as I call it, "Deface the Nation." It's the highest for "Deface the Nation" since the World Trade Center. Since the World Trade Center came down. It's a tremendous advantage.

I have learned one thing, because I get treated very unfairly, that's what I call it, the fake media. And the fake media is not all of the media. You know they tried to say that the fake media was all the, no. The fake media is some of you. I could tell you who it is, 100 percent. Sometimes you're fake, but — but the fake media is some of the media. It bears no relationship to the truth. It's not that Fox treats me well, it's that Fox is the most accurate.

AP: Do you believe that? That Fox —

TRUMP: I do. I get treated so badly. Yesterday, about the thing, you know when I said it's a terrorism ... it may be. I said it may be a terrorist attack and MSNBC, I heard, went crazy, "He called it a terrorist attack." They thought it was a bank robbery. By the way, I'm 10-0 for that. I've called every one of them. Every time they said I called it way too early and then it turns out I'm ... Whatever. Whatever. In the meantime, I'm here and they're not.

AP: Do you feel that one of the things with cable is there's such real-time reaction with everything you say?

TRUMP: Yeah.

AP: Can you separate that sometimes from that actual decision?

TRUMP: The one thing —

AP: That you have to do —

TRUMP: OK. The one thing I've learned to do that I never thought I had the ability to do. I don't watch CNN anymore.

AP: You just said you did.

TRUMP: No. No, I, if I'm passing it, what did I just say (inaudible)?

AP: You just said —

TRUMP: Where? Where?

AP: Two minutes ago.

TRUMP: No, they treat me so badly. No, I just said that. No, I, what'd I say, I stopped watching them. But I don't watch CNN anymore. I don't watch MSNBC. I don't watch it. Now I heard yesterday that MSNBC, you know, they tell me what's going on.

AP: Right.

TRUMP: In fact, they also did. I never thought I had the ability to not watch. Like, people think I watch (MSNBC's) "Morning Joe." I don't watch "Morning Joe." I never thought I had the ability to, and who used to treat me great by the way, when I played the game. I never thought I had the ability to not watch what is

TRUMP: No.

AP: That you've made that change?

TRUMP: I don't know why it is, but I've developed that ability, and it's happened over the last, over the last year.

AP: That's interesting.

TRUMP: And I don't watch things that I know are going to be unpleasant. CNN has covered me unfairly and incorrectly and I don't watch them anymore. A lot of people don't watch them anymore, they're now in third place. But I've created something where people are watching ... but I don't watch CNN anymore. I don't watch MSNBC anymore. I don't watch things, and I never thought I had that ability. I always thought I'd watch.

AP: Sure.

TRUMP: I just don't. And that's taken place over the last year. And you know what that is, that's a great, it's a great thing because you leave, you leave for work in the morning you know, you're, you don't watch this total negativity. I never thought I'd be able to do that and for me, it's so easy to do now. Just don't watch.

AP: That's interesting.

TRUMP: Maybe it's because I'm here. I don't know.

EXHIBIT CC

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 FF

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MARTIN JONATHAN BATALLA VIDAL, et al., Plaintiffs, v. ELAINE C. DUKE, Acting Secretary Department of Homeland Security JEFFERSON BEAUREGARD SESSION III, Attorney General of the United States, and DONALD J TRUMP, President of the UNITED STATES, Defendants.	Case Nos. 1:16-CV-04756(NGG)(JO) 3:17-CV-05211

Deposition of GENE HAMILTON
Washington, DC
Friday, October 20, 2017
9:17 a.m.

Job No.: 37567
Pages: 1 - 233
Reported by: Donna Marie Lewis, RPR, CSR (HI)

deliberative process privilege. I instruct the witness not to answer.

BY MS. TUMLIN:

Q Okay. Did Attorney General Sessions direct the decision to terminate DACA?

MR. GARDNER: Objection. Vague.

THE WITNESS: What do you mean by direct?

BY MS. TUMLIN:

Q Did Attorney General Sessions provide a strong recommendation to Acting Secretary Duke that he felt the DACA program should be terminated?

MR. GARDNER: Objection. Vague.

THE WITNESS: What do you mean by recommendation? Let me tell you, the attorney general sent a letter that said that the program was, generally speaking, illegal and unconstitutional. I don't know what other course of action you would expect for him to advocate if that's his legal conclusion about the program.

BY MS. TUMLIN:

Q Was the -- did you participate in any meetings to determine whether or not the DACA program should be terminated?

A Yes.

Q When is the first meeting that you remember participating in to discuss whether the DACA program should be terminated?

A When is the first meeting with whom? Internal to DHS?

Q Let's start with that. Let's start with the first internal to DHS only meeting that you participated in in which the question of whether DACA should be terminated was discussed?

A Sometime in August.

Q August, mid August?

A Mid to late August.

Q And who was at that meeting?

MR. GARDNER: You can answer. All she is asking is identity, not substance.

THE WITNESS: To the best of my recollection the attendees at that meeting were

the acting secretary; chief of staff, Chad Wolf; deputy chief of staff, Elizabeth Neumann; myself; our acting under secretary for policy strategy and plans, Jim Nealon; potentially his acting chief of staff, Brianna Petgill (phonetic). I believe Dimple Shah, deputy general counsel OJC. Acting Director Homan from ICE; his principal legal adviser, Tracy Short. I believe his special adviser, John Theory. Acting Commissioner Kevin MacAleenan. I don't remember her title, one of his attorneys, Julie Cooler (phonetic). Potentially, I don't recall if his chief of staff was there. James McCament, the acting now deputy director of USCIS, but was the acting director. Francis Cissna in his former capacity as director of immigration policy at DHS. There may have been assistant secretary of legislative affairs, Ben Cassidy. And potentially our assistant secretary for public affairs, Jonathan Hoffman. I don't recall specifically.

BY MS. TUMLIN:

Q Was that an in-person or a telephone

meeting?

A In person.

Q Was that at DHS headquarters?

A It was.

Q Approximately how long did that meeting last?

A I don't know. Maybe an hour or so.

Q Who convened the meeting?

A I don't recall.

Q Did anybody organize or suggest that the meeting be held?

A Yes.

Q Who was that?

A I don't recall. It may have been the chief of staff.

Q Chad Wolf --

A -- Or may have been the secretary or it may have been me. I just don't recall who did it.

Q How would that meeting have been organized? Would an email have gone out telling folks to show up at a certain place at a certain time?

A There likely would have been an email invitation to a meeting that would have went out. And I just don't remember who organized it principally from the get-go in terms of calling the meeting, that specific meeting.

Q Got it. And would that have been something like an Outlook -- Outlook calendar invite that went out?

A Yes.

Q Okay. Would an agenda have gone out for that meeting?

A I believe so.

Q Who would have composed that agenda?

A Typically several individuals, but I know that I did certainly on that one.

Q You helped compose that agenda?

A I did.

Q What do you remember about what you put on the agenda?

MR. GARDNER: Objection. You can describe that at a high level of generality without revealing deliberative pre-decision

material.

THE WITNESS: Generally outlined the situation as it stood with respect to DACA at the time and weighed out various potential options.

BY MS. TUMLIN:

Q So your agenda would have presented potential options for terminating or keeping the DACA program?

A Yes.

Q Okay. Do you remember how many options you presented for terminating, keeping or something else with respect to the DACA program?

A No.

Q More than two?

A I don't know.

Q Would that agenda have included an option of keeping the DACA program in place as it stood prior to September 5, 2017?

MR. GARDNER: Objection. Calls for disclosure of information subject to deliberative process privilege. Instruct the witness not to answer.

BY MS. TUMLIN:

Q Would that agenda have included an option for the full scale termination of the DACA program with no wind down period?

MR. GARDNER: Objection. Calls for disclosure of information subject to deliberative process privilege. Instruct the witness not to answer.

BY MS. TUMLIN:

Q Okay. Would that agenda have been sent around as an attachment to the Outlook calendar invite?

A I don't know. Maybe.

Q Could it have gone around on an email?

A Probably.

Q Would you have printed -- would someone at the Department of Homeland Security have printed hard copies for meeting attendees?

MR. GARDNER: Objection. Calls for speculation.

THE WITNESS: Probably. I don't know. I'm really not sure.

MS. TUMLIN: Okay.

THE WITNESS: You are asking me to guess.

BY MS. TUMLIN:

Q Were notes taken of that meeting?

A I don't know.

Q Either by hand or on computer?

A I don't know.

Q Did you take any notes at the meeting?

A I might have.

Q By hand?

A I generally take notes by hand.

Q Okay. Okay. That was sometime in mid to late August and it was an internal DHS meeting on whether to terminate the DACA program. Was there a meeting subsequent to that meeting that was still internal only to DHS to consider the question of whether to terminate the DACA program? So after this meeting we just discussed and before November the 5th?

A I don't recall if there was or if there wasn't.

Q Was there a meeting after the meeting we just discussed but prior to November the 5th on whether or not to terminate the DACA program that included individuals in the federal government outside of the Department of Homeland Security?

MR. GARDNER: For clarification you said November 5? Is that right?

MS. TUMLIN: I did say that according to the transcript and I meant September 5. I apologize.

MR. GARDNER: That's what I thought. Just wanted to be clear about that.

THE WITNESS: So if you could --

MS. TUMLIN: -- Absolutely.

THE WITNESS: -- just say that one more time?

BY MS. TUMLIN:

Q So the meeting that we have been talking about internal only at DHS I think you put at about mid to late August?

A I did.

Q Of 2017?

A Uh huh.
Q So after that meeting but before the announcement of the termination of the DACA program on September 5, 2017 was there another meeting considering the question of whether to terminate the DACA program that you were a part of?
A Yes.
Q When approximately was that meeting?
A Around the same time, a few days later.
Q A few days later? Late August?
A Yes.
Q Who was at that meeting?
MR. GARDNER: You can answer the identity of individuals that attended.
THE WITNESS: There was a meeting in the Roosevelt Room of the White House at which chief of staff, John Kelly was present. Principal deputy chief of staff, Kirstjen Nielsen, was present. Deputy chief of staff, Rick Dearborn, was present. Senior policy adviser to the president, Stephen Miller, was present. I believe

the staff secretary, Rob Porter, was present. White House counsel, Don McGahn, was present. I believe the assistant or the director of White House legislative affairs, Mark Short, was present at least for a time. The director of the Office of Management and Budget, Mick Mulvaney, was present. I was present. Acting Secretary Duke was present. Acting Director McCament was present. Acting chief of staff, Chad Wolf, was present. The attorney general was present. His chief of staff, Jody Hunt, was present. The associate attorney general, Rachel Brand, was present. Counsel to the attorney general, Danielle Cutrona was present. And I don't recall anyone else. Oh, I'm sorry. Deputy secretary of state, John Sullivan, was present, I believe. Fairly certain. Could be wrong.

BY MS. TUMLIN:

Q That's a lot of people. You may have already said this, but was John Bash present?

(Court reporter requested clarification.)

MS. TUMLIN: Bash.

THE WITNESS: I think he -- I don't recall specifically, but he may have been there. I believe that there were one or two staffers from the White House counsel as well as -- I apologize, the director of the Domestic Policy Council, Andrew Bremberg, was present. Potentially one or two of his staff was, but I don't remember. I may be -- at that point I may be conflating meetings. There's many on other issues.

BY MS. TUMLIN:

Q Approximately how long did that meeting last?

A Might have been an hour and a half.

Q Okay. Do you know who convened that meeting?

A What do you mean convened?

Q Who invited people to come to the meeting?

A Who sent out the physical invitations or who called the meeting in a pulled it together?

Q Who -- both? Who sent out the physical

invitation first?

A I don't know.

Q Who brought the meeting together, made it happen?

A I don't know.

Q Did anybody facilitate the meeting?

A Define facilitate?

Q Lead or preside over the meeting?

A To the best of my recollection the White House chief of staff and Stephen Miller both had lead at various points in the meeting.

Q Was there an agenda for the meeting?

A Yes, I believe so.

Q Was that sent out to meeting attendees electronically in any form?

A I believe so.

Q Via email?

A Fairly certain.

Q Was it also provided in hard copy to meeting attendees?

A I don't remember.

Q What do you remember as being on that

agenda?

MR. GARDNER: You can describe that in a high level of generality unless disclosing contents will reveal deliberative pre-decisional information.

THE WITNESS: I don't recall specifically other than just general things about DACA and potential decisions.

BY MS. TUMLIN:

Q Were there various options for what to do with the DACA program on that agenda?

A I don't specifically recall. There might have been.

Q Was the goal of the meeting to reach a tentative decision on whether or not to terminate the DACA program?

A My understanding of the meeting was to develop at least a tentative path forward with respect to what to do with the program known as Deferred Action for Childhood Arrivals.

Q Was a tentative decision to terminate the DACA program reached at that meeting?

A A tentative decision by whom?

Q Acting Secretary Duke?

A I don't know if you call it a tentative decision, but maybe.

Q Did Acting Secretary Duke express in that meeting that her present inclination was to terminate the DACA program?

MR. GARDNER: Objection. Calls for disclosure of information subject to deliberative process privilege. I instruct the witness not to answer.

BY MS. TUMLIN:

Q After this meeting in the Roosevelt Room of the White House were there any other meetings that you were part of before September 5 considering the question of whether or not to terminate the DACA program?

A Yes.

Q Approximately when was the next meeting?

A I don't remember.

Q Do you remember where that meeting was?

A The White House.

Q Where at the White house?
A The Roosevelt Room.
Q Approximately how long did meeting number two at the Roosevelt Room last?
A It never really happened. I think it was -- we were waiting to get it started and it kind of got canceled.
Q Understood. Okay. So was that just a couple of days after this meeting that did happen?
A I mean, when you say a couple, I presume two. And I'm not really sure. It was several, at least several days after.
Q Okay. Who organized that meeting?
A I don't know.
Q Do you recall getting an invitation of some kind to show up at that meeting?
A Certainly.
Q Do you recall who that was from?
A Nope.
Q And how did you learn that the meeting was being canceled?
A We were sitting around the table and one

of the chief of staff's aides came in the room and said that the meeting was being canceled.

Q Did they -- pardon me. Did that aide provide any reason for why the meeting was being canceled?

A No.

Q Was that meeting ever rescheduled?

A If it was I wasn't there. I don't know.

Q After that meeting which was canceled in the Roosevelt Room did you attend any other meetings regarding the termination of the DACA program before September the 5th?

A I don't recall any formal meetings. Certainly it was discussed, but I don't recall formal meetings.

Q When do you remember finding out a final decision had been made to terminate the DACA program?

A As I indicated earlier my perspective on things is that there is no final decision until there is ink on paper, so it was sometime on September 5.

Q So is it your opinion that you found out about the final decision to terminate the DACA program -- or let me correct that.

Did you watch the press conference with Attorney General Sessions announcing the termination of the DACA program?

A I seem to recall watching some of it, yes.

Q Is that when you found out about the decision to termination the DACA program in your opinion?

A Well, the attorney general did not terminate the DACA program, so no. And he did not sign the memo that canceled, that rescinded the 2012 memo, so no.

Q But he was the spokesperson for the administration announcing that?

A The attorney general held a press conference in which he stated his legal position about the program and his general suppositions about the way that the program, what might happen to it.

the DACA program had been made. Correct?

A That -- that is generally correct, although I will say again, no final decision is ever made until there is ink on paper. That is the fundamental difference. There may have been tentative decision, but until a secretary of a cabinet department makes a decision in writing or in whatever method is appropriate for the circumstance the decision is technically not final.

Q Was there a substantively alternative version of a DACA memorandum that was circulating prior to September the 5th that could have been signed by Acting Secretary Duke?

MR. GARDNER: Objection. Calls for disclosure of information subject to deliberative process privilege. I instruct the witness not to answer.

BY MS. TUMLIN:

Q Okay. Does DHS have a policy on how to deal with litigation risk?

A Do we have a policy on how to deal with litigation risk?

Q Uh huh.

A Nothing in writing.

Q Okay. So there is -- is there any policy on how to deal with threats to sue by state or local officials?

A No. And that sounds like the craziest policy you could ever have in a department. You could never do anything if you were always worried about being sued.

Q Are you familiar with the executive order issued by President Trump with respect to sanctuary jurisdictions?

A That -- I believe that is in Executive Order 13768. I am familiar.

Q And are you aware that several municipalities have sued the federal government on the basis of that executive order?

A In general I am, yes.

Q Are you aware that some of these lawsuits have successfully blocked parts of the

executive order?

A On a temporary basis.

Q And as a result has DHS considered rescinding any of that executive order?

MR. GARDNER: Objection. Calls for disclosure of information subject to deliberative process privilege, plus the attorney/client privilege. I instruct the witness not to answer.

BY MS. TUMLIN:

Q Okay. Have you ever requested that anyone within DHS provide metrics or statistics about DACA recipients?

A I have.

Q And when you ask for information they generally give it to you. Is that correct?

A Correct.

Q Did you ever request metrics about how many DACA recipients who subsequent to their receipt of DACA were arrested, detained or removed?

MR. GARDNER: Objection. Calls for disclosure of information subject to deliberative

REPORTER'S CERTIFICATE

I, DONNA M. LEWIS, RPR, Certified Shorthand Reporter, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness, Gene Hamilton, was put under oath by me;

That the testimony of the witness, the questions propounded and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

I declare that I am not of counsel to any of the parties, nor in any way interested in the outcome of this action.

As witness, my hand and notary seal this 22nd day of October, 2017.

Donna M. Lewis, RPR
Notary Public

My Commission expires:
March 14, 2018

DONNA M. LEWIS NOTARY PUBLIC MY COMMISSION EXPIRES MAR. 14, 2018

EXHIBIT JJ

Donald J. Trump
@realDonaldTrump

Follow

Congress now has 6 months to legalize DACA (something the Obama Administration was unable to do). If they can't, I will revisit this issue!

5:38 PM - 5 Sep 2017

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EXHIBIT KK

Oct. 18, 2017 - Revised Final

LIST OF PANEL MEMBERS AND WITNESSES

GRASSLEY:

Attorney General Sessions, welcome. And for all the people in the audience, we welcome you as well. I thank the -- General Sessions for being here for this oversight hearing.

Oversight is just one of the critical functions and constitutional responsibilities of our branch. It's an opportunity for Congress to investigate and question the the policies and actions of any executive branch.

It's an opportunity for the executive branch to take responsibility for any of those policies and actions. And it's an opportunity for Congress to defend its constitutional powers and check any abuses by an overreaching executive branch. And it's been that way for 230 years.

Some have complained that -- that we haven't had an oversight hearing with this attorney general earlier. My reason for deferring was that the attorney general should have his team in place before appearing before us. Certainly, Attorney General Holder and Attorney General Lynch did have their respective teams well in place by the time they appeared here as you are now here.

The other side has been blocking executive nomination for the past 10 months, significantly delaying the Department of Justice's ability to get management in place and things in order. But we're here now and ready to do our oversight.

DOJ and DEA, last year, signed off on this bill. Now, former DEA employees are railing against the law, pointing fingers at lawmakers. If DEA had problems with this bill, they were the ones that could've given -- had the expertise to warn Congress, and they didn't.

The Obama administration actually provided language for the bill and signed it into law. I'm planning on having an oversight hearing that will include your department, General Sessions, to see what, if anything, needs changing.

October 1, this country suffered through the deadliest mass shooting. And I don't need to go through the history of that, but it'll be in my printed statement. And AFT (sic) has recently -- recently briefed the judiciary staff on the add -- addition to guns called bump stocks. We'll be looking more at that issue.

In September, the president announced the wind-down of the Deferred Action against Childhood Arrival Program, DACA for short, with a six-month extension. My office received preliminary data showing 2,021 individuals who had DACA status terminated for criminal gang activity. We want to know who these criminals are, what kinds of crimes they are committing, and if they're with any gangs.

Separately, General Sessions, you announced earlier this year DOJ's recommitment to criminal investigation enforcement; 50 more immigration judges were supposed to be added to the bench this year, and 75 more next year. We need to know what steps DOJ has taken and what still needs to be done to reduce this immigration-court backlog.

There's another issue that I want to address the came up in the news just yesterday. In June 2015, and again last week, I wrote to the Justice

Senator Durbin, and I'll return before Senator Durbin's done here. I'll be out just a minute. Go ahead, Senator Durbin.

DURBIN:

Thank you very much, Mr. Chairman. Attorney General Sessions, welcome back to the committee.

Your positions on immigration, DACA, Dreamers -- well documented. We have all been given many speeches on the floor of the Senate, yourself included, and I think your position in opposition to those programs has been well documented over the course of your Senate career.

I would like...

SESSIONS:

But it may not be quite as simple as you might suggest.

DURBIN:

I'll leave your rationale to you to explain.

SESSIONS:

OK, yeah.

DURBIN:

But I think I know how you voted: consistently against comprehensive immigration reform and any form of the Dream Act.

But let me ask you this: Last month, you announced the Trump administration was terminating the DACA Program. It's my understanding that, according to long-standing Justice Department policy, the Office of Legal Counsel is, quote, "responsible for providing legal advice to the executive branch on all constitutional questions."

OLC issued a 33-page memo on November 19th, 2014, that concludes that DACA is lawful and it's a lawful exercise of executive authority. And, when you go back to the Department of Justice after your hearing today, check your website. That opinion is still on your website, that DACA is lawful.

So could you please tell me whether you consulted with the career attorneys at the Office of Legal Counsel before your announcement that terminated DACA?

SESSIONS:

We did. We talked with a large number of experienced lawyers in the department. Senator Durbin, what I would say to you, and I believe that this is accurate -- that the so-called approval of DACA by OLC, Office of Legal Counsel, was based on the caveat or the requirement that any action that's taken be done on an individual basis.

The court has -- it held (ph) -- that struck down DACA -- that individual decisions were not being made and a blanket policy was, in effect, being carried out onto the DACA or program in reality that was not an individualized basis. And therefore, that's why the court found it unlawful.

DURBIN:

That statement is a departure from what is currently on Department of Justice website, the OLC opinion of 2014. If you have a new OLC opinion that was the basis for your letter to Acting Secretary Duke or your statement terminating DACA, will you provide us with a copy of that opinion?

SESSIONS:

Well, I would be glad to. But I think it is fair to say that the OLC document required and said a DACA program might be legal if it was done on an individualized basis.

The Department of Justice can't just wipe out whole sections of the American law and just say "We're not going to enforce it," after Congress has passed such a law. So I'd be glad to review it, and we'll review...

DURBIN:

I hope you will.

SESSIONS:

... the validity of the whole...

DURBIN:

I hope you will.

SESSIONS:

... OK.

DURBIN:

And for the record, each DACA recipient is individually interviewed, goes through an individual criminal background check, and determines whether there is individual eligibility. So, having said that, I would ask you one last thing.

SESSIONS:

The court found otherwise and I...

DURBIN:

Well, I hope you'll share that OLC opinion.

Did you have any communication with the Texas attorney general or any other attorney general who was threatening to bring a lawsuit to void DACA before the decision was made by the Trump administration?

SESSIONS:

I would just say this, Senator Durbin: That kind of legal discussions, I believe, would be part of the work product of the Attorney General's Office, and I should not reveal it.

DURBIN:

You cannot tell me -- you're saying you are privileged -- that communication's privileged, that you had a communication with the Texas Attorney General about their threatened lawsuit against DACA before the administration's announcement?

SESSIONS:

Even...

DURBIN:

You're saying that's privileged?

SESSIONS:

... well, even the OLC communications we have are, in fact, privileged. So I would say that's correct. I'll review it. If it's something I can feel free -- feel that it's appropriate for me to reveal to you, I will do so.

DURBIN:

I think this would have been just about the moment when Senator Sessions of Alabama would have blown up...

(LAUGHTER)

... if the attorney general said he can't even tell us whether he communicated with another attorney general in another state.

(CROSSTALK)

DURBIN:
I take you (ph) to one part of your statement here that I take personally, because I happen to represent the city of Chicago, and I'm honored to represent that city.

SESSIONS:
I know you are.

DURBIN:
What happened in Las Vegas was tragic and awful and heartbreaking: 59 people killed, over 500 wounded by gunshots in just a brief period of time, with some military-type weapon. It was just awful, horrific and disgusting.

Having said that, so far this year, 3,000 people have been injured by gunshot in the city of Chicago, and over 500 have been killed. This is not something that is a political debate in my heart. It breaks my heart to think what the families are going through in the city that I represent.

The superintendent of police, who's worked there -- and you gave credit to local law enforcement, I'm glad you did. I join you in that. He's worked in that police department for 30 years. I want to read to what he said.

"The federal government's plans, the terminating of Byrne grant funds, will hamper community policing and undermine the work our men and women have done to reduce shootings by 16 percent so far this year."

Well, in this new, fast-paced world, with technology, perhaps there are needs to update it. And I would be pleased to work with you.

KLOBUCHAR:

I appreciate that, Attorney General. Thank you very much.

SESSIONS:

Thank you.

GRASSLEY:

Senator Cruz.

CRUZ:

Thank you, Mr. Chairman. General Sessions, welcome back.

SESSIONS:

Thank you.

CRUZ:

We miss you on this side of the dais. We've spent a lot of time in this hearing room together. And thank you for your good and honorable service as attorney general and the many positive things that have happened at the Department of Justice in the last nine months.

I want to talk with you about an issue that is near and dear to your heart, which is immigration. And I want to cover a couple of areas. Let's start with DACA. I want to commend you; I want to commend the president. We're doing the right thing, terminating President Obama's illegal executive amnesty program.

It was contrary to federal law. It was contrary to the president's responsibility under Article II of the Constitution, to take care that the laws be faithfully

executed. And it directed federal law enforcement officers to disregard binding federal law. So I commend you for announcing the suspension of that program.

As you know, the president has indicated that it is now for Congress to legislate a program addressed to those DACA recipients. And there are, right now, considerable ongoing debates and discussions within Congress about how -- if and whether to do so, and if so, how.

My first question is, does the Department of Justice have a position on whether Congress should legislate a new amnesty program for DACA recipients?

SESSIONS:

The department has not taken a position formally on that. The president has certainly left the door wide open and indicated that he would favor something like that. And it certainly would be a lawful and proper thing for Congress to do.

CRUZ:

So my understanding is, as of September of 2017, there are 689,800 individuals currently with a DACA registration. There have been estimates done that there are nearly 2 million potentially eligible DACA recipients in the country.

In your personal judgment, should those nearly 2 million people here illegally in this country be eligible for United States citizenship?

SESSIONS:

My best judgment that I've expressed over the years -- that someone who enters a country unlawfully, if they're given some sort of legal status -- a normal legal status -- should not get everything that would flow to people who

properly wait their time and enter lawfully. So I'm not taking a position that would support citizenship for those who have entered illegally.

CRUZ:

Well, certainly, as a senator on the side of the dais, I think you have, multiple times, spoken with great passion on the issue. As attorney general, do you have any view on whether those here illegally should be eligible for U.S. citizenship?

SESSIONS:

Well, I haven't changed my view at this point.

CRUZ:

Let me ask you, as attorney general, if those some 2 million people here illegally that are potential DACA recipients were granted green cards and, ultimately, U.S. citizenship, do you have concerns about the next step of chain migration of those individuals then bringing in potentially 3, 4, 5 million relatives as the second step of an amnesty program?

SESSIONS:

Yes. It needs to be evaluated. And when you use the figure 2 million, it just raises the question that we should think carefully about, like, who would qualify for a DACA program, if one were to be carried out.

And the president has made clear, and I think he's -- he's -- he cares about this -- that he cares about young people who came here at a young age, but he also believes that the nation should have a immigration policy that serves the national interest, and that it should not be -- it should be a more merit-based policy, like Canada. And that's something I have believed in for a number of years.

CRUZ:

And you -- let me ask a different question. In your personal judgment, should those here illegally be made eligible for public welfare and for billions in both federal and state and local funds to provide for their various needs?

SESSIONS:

If people are here unlawfully, it -- which -- it strikes me as -- that the last thing you would want to do is subsidize that unlawfulness. And you would not -- should not be normally eligible for benefits.

And maybe some -- the things we will do -- no doubt about it. But still, fundamentally, a person should not be attracted to enter the country unlawfully and then demand lawful benefits.

CRUZ:

Let me shift to a different topic under immigration, which is border security. I want to commend the administration. Early on, we saw dramatic decreases in illegal crossings, in the neighborhood of a decrease of two-thirds in the opening months of the administration. I commend you for that.

I will say I am concerned by reports I'm hearing from the border. I'm concerned -- according to the public numbers, in August of this year, Customs and Border Protection saw a 22 percent increase in apprehensions and inadmissible persons at ports of entry.

I had a conversation recently with a rancher in South Texas, who described to me how -- he said, early in the year, the number of illegal crossings had dropped significantly.

But throughout this summer, he's seen those numbers spiking up again. He was very concerned that it was returning to levels that we saw earlier. Are you

TILLIS:

We can -- we can cite -- we can work with people back in North Carolina and people I've heard from across the country. And it really probably needs to go down to the name of the people who are not paying attention to what the leadership has told them to do.

And if they don't change their behavior, we need to shed light on those individuals. And to the extent they can be terminated for that behavior, I'm going to push every button that I can to make sure that happens. They need to follow their leadership.

Now, I want to ask you to respond to a question that I get from citizens. Does anybody really want to throw out good, educated and accomplished young people who have jobs, some serving their country, brought to this country through no fault of their own? We're talking about the DACA recipients. What do you say to that citizen?

SESSIONS:

I say that it cannot be the policy of the United States that one can bring a young person in the country and they can't be deported. That's not a sustainable policy overall. However...

TILLIS:

I agree with that.

SESSIONS:

... all right, so however...

TILLIS:

But you realize that that's a statement from a citizen who also happens to be United States president, tweeted on September the 14th? So what do you say to him when he says that to you directly in the Oval Office?

SESSIONS:

The president has made clear that he would like to deal compassionately with people, young people, who came here and who have been here a long time and who have had -- and performed well in our country. And he would like to have reform in that area. But he wants some other things that are essential, to go with it, as I think you do.

TILLIS:

Do you -- I do -- I do. And again, I should've mentioned that I always appreciated your chairmanship in the Immigration Subcommittee. I always characterized it as a debate club, because you and I got a little bit of difference in position (ph)...

(CROSSTALK)

SESSIONS:

Well, you -- you were an active and valuable participant.

TILLIS:

You were a great leader.

I want to ask another question about DACA. It's your opinion that that's an executive branch overreach?

SESSIONS:

Exactly.

TILLIS:

So it would -- it would also be your opinion that, every day that the president has delayed until May the 5th, that he's actually condoning an executive branch overreach; that, in an ideal world, he would've just ended the program and caused Congress to do their job back on September 5th?

SESSIONS:

The Department of Homeland Security has committed a lot of effort to start that program, and they need some time to wind it down. I think this is an appropriate -- the program...

TILLIS:

But why not January?

SESSIONS:

... well, we think...

TILLIS:

Or Christmas?

SESSIONS:

... that's what they requested and they feel is appropriate. And I believe it's appropriate to wind down the program.

TILLIS:

What you think the president -- I'm sorry, because I'm running out of time and I do have to preside -- what you think the president meant in a tweet back in early September, when he said, "We have six months to legalize DACA -- six months to legalize DACA or I will revisit the issue"? Would you -- would you advise him that he has no administrative authority to revisit this issue?

SESSIONS:

I'm not sure what the president meant, exactly, in these short statements on. But I know that he wants to fix this problem, as you do.

TILLIS:

I do. And you were in the Senate for 20 years, is that right?

SESSIONS:

That's correct.

TILLIS:

How many successful outcomes for immigration reform did you observe over 20 years?

SESSIONS:

Not many.

TILLIS:

Or any?

SESSIONS:

Well, I saw some bad things happen.

TILLIS:

OK. Well, that...

SESSIONS:

But anything that -- my little line has always been, any time you brought up anything in this body on immigration that would actually work, that would reduce lawlessness, it never passed.

TILLIS:

So, General Sessions, if we go down the path of -- if -- you know, there are two extremes in this debate. There is the -- there are "We don't need borders, we need bridges." They're wrong. We have the other group that says, "They entered this country illegally; even if they were minors, they all need to go home."

If we allow either of those two ends of the spectrum to dominate the debate, where do you think we're going to be 20 years now on immigration reform?

SESSIONS:

I think that's probably not a -- really a fair analysis of it. I think the American people are prepared -- what the American people want and what I'd like to see is us end the lawlessness. Does anybody advocate allowing people to enter the country unlawfully? I think not...

TILLIS:

Absolutely not. And I got to finish at the second mark. What I'd like, because you are the attorney general -- but you and a number of years under of your staff are actively engaged in the immigration reform strategy.

And I would ask people to think reasonably about how we can go about taking care of every layer of issues that we have there, whether it's the DACA population, the work visa programs, the abuses of our visa waiver programs or visa programs and then the illegally present.

Until we get sane people coming in a room and recognizing we're not going to get it all done in one bill -- hadn't even been done when the Democrats had supermajorities -- then we've got to have people getting into a constructive dialogue and take these as chunks, or people who will be here 20 years from

now -- I won't be one of them -- are going to be guilty of the same failure of the last 20 years.

And I look forward to working with you and having people in your office productively engage in something that produces an outcome. Thank you.

SESSIONS:
Thank you. We have an opportunity, Senator Tillis, right now.

GRASSLEY:
Before we break for lunch, if Senator Franken's here (OFF MIKE) I want to say something that Senator Feinstein and I know, that maybe, Senator Franken, you don't know, that may bring some understanding. So I want to read here (ph) -- Mr. Comey briefed Ranking Member Feinstein and me about the Russia investigation back in March. He provided some specific information that I think would resolve Senator Franken's concerns about the attorney general.

Unfortunately, we were not at liberty to say something that was given to us in a secure briefing, but after that briefing, the ranking member and I wrote to the FBI and requested that the FBI give the full committee -- all 20 members of this committee -- to know what the two of us know from that briefing.

The FBI did not do that, and, now that we have conflicts -- and now we have conflicts that I think could have been avoided if the FBI would just have been more transparent with the oversight of this committee. We'll adjourn now for...

FEINSTEIN:
No, no -- Senator Hirono hasn't had an opportunity.

GRASSLEY:
No, two of them haven't. I announced that we were going to...

all your equipment, bring anything you want." And took us weeks to make up our mind to do it. Any reason for that?

SESSIONS:
I would say to you that I would consider your concerns.

LEAHY:
Well, I've had, now going into the nature of the briefings -- I've had enough briefings on this, have yet to see any evidence that Cuban government was responsible. If there is, have somebody meet with me in the skiff. They can tell me. Will you do that?

SESSIONS:
We will evaluate that. Yes.

LEAHY:
Now, is citizenship a reliable indicator of terrorist threat?

SESSIONS:
I'm not -- I don't know exactly what you mean by that.

LEAHY:
Well, it forms the basis of the president's latest travel ban. And both the former Director Comey and John Kelly said that citizenship is not a reliable indicator. But I'll ask you one last question. Feel free to answer any way you want.

When you're talking about DACA, in your statement announcing the end of DACA, you argue that was an example of Obama's failure to enforce laws. You then claim failure to enforce the laws has put our nation risk of crime, violence and even terrorism. How many DACA recipients have been involved in terrorism?

SESSIONS:

Mr. Chairman, I think in the previous hearing, you ask one of my attorneys from the Department of Justice about that. And I believe you were incorrect in the quote to him, and I...

LEAHY:

I asked him if he can provide a single example of a DACA recipient involved in terrorist activity and he said he was not aware of any examples. Is that inaccurate?

SESSIONS:

Most importantly, I want to correct that my comments did not focus solely on DACA recipients. It was on others that entered the country unlawfully.

LEAHY:

Well that's...

SESSIONS:

I believe that's a correct summary of the matter.

LEAHY:

Well, I ran it back through your civil division chief and he did not know of a single example of a DACA recipient involved in terrorist activity.

SESSIONS:

Well, we know there are 2,000 that have already been taken off as DACA recipients for serious criminal -- crimes...

(CROSSTALK)

SESSIONS:

... drugs and capital murder and rape.

LEAHY:

The Cato institute has found that DREAMers are less likely to be incarcerated than native-born Americans with the same age, education, profiles. And the Cato Institute is not some left- wing group by any means.

SESSIONS:

Well, they believe in open borders.

GRASSLEY:

Senator Durbin?

DURBIN:

Thank you, Mr. Chairman.

Two thousand out of 780,000 DACA applicants were found to have disqualifying criminal records, is that what you're saying?

SESSIONS:

I'm saying after they were accepted into the DACA program -- actually accepted, 2,000 have been removed as a result of serious criminal...

DURBIN:

Two thousand out of 780,000?

SESSIONS:

I think that's the correct number, over a fairly short period of time.

DURBIN:

How many people have been...

SESSIONS:

I'm not contending that there's any disproportionate amount of crime among that group, although we are seeing young gang members being infiltrated, but they've come in after the deadline for DACA, so they wouldn't be in that group.

DURBIN:

So -- I want to make sure I'm clear, they are escaping the criminal background check, fingerprinting requirements of DACA and they have criminal records and they're getting through anyway?

SESSIONS:

No. No, no, what I was saying was, after they've done a background check, been approved for DACA, I believe 2,000 have subsequently been convicted of some sort of serious offense.

DURBIN:

Out of 800,00...

SESSIONS:

...and are being removed out of it.

DURBIN:

And we've had -- 100,000 people have been turned down buying -- trying to buy guns because they had felony records. I don't think people are talking about ending the sale of guns because of the likelihood that a felon would buy it.

SESSIONS:

Well, that's not the basis, as you know, for our DACA difficulties. It was a legal matter, from our perspective, and I do think, Senator Durbin, I know you care about it, if people could seize this opportunity some good things might happen.

DURBIN:

I hope they will. I want to make sure I understand the guidance that you've released from your department when it comes to LGBTQ rights and religious freedom. Under the guidance which you've released to all the federal ministry of agencies and executive departments on religious liberty, let me ask you this question. Could a Social Security Administration employee refuse to accept to process spousal or survivor benefits paperwork for surviving same-sex spouse?

SESSIONS:

That's something I've never thought would arise, but I would have to give you a written answer to that, if you don't mind.

DURBIN:

I'd like to have that. A federal -- could a federal contractor refuse to provide services to LGBTQ people, including in emergencies, without risk of losing federal contracts?

SESSIONS:

Likewise. But I would say to you, are you citing Title VII for this or the guidance that we...

DURBIN:

The guidance.

SESSIONS:

I'm not sure that that's covered by it, but I will look.

HIRONO:

Yes. And so you would acknowledge...

SESSIONS:

And to stop (ph) the entire process. And I think these judges need to be careful that they're not just setting policy and using their power to...

HIRONO:

Well, let me get to one more, then clarify...

SESSIONS:

...block the president's ability to protect America.

HIRONO:

My time, you're...

SESSIONS:

Just let me finish.

HIRONO:

I know. We heard you. I heard you, the -- when you gave your explanation. But clearly, all district court judges that can issue injunctions can issue rulings that impacts the entire state -- entire country.

Because that happened in the Texas situation, where the Texas district judge prevented the implementation of President Obama's DACA expansion and DAPA. So you're not saying that district judges do not have that authority?

SESSIONS:

Under the current law, they do. It's been going on for quite a number of years.

HIRONO:

Yes.

SESSIONS:

It's picked up some speed, it's subject to criticism and judges need to be careful before they do that.

HIRONO:

Let's say that they are. Regarding the U.S. attorneys, who was involved in the decisions to dismiss all of the U.S. attorneys without any warning and why was it done when it was done?

SESSIONS:

The -- we had gone for a number of months, about half of the United States attorneys in the country had already resigned. It's traditional that they're replaced by the next administration and President -- I believe President Clinton did the same, issued a single order, which precedent was -- there's precedent for it, to complete the process of changeover.

HIRONO:

So it was totally President Trump who made that decision? You were not involved in that decision?

SESSIONS:

I believe the responsibility is the president's.

HIRONO:

You were not involved in that...

SESSIONS:

Actually...

HIRONO:
...decision to fire them all?

SESSIONS:
Actually, I think the -- I can't -- I can't believe I can't remember that. But it -- it's an important issue. The president appoints United States attorneys and it was appropriate, I thought at that time, to make the change.

HIRONO:
So you were involved?

SESSIONS:
Yes, I was involved.

HIRONO:
I have a question about DACA. When the young people signed up for DACA, they were relying on the -- I supposed that they've -- what they were told or given information, that the information they provided would not be used to target them for deportation.

And now there are at least three pending law suits to -- I believe in New York and one in California. And the basis of the law suit is that there are due process concerns about the -- the president's action to end DACA as a bait and switch, due process concerns.

Did you consider the bait and switch problem in issuing your later (ph) of opinion on the legality of DACA?

SESSIONS:

I believe it was known and considered. Obviously, it's the Department of Homeland Security that decides how to administer and gather evidence and what cases to make priorities...

HIRONO:

Except that you were the one who said that DACA is unconstitutional and illegal. That was your opinion.

SESSIONS:

Yes.

HIRONO:

That you issued.

SESSIONS:

Right.

HIRONO:

So did you consider the -- any due process considerations, bait and switch considerations when you issued that letter opinion that it was unconstitutional?

SESSIONS:

I don't believe there was any explicit discussion of that. Anything in -- any documents from the Department of Justice. But it's a valid issue that needs to be discussed and considered.

HIRONO:

Yes. It will be.

SESSIONS:

You're right to raise it. And I don't think Homeland Security has any policy to do as you suggest.

HIRONO:

Well, there number of DACA recipients who have renewed their DACA status for two years and -- and they have different expiration times for when their DACA status ends. What happens to the recipients of the DACA -- if DACA ends in five months, for example?

Or if these three pending cases determines that DACA is in fact unconstitutional, what happens to these DACA recipients who are -- whose DACA status has not expired, but if the court says that they are -- that this is a based on unconstitutional law, what happens to these people?

GRASSLEY:

Senator Sessions, before you answer that, you'll be done when you get two more questions from Senator Blumenthal. He wanted a third round and that'll be the last one. Then we're going to go vote anyway. So go ahead and answer Senator Hirono, and then Senator Blumenthal can ask you his questions.

SESSIONS:

All right. So you were asking?

HIRONO:

If -- if DACA ends in five months and the Congress has not acted and all these...

SESSIONS:

Yes.

HIRONO:

...DACA recipients are still DACA recipients. Or if a court, because there are three pending court cases. If the courts decide that this is unconstitutional, what happens to all these people?

SESSIONS:
The answer to that is in your hands. Congress has the ability to deal with this problem in any number of ways. The president has indicated he's willing to support reform.

And -- and -- and be -- try to work the fix this problem and help these young people that justify help, if Congress so decides. And I think we need to get on with it. It's not going to work with just simply an amnesty without any improvement in the loopholes and problems and we've got in immigration. But if we work together, something can be done on that. As...

(CROSSTALK)

HIRONO:
It all depends on whether DACA is constitutional or not. Thank you...

GRASSLEY:
We've got to let him ask his questions. Go ahead Senator Blumenthal.

SESSIONS:
I was disoriented thinking I had to face Senator Blumenthal a third time. Forgive me.

BLUMENTHAL:
Thank you for answering all our questions today, Mr. Attorney General. I -- I want to ask you -- first of all, just to say I think that many of my colleagues and I

communication by others, is simply my opinion. I have no knowledge of it and -- and -- and don't believe it happened.

GRASSLEY:

I didn't hear you when you asked for a minute to respond to Senator Hirono. If you remember what she asked you and you want to respond to that at this point.

SESSIONS:

No, I think I'm fine.

GRASSLEY:

OK. Once again, thank you very much for accommodating us for five hours. Thank you very much.

SESSIONS:

Thank you, sir.

List of Panel Members and Witnesses

PANEL MEMBERS:

SEN. CHARLES E. GRASSLEY, R-IOWA CHAIRMAN

SEN. ORRIN G. HATCH, R-UTAH

SEN. LINDSEY GRAHAM, R-S.C.

SEN. JOHN CORNYN, R-TEXAS

SEN. MIKE LEE, R-UTAH

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SEN. AMY KLOBUCHAR, D-MINN.

SEN. AL FRANKEN, D-MINN.

SEN. CHRIS COONS, D-DEL.

SEN. RICHARD BLUMENTHAL, D-CONN.

SEN. MAZIE K. HIRONO, D-HAWAII

WITNESSES:

ATTORNEY GENERAL JEFF SESSIONS

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Complete written testimony for this event Oct. 18, 2017

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EXHIBIT LL

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The White House
Office of the Press Secretary

For Immediate Release October 08, 2017

President Donald J. Trump's Letter to House and Senate Leaders & Immigration Principles and Policies

President Donald J. Trump's Letter to House and Senate Leaders:

I am pleased to transmit to you my Administration's principles for reforming our Nation's immigration system. In 2012, after the Congress rejected legislation offering legal status and work permits to illegal immigrants, the previous Administration bypassed the Congress and

granted those same benefits unilaterally. These actions threatened Congress's status as a coequal branch of Government and have resulted in a surge of illegal immigration.

As President, I took an oath to uphold the Constitution, which makes clear that all legislative powers are vested in the Congress, not the President.

I, therefore, tasked the relevant executive departments and agencies to conduct a bottom-up review of all immigration policies to determine what legislative reforms are essential for America's economic and national security. Rather than asking what policies are supported by special interests, we asked America's law enforcement professionals to identify reforms that are vital to protect the national interest. In response, they identified dangerous loopholes, outdated laws, and easily exploited vulnerabilities in our immigration system – current policies that are harming our country and our communities.

I have enclosed the detailed findings of this effort. These findings outline reforms that must be included as part of any legislation addressing the status of Deferred Action for Childhood Arrivals (DACA) recipients. Without these reforms, illegal immigration and chain migration, which severely and unfairly burden American workers and taxpayers, will continue without end.

Immigration reform must create more jobs, higher wages, and greater security for Americans -- now and for future generations. The reforms outlined in the enclosure are necessary to ensure prosperity, opportunity, and safety for every member of our national family.

Sincerely,

Donald J. Trump

IMMIGRATION PRINCIPLES & POLICIES

1. BORDER SECURITY

A. Border Wall. Our porous southern border presents a clear threat to our national security and public safety, and is exploited by drug traffickers and criminal cartels. The Administration therefore proposes completing construction of a wall along the southern border of the United States.

i. Ensure funding for the southern border wall and associated infrastructure.

ii. Authorize the Department of Homeland Security (DHS) to raise, collect, and use certain processing fees from immigration benefit applications and border crossings for functions

related to border security, physical infrastructure, and law enforcement.

iii. Improve infrastructure and security on the northern border.

B. Unaccompanied Alien Children. Loopholes in current law prevent "Unaccompanied Alien Children" (UACs) that arrive in the country illegally from being removed. Rather than being deported, they are instead sheltered by the Department of Health and Human Services at taxpayer expense, and subsequently released to the custody of a parent or family member—who often lack lawful status in the United States themselves. These loopholes in current law create a dramatic pull factor for additional illegal immigration and in recent years, there has been a significant increase in the apprehensions of UACs at our southern border. Therefore, the Administration proposes amending current law to ensure the expeditious return of UACs and family units.

i. Amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVRPA) to treat all UACs the same regardless of their country of origin, so long as they are not victims of human trafficking and can be safely returned home or removed to safe third countries.

ii. Clarify that alien minors who are not UACs (accompanied by a parent or legal guardian or have a parent or legal guardian in the United States available to provide care and physical custody) are not entitled to the presumptions or protections granted to UACs.

iii. Terminate the Flores Settlement Agreement (FSA) by passing legislation stipulating care standards for minors in custody and clarify corresponding provisions of the TVPRA that supersede the FSA.

iv. Amend the definition of "special immigrant," as it pertains to juveniles, to require that the applicant prove that reunification with both parents are not viable due to abuse, neglect, or abandonment and that the applicant is a victim of trafficking. The current legal definition is abused, and provides another avenue for illicit entry.

v. Repeal the requirement that an asylum officer have initial jurisdiction over UAC asylum applications to expedite processing.

C. Asylum Reform. The massive asylum backlog has allowed illegal immigrants to enter and stay in the United States by exploiting asylum loopholes. There are more than 270,000 pending cases in the asylum backlog before USCIS, and approximately 250,000 asylum cases before EOIR. Therefore, the Administration proposes correcting the systemic deficiencies that created that backlog.

i. Significantly tighten standards and eliminate loopholes in our asylum system.

ii. Elevate the threshold standard of proof in credible fear interviews.

iii. Impose and enforce penalties for the filing of frivolous, baseless, or fraudulent asylum applications, and expand the use of expedited removal as appropriate.

iv. Close loopholes in the law to bar terrorist aliens from entering the country and receiving any immigration benefits.

v. Clarify and enhance the legal definition of "aggravated felony" to ensure that criminal aliens do not receive certain immigration benefits.

vi. Expand the ability to return asylum seekers to safe third countries.

vii. Ensure only appropriate use of parole authority for aliens with credible fear or asylum claims, to deter meritless claims and ensure the swift removal of those whose claims are denied.

viii. Prevent aliens who have been granted asylum or who entered as refugees from obtaining lawful permanent resident status if they are convicted of an aggravated felony.

ix. Require review of the asylee or refugee status of an alien who returns to their home country absent a material change in circumstances or country conditions.

D. Ensure Swift Border Returns. Immigration judges and supporting personnel face an enormous case backlog, which cripples our ability to remove illegal immigrants in a timely manner. The Administration therefore proposes providing additional resources to reduce the immigration court backlog and ensure swift return of illegal border crossers.

i. Seek appropriations to hire an additional 370 immigration judges.

ii. Establish performance metrics for immigration judges.

iii. Seek appropriations to hire an additional 1,000 U.S. Immigration and Customs Enforcement (ICE) attorneys, with sufficient support personnel.

iv. Ensure sufficient resources for detention.

E. Inadmissible Aliens. The current statutory grounds for inadmissibility are too narrow, and allow for the admission of individuals who threaten our public safety. Therefore, the Administration proposes expanding the criteria that render aliens inadmissible and ensure that such aliens are maintained in continuous custody until removal.

i. Expand the grounds of inadmissibility to include gang membership.

ii. Expand the grounds of inadmissibility to include those who have been convicted of an aggravated felony; identity theft; fraud related to Social Security benefits; domestic

violence; child abuse; drunk driving offenses; failure to register as a sex offender; or certain firearm offenses, including the unlawful purchase, sale, possession, or carrying of a firearm.

iii. Expand the grounds of inadmissibility to include former spouses and children of individuals engaged in drug trafficking and trafficking in persons, if the official determines the divorce was a sham or the family members continue to receive benefits from the illicit activity.

F. Discourage Illegal Re-entry. Many Americans are victims of crime committed by individuals who have repeatedly entered the United States illegally, which also undermines the integrity of the entire immigration system. Therefore, the Administration proposes increasing penalties for repeat illegal border crossers and those with prior deportations.

G. Facilitate the Removal of Illegal Aliens from Partner Nations. Current barriers prevent the Federal Government from providing assistance to partner nations for the purpose of removing aliens from third countries whose ultimate intent is entering the United States. Therefore, the Administration proposes authorizing DHS to provide foreign assistance to partner nations to support migration management efforts conducted by those nations. This will allow DHS to improve the ability of Central and South American countries to curb northbound migration flows and to interrupt ongoing human smuggling, which will also substantially reduce pressures on U.S. taxpayers.

H. Expedited Removal. Limited categories of aliens are currently subject to expedited removal, which erodes border integrity and control by impeding the ability of the Federal Government to efficiently and quickly remove inadmissible and deportable aliens from the United States. The Administration seeks to expand the grounds of removability and the categories of aliens subject to expedited removal and by ensuring that only aliens with meritorious valid claims of persecution can circumvent expedited removal.

2. INTERIOR ENFORCEMENT

A. Sanctuary Cities. Hundreds of sanctuary jurisdictions release dangerous criminals and empower violent cartels like MS-13 by refusing to turn over incarcerated criminal aliens to Federal authorities. Therefore, the Administration proposes blocking sanctuary cities from receiving certain grants or cooperative agreements administered or awarded by the Departments of Justice and Homeland Security

i. Restrict such grants from being issued to:

a. Any state or local jurisdiction that fails to cooperate with any United States government entity regarding enforcement of federal immigration laws;

b. Any entity that provides services or benefits to aliens not entitled to receive them under existing Federal law; and

c. Any state or local jurisdiction that provides more favorable plea agreements or sentencing for alien criminal defendants for the purpose of immigration consequences of convictions.

ii. Clarify ICE's detainer authority, and States' and localities' ability to honor that authority, so that States will continue to detain an individual pursuant to civil immigration law for up to 48 hours so that ICE may assume custody.

iii. Provide indemnification for State and local governments to protect them from civil liability based solely on compliance with immigration detainers and transportation of alien detainees.

iv. Require State and local jurisdictions to provide all information requested by ICE relating to aliens in their custody and the circumstances surrounding their detention.

v. Clarify the definition of a criminal conviction for immigration purposes, to prevent jurisdictions from vacating or modifying criminal convictions to protect illegal immigrants, and roll back erosion of the criminal grounds of removal by courts under the "categorical approach."

B. Immigration Authority for States and Localities. The prior Administration suppressed cooperative partnerships between the Federal Government and State or local governments that wanted to help with immigration enforcement, undermining the security of our communities. Therefore, the Administration proposes enhancing State and local cooperation with Federal immigration law enforcement in order to ensure national security and public safety.

i. Clarify the authority of State and local governments to investigate, arrest, detain, or transfer to Federal custody aliens for purposes of enforcing Federal immigration laws when done in cooperation with DHS.

ii. Authorize State and local governments to pass legislation that will support Federal law enforcement efforts.

iii. Incentivize State and local governments to enter into agreements with the Federal Government regarding immigration enforcement efforts.

iv. Provide the same extent of immunity to State and local law enforcement agencies performing immigration enforcement duties within the scope of their official role as is provided to Federal law enforcement agencies.

C. Visa Overstays. Visa overstays account for roughly 40 percent of illegal immigration. The Administration therefore proposes strengthening the removal processes for those who overstay or otherwise violate the terms of their visas, and implementing measures to prevent future visa overstays which may account for a growing percentage of illegal immigration.

i. Discourage visa overstays by classifying such conduct as a misdemeanor.

ii. Require that all nonimmigrant visas held by an alien be cancelled when any one nonimmigrant visa held by that alien is cancelled, to ensure that if an alien abuses one type of visa, he cannot circumvent the immigration system by then relying on another type of visa to enter the United States.

iii. Bar all visa overstays from immigration benefits for a certain period of time with no waiver.

iv. Clarify that the government does not bear any expense for legal counsel for any visa overstay in removal or related proceedings.

v. Require DHS to provide all available data relating to any deportable alien to the Department of Justice's National Crime Information Center for purposes of that alien's inclusion in the Immigration Violators File, with the exception of aliens who cooperate with DHS on criminal investigations.

vi. Enhance the vetting of bond sponsors for those aliens who enter without inspection, to ensure that bond sponsors undergo thorough background checks prior to being eligible to post or receive a bond.

vii. Permit the Department of State to release certain visa records to foreign governments on a case-by-case basis when sharing is in the U.S. national interest.

viii. Permit the Department of State to review the criminal background of foreign diplomats or government officials contained in the National Crime Information Center database before visa adjudication, regardless of whether the applicant's fingerprints are in the database.

D. Necessary Resources. The relatively small number of ICE officers is grossly inadequate to serve a nation of 320 million people with tens of millions of tourists and visitors crossing U.S. ports of entry every year. Therefore, the Administration proposes providing more resources that are vitally needed to enforce visa laws, restore immigration enforcement, and dismantle criminal gangs, networks and cartels.

i. Seek appropriations to hire an additional 10,000 ICE officers.

ii. Seek appropriations to hire an additional 300 Federal prosecutors to support Federal immigration prosecution efforts.

iii. Reforms to help expedite the responsible addition of new ICE personnel.

E. Detention Authority. Various laws and judicial rulings have eroded ICE's ability to detain illegal immigrants (including criminal aliens), such that criminal aliens are released from ICE custody into our communities. Therefore, the Administration proposes terminating outdated catch-and-release laws that make it difficult to remove illegal immigrants.

i. Ensure public safety and national security by providing a legislative fix for the Zadvydas loophole, and authorizing ICE, consistent with the Constitution, to retain custody of illegal aliens whose home countries will not accept their repatriation.

ii. Require the detention of an alien: (1) who was not inspected and admitted into the United States, who holds a revoked nonimmigrant visa (or other nonimmigrant admission document), or who is deportable for failing to maintain nonimmigrant status; and (2) who has been charged in the United States with a crime that resulted in the death or serious bodily injury of another person.

F. Legal Workforce. Immigrants who come here illegally and enter the workforce undermine job opportunities and reduce wages for American workers, as does the abuse of visa programs. Therefore, the Administration increasing employment verification and other protections for U.S. workers.

i. Require the use of the electronic status-verification system ("E-Verify") to ensure the maintenance of a legal workforce in the United States.

ii. Preempt any State or local law relating to employment of unauthorized aliens.

iii. Impose strong penalties, including debarment of Federal contractors, for failure to comply with E-Verify.

iv. Increase penalties for any person or entity engaging in a pattern or practice of violations.

v. Require the Social Security Administration to disclose information to DHS to be used in the enforcement of immigration laws.

vi. Expand the definition of unlawful employment discrimination to include replacement of U.S. citizen workers by nonimmigrant workers or the preferential hiring of such foreign workers over U.S. citizen workers.

vii. Strengthen laws prohibiting document fraud related to employment or to any other immigration benefit.

G. Deportable Aliens. The categories of aliens that currently qualify for deportation are insufficiently broad to remove aliens who pose a threat to the security of the American public. Therefore, the Administration proposes expanding and clarifying the type of aliens who present a danger to Americans and should therefore be removable on an expedited basis.

i. Expand grounds of deportability to explicitly include gang members.

ii. Expand the grounds of deportability to include those convicted of multiple drunk driving offenses or a single offense involving death or serious injury.

iii. Expand the grounds of deportability to include those who fail to register as a sex offender.

iv. Clarify the technical definition of "aggravated felony" by referring to "an offense relating to" each of the categories of crimes, rather than specifying the crimes themselves. This will ensure certain kinds of homicide, sex offenses, and trafficking offenses are encompassed within the statutory definition.

H. Gang Members. Today, known gang members are still able to win immigration benefits despite the dangers they pose to American society. As such, the Administration proposes implementing measures that would deny gang members and those associated with criminal gangs from receiving immigration benefits.

I. Visa Security Improvements. Without sufficient resources, the State Department is hindered from adequately vetting visa applicants. As such, the Administration proposes enhancing State Department visa and traveler security resources and authorities.

i. Expand the Department of State's authority to use fraud prevention and detection fees for programs and activities to combat all classes of visa fraud within the United States and abroad.

ii. Ensure funding for the Visa Security Program and facilitate its expansion to all high-risk posts.

iii. Increase the border crossing card fee.

iv. Grant the Department of State authority to apply the Passport Security Surcharge to the costs of protecting U.S. citizens and their interests overseas, and to include those costs when adjusting the surcharge.

v. Strengthen laws prohibiting civil and criminal immigration fraud and encourage the use of advanced analytics to proactively detect fraud in immigration benefit applications.

3. MERIT-BASED IMMIGRATION SYSTEM

A. Merit-Based Immigration. The current immigration system prioritizes extended family-based chain migration over skills-based immigration and does not serve the national interest. Decades of low-skilled immigration has suppressed wages, fueled unemployment and strained federal resources. Therefore, the Administration proposes establishing a merit-based immigration system that protects U.S. workers and taxpayers, and ending chain migration, to promote financial success and assimilation for newcomers.

i. End extended-family chain migration by limiting family-based green cards to spouses and minor children and replace it with a merit-based system that prioritizes skills and economic contributions over family connections.

ii. Establish a new, points-based system for the awarding of Green Cards (lawful permanent residents) based on factors that allow individuals to successfully assimilate and support themselves financially.

iii. Eliminate the "Diversity Visa Lottery."

iv. Limit the number of refugees to prevent abuse of the generous U.S. Refugee Admissions Program and allow for effective assimilation of admitted refugees into the fabric of our society.

EXHIBIT MM

The New York Times https://nyti.ms/2y5qOWr

POLITICS

White House Makes Hard-Line Demands for Any 'Dreamers' Deal

Leer en español

By MICHAEL D. SHEAR OCT. 8, 2017

WASHINGTON — The White House on Sunday delivered to Congress a long list of hard-line immigration measures that President Trump is demanding in exchange for any deal to protect the young undocumented immigrants known as Dreamers, imperiling a fledgling bipartisan push to reach a legislative solution.

Before agreeing to provide legal status for 800,000 young immigrants brought here illegally as children, Mr. Trump will insist on the construction of a wall across the southern border, the hiring of 10,000 immigration agents, tougher laws for those seeking asylum and denial of federal grants to "sanctuary cities," officials said.

The White House is also demanding the use of the E-Verify program by companies to keep illegal immigrants from getting jobs, an end to people bringing their extended family into the United States, and a hardening of the border against thousands of children fleeing violence in Central America. Such a move would shut down loopholes that encourage parents from Guatemala, El Salvador and Honduras to send their children illegally into the United States, where many of them melt into American communities and become undocumented immigrants.

"Now is the time for Congress to adopt these immigration priorities," Marc Short, the president's legislative director, told reporters during a conference call on Sunday night. Otherwise, he added, illegal immigration "will likely increase."

While it is unclear whether Mr. Trump views the demands as absolute requirements or the beginning of a negotiation, the proposals, taken together, amount to a Christmas-in-October wish list for immigration hard-liners inside the White House. Immigration activists have long opposed many of the proposals as draconian or even racist.

The demands were developed by a half-dozen agencies and departments, officials said. But among the officials behind the demands are Stephen Miller, the president's top policy adviser, and Attorney General Jeff Sessions, both of whom have long advocated extremely aggressive efforts to prevent illegal entry into the country and crack down on undocumented immigrants already here.

The demands represented a concerted effort to broaden the expected congressional debate about the Dreamers to one about overhauling the entire American immigration system — on terms that hard-line conservatives have been pursuing for decades.

In a letter to lawmakers, Mr. Trump said his demands would address "dangerous loopholes, outdated laws and easily exploited vulnerabilities" in the immigration system, asserting that they were "reforms that must be included" in any deal to address the Dreamers.

Democratic leaders in Congress reacted with alarm, saying the demands threaten to undermine the president's own statements in which he had pledged to work across the aisle to protect the Dreamers through legislation.

"The administration can't be serious about compromise or helping the Dreamers if they begin with a list that is anathema to the Dreamers, to the immigrant community and to the vast majority of Americans," Senator Chuck Schumer of New York and Representative Nancy Pelosi of California, the Democratic leaders in the Senate and the House, said in a joint statement.

Mr. Schumer and Ms. Pelosi, who declared after a White House dinner last month that they had reached a deal with Mr. Trump to protect Dreamers, denounced the president's demands as failing to "represent any attempt at compromise." They called it little more than a thinly veiled effort to scuttle negotiations even before they begin in earnest.

"If the president was serious about protecting the Dreamers, his staff has not made a good-faith effort to do so," they added.

Last month, the president abruptly ended an Obama-era policy called Deferred Action for Childhood Arrivals, or DACA, in which former President Barack Obama had used his executive authority to protect about 800,000 of the young immigrants from the threat of deportation and provide them work permits.

Even as Mr. Trump kept his campaign promise to halt what he had described as "one of the most unconstitutional actions ever undertaken by a president," he quickly added that he would work with Democrats in Congress to replace the executive policy with legislation, giving them six months to do so. But a White House official said on Sunday that Mr. Trump was not open to a deal that would eventually allow the Dreamers to become United States citizens.

"The president's position has been that he's called on Congress to come up with a permanent solution and a fix to this process," Sarah Huckabee Sanders, the White House press secretary, said last week.

Immigration advocates will most likely urge Democratic leaders to refuse a deal that includes the president's proposals. But immigration and human rights advocates are also under pressure to do something for the Dreamers, thousands of whom will begin, by March, losing permission to work and protection from deportation if a deal is not reached.

Privately, many advocates have acknowledged that a negotiated deal with the Republican president is likely to include some immigration changes.

Administration officials responsible for securing the border and enforcing the nation's immigration laws told reporters on Sunday night that the changes requested

by the president were essential to protecting American workers from unfair competition and deterring what they described as a never-ending flow of illegal immigrants into the country.

On the president's wish list is a long-sought Republican goal of stopping American residents from sponsoring the arrival of extended family members. His demand would limit residents to bringing only spouses and children.

Also central to the effort, officials said, are legal changes that would strip away the rights of illegal immigrants to claim asylum or make another case to stay in the United States, allowing federal officials to more quickly deport them.

"We cannot have true border security if we don't change federal laws to ensure that people who are apprehended are removed," said Ron Vitiello, the acting deputy commissioner for Customs and Border Protection.

Thomas D. Homan, the acting director of Immigration and Customs Enforcement, said a vast increase in the number of agents and other federal resources would allow for a crackdown on immigration violators that had been difficult in the past.

Another key part of that crackdown would be on tens of thousands of children who have surged across the border with Mexico during the past several years, many of them seeking to escape gang-related violence in Central American countries. This year, about 38,500 children have been apprehended at the border without their parents.

Administration officials say the children — many of whom are sent to live with a cousin, aunt, uncle or sibling in the United States — must be turned back or quickly deported once they arrive. Under current law, many of them remain in the United States for years during legal proceedings to evaluate their asylum or refugee claims.

If the children are not deported quickly, officials say, many will never leave, eventually becoming a new population of sympathetic young immigrants who seek amnesty. That could create lasting cycles in which illegal immigrants demand to be given a legal status, the officials say.

The president's demands include new rules that say children are not considered "unaccompanied" at the border if they have a parent or guardian in the United States. They also propose treating children from Central America the same way they do children from Mexico, who can be repatriated more quickly, with fewer rights to hearings.

Mr. Trump is also calling for a surge in resources to pay for 370 additional immigration judges, 1,000 government lawyers and more detention space so that children arriving at the border can be held, processed and quickly returned if they do not qualify to stay longer.

Critics say the focus on deporting unaccompanied children is heartless and impractical. They say many were sent by their parents on long, dangerous treks in the hopes of avoiding poverty, hunger, abuse or death by gangs in their home countries.

Advocates acknowledge that more resources are necessary to speed up those hearings. But they argue that White House efforts to demand quick decisions are likely to merely result in many children being sent back to places where they are raped, beaten or killed.

Sending the children back with just a cursory hearing is "a recipe for disaster in terms of returning people to danger," said Wendy Young, the president of Kids in Need of Defense, a group that aids young refugees.

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A version of this article appears in print on October 9, 2017, on Page A1 of the New York edition with the headline: President Issues Terms of a Deal Over 'Dreamers'.

EXHIBIT OO

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.

ELAINE C. DUKE, Acting 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.

Case No. 16-cv-4756 (NGG)(JO)

DEFENDANTS' OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANTS

(Garaufis, J.)
(Orenstein, M.J.)

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York, in accordance with the Order of the Honorable James Orenstein, U.S. Magistrate Judge, dated September 27, 2017, Defendants, by and through counsel, provide the following Objections and Responses to Plaintiffs' First Set of Interrogatories. Defendants' objections and responses are based on information known to Defendants at this time, and are made without prejudice to additional objections should Defendants subsequently identify additional grounds for objection, or should additional or different information become available. The information submitted herewith is being provided in accordance with the Federal Rules of Civil Procedure, which generally permit discovery of matters not privileged that are relevant to the claims or defenses in this civil action

memorandum dated September 5, 2017 to James W. McCament, Acting Director, U.S. Citizenship and Immigration Services (USCIS), Thomas D. Homan, Acting Director U.S. Immigration and Customs Enforcement (ICE), Kevin K. McAleenan, Acting Commissioner, U.S. Customs and Border Protection (CBP), Joseph B. Maher, Acting General Counsel, Ambassador James D. Nealon, Assistant Secretary International Engagement, and Julie M. Kirchner, Citizenship and Immigration Services Ombudsman, regarding *Rescission of the June 15, 2012 Memorandum Entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children* ("DACA Rescission Memorandum"), which is publicly available and included in the certified Administrative Record filed in this action on October 6, 2017. The Administrative Record also contains non-privileged information actually considered by the Acting Secretary in connection with that decision.

Interrogatory No. 2

Please state the reason or reasons for Defendants' decisions (a) to terminate the DACA program on September 5, 2017; (b) to set March 5, 2018, as the end date for renewals; (c) to set October 5, 2017, as the deadline for renewal applications; and (d) to stop accepting initial applications or renewal applications, from DACA recipients whose status expired by September 5, 2017, as of September 5, 2017.

Objections to Interrogatory No. 2

1. Defendants incorporate by reference the above objections which apply to all interrogatories as well as the objections to the definitions and instructions.

2. Defendants object to Interrogatory No. 2 to the extent that the request seeks (a) attorney work product; (b) communications protected by the attorney-client privilege, (c) information protected by the deliberative-process privilege, the joint defense privilege, common interest privilege, or law enforcement privilege; (d) material the disclosure of which would violate legitimate privacy interests and expectations of persons not party to this litigation; (e) information protected by any form of executive privilege, including the presidential communications privilege; or (f) any other applicable privilege or protection.

3. Defendants object to Interrogatory No. 2 as containing four discrete subparts, as labeled (a) through (d). To the extent possible based on a reasonable review of their records and consistent with the above objections, Defendants will provide a non-privileged answer to each of these four sub-parts, but will treat them as separate interrogatories for the purpose of Plaintiffs' total limit on interrogatories.

Response to Interrogatory No. 2

Subject to these objections, Defendant DHS incorporates by reference herein its response to Interrogatory Number 1 in response to part (a) of this Interrogatory. Defendant DHS further states in response to part (a) that upon receiving the Attorney General's September 4, 2017 letter concluding DACA to be unlawful, Defendant DHS acted quickly to comply with the law by rescinding DACA and to mitigate litigation risk presented by Texas and the other plaintiff-states' assertion that they would amend the complaint in *Texas v. United States* to challenge DACA. Defendant DHS also incorporates by reference its response to Interrogatory 1 in response to parts (b), (c) and (d) of this Interrogatory and further states that the Acting Secretary, in considering both the Attorney General's advice regarding the unlawfulness and litigation-related vulnerabilities of DACA, as well as the complexities associated with winding down the policy, determined to provide a limited window in which USCIS will adjudicate certain requests for DACA and associated applications meeting certain parameters, as described in the DACA Rescission Memorandum. The deadlines referenced in parts (b), (c) and (d) of this Interrogatory were selected in order to facilitate the orderly wind-down of DACA without suddenly terminating deferred action for all DACA recipients.

The Acting Secretary decided to stop accepting initial DACA request or renewal requests from DACA recipients whose DACA expired before September 5, 2017, as of September 5, 2017, in accordance with the Acting Secretary's decision to rescind the DACA policy as of that date. Initial and renewal DACA requests already received by USCIS as of September 5, 2017, continue to be adjudicated.

October 5, 2017 was selected as the deadline for DHS acceptance of renewal requests for DACA grants set to expire between September 5, 2017 and March 5, 2018, in order to provide a limited grace period for such DACA recipients to properly file their renewal requests. The October 5 deadline was selected in order to not disadvantage DACA recipients with DACA grants set to expire between September 5, 2017, and March 5, 2018, who had not yet sought renewal, as compared with DACA recipients with DACA grants set to expire between September 5, 2017, and March 5, 2018, who had already submitted renewal requests as of September 5, 2017. The six-month timeframe was also selected in part because it is consistent with USCIS's prior practice of sending DACA recipients reminder notices approximately 180 days in advance of expiration encouraging those recipients to request renewal 150 to 120 days in advance of expiration of their current period of deferred action under DACA. October 5, 2017 was further selected as the deadline for submitting renewal requests for DACA grants set to expire between September 5, 2017 and March 5, 2018, due to operational considerations, in order to provide USCIS with sufficient time to adjudicate the majority of renewal requests before March 5, 2018.

Similarly, March 5, 2018 was selected as the end date for renewals in order to facilitate an efficient and orderly wind-down of DACA without suddenly terminating deferred action for all DACA recipients.

Interrogatory No. 3

Please identify the date, location, participants, and subject of any meetings or conversations among staff of the Department of Justice, Department of Homeland Security, and Executive Office of the President between January 20, 2017, and September 5, 2017, during which a decision was made on continuing or terminating the DACA program.

Objections to Interrogatory No. 3

1. Defendants incorporate by reference the above objections which apply to all interrogatories as well as the objections to the definitions and instructions.

2. Defendants object to Interrogatory No. 3 to the extent that the request seeks (a) attorney work product; (b) communications protected by the attorney-client privilege, (c) information protected by the deliberative-process privilege, the joint defense privilege, common

Interrogatory No. 5

Please identify the date, location, participants, and subject of any meetings or conversations that Defendants conducted between June 1, 2017 and September 5, 2017, with representatives or staff of a state that participated in the *Texas v. United States* litigation, regarding the decision whether to continue or terminate the DACA program.

Objections to Interrogatory No. 5

1. Defendants incorporate by reference the above objections which apply to all interrogatories as well as the objections to the definitions and instructions.

2. Defendants object to Interrogatory No. 5 to the extent that the request seeks (a) attorney work product; (b) communications protected by the attorney-client privilege, (c) information protected by the deliberative-process privilege, the joint defense privilege, common interest privilege, or law enforcement privilege; (d) material the disclosure of which would violate legitimate privacy interests and expectations of persons not party to this litigation; (e) information protected by any form of executive privilege, including the presidential communications privilege; or (f) any other applicable privilege or protection.

3. Defendants object to Interrogatory No. 5 as vague and overbroad to the extent it seeks information about meetings or conversations with individuals, the identity of which or whom is immaterial to the claims in this litigation, and because the burden of responding is disproportionate to the needs of this case.

4. Defendants object to Interrogatory No. 5 to the extent it seeks information from Civil Division litigation counsel, as retrieving any such information would be overly broad and unduly burdensome due to the nature of the Civil Division's representation of the interests of the United States.

5. Defendants object to Interrogatory No. 5 as seeking information that is not relevant because the legal validity of DACA does not depend on the details of any particular litigation, including the details of the *Texas v. United States* litigation, but rather, to legal principles set forth by the judiciary in its rulings.

6. Defendants object to Interrogatory No. 5 as containing four discrete subparts: (1) "identify the date . . . of any meetings . . ."; (2) "identify the . . . location . . . of any meetings . . ." (3) "identify the . . . participants . . . of any meetings . . ."; and (4) "identify the . . . subject of any meetings . . . ." To the extent possible based on a reasonable review of their records and consistent with the above objections, Defendants will provide a non-privileged answer to each of these four sub-parts, but will treat them as separate interrogatories for the purpose of Plaintiffs' total limit on interrogatories.

7. Defendants object to Interrogatory No. 5 as overbroad to the extent that "a state that participated in" includes all 26 plaintiff states and over fifteen states that participated as amici. Defendants also object to Interrogatory No. 5 as vague and overbroad to the extent that "representatives or staff of a state" could be interpreted to encompass any state employee or any other person "represent[ing]" any of the numerous states that "participated in" the *Texas v. United States* litigation. This overbroad request would thereby seek records of every meeting or discussion held between Defendants and hundreds of thousands of individuals who constitute "staff" or "representatives" of the more than 40 states that "participated" in some way in the litigation. Accordingly, Defendants will construe "representatives or staff of a state" to be limited to those persons known to have authority to represent the plaintiff states in high-level decision-making regarding the litigation.[2]

Response to Interrogatory No. 5

Subject to these objections, Defendant DOJ has identified the following meetings and conversations between officials of the Department of Justice and state officials with authority in the *Texas v. United States* litigation:

Date	*No. of Mtgs.*	*Location*	*Participant Names and Titles*	*Meeting Subject*
Summer 2017	Multiple	Telephone	- Career attorneys in the Civil Division, U.S. Dep't of Justice	Future proceedings in *Texas v. United States* litigation

[2] Pursuant to Defendants' prior reservation of the right to make additional objections should they subsequently identify additional grounds for objection, this objection has been added to Defendants' previous objections on October 16, 2017.

			- Counsel for plaintiff-states	
June 29, 2017 (approximate)	1	Telephone	- Chad Readler, Assistant Attorney General (Acting), U.S. Dep't of Justice - Scott Keller, Solicitor General, Texas	Forthcoming correspondence in *Texas v. United States* litigation
Aug. 17, 2017	1	Telephone	- Chad Readler, Assistant Attorney General (Acting), U.S. Dep't of Justice - Scott Keller, Solicitor General, Texas	Responses to pending motions and possibility of staying *Texas v. United States* litigation
Late Aug., 2017	1 or 2	Telephone	- Chad Readler, Assistant Attorney General (Acting), U.S. Dep't of Justice - Scott Keller, Solicitor General, Texas	Future proceedings in *Texas v. United States* litigation and United States plans for a decision regarding DACA policy
Late Aug. 2017 Or early Sept. 2017	1	Telephone	- Chad Readler, Assistant Attorney General (Acting), U.S. Dep't of Justice - Danielle Cutrona, Counselor to AG Sessions - Scott Keller, Solicitor General, Texas	Future proceedings in *Texas v. United States* litigation and United States plans for a decision regarding DACA policy
Week preceding Sept. 5, 2017	1	Telephone	- Jefferson B. Sessions, III, Attorney General of the United States - Chad Readler, Assistant Attorney General (Acting), U.S. Dep't of Justice - Jesse Panuccio, Principal Deputy Associate Attorney General, U.S. Dep't of Justice - Danielle Cutrona, Counselor to Attorney General Sessions - Ken Paxton, Attorney General, Texas - Other Texan attorneys	Proceedings in *Texas v. United States* litigation

Additionally, Defendant DHS states, on behalf of itself:

Date	***No. of Mtgs.***	***Location***	***Participant Names and Titles***	***Meeting Subject***
Aug. 8, 2017	1	Telephone	- Gene Hamilton, Senior Counselor to Acting Secretary - Michael Toth, Representative of the Texas Attorney General's Office	The June 29, 2017 letter from Texas Attorney General Ken Paxton to United States Attorney General Jefferson B. Sessions, requesting the Secretary of DHS phase out and rescind DACA by September 5, 2017.
Aug. 28, 2017 (approximate)	1	Telephone	- Gene Hamilton, Senior Counselor to Acting Secretary - Michael Toth, Representative of the Texas Attorney General's Office	Possible follow-up call regarding same subject.

Defendants reserve the right to supplement this response with any additional relevant, responsive, non-privileged information that is within its possession, custody, or control and capable of being ascertained with reasonable diligence.

Interrogatory No. 6

Please identify any and all Department of Homeland Security, Department of Justice, or other White House staff who were consulted for, participated in, or contributed to analysis of the lawfulness of the DACA program; the decision whether to continue or terminate the DACA program; or any decision regarding the nature of the DACA termination between January 20, 2017 and September 5, 2017.

Objections to Interrogatory No. 6

1. Defendants incorporate by reference the above objections which apply to all interrogatories as well as the objections to the definitions and instructions.

2. Defendants object to Interrogatory No. 6 to the extent that the request seeks (a) attorney work product; (b) communications protected by the attorney-client privilege, (c) information protected by the deliberative-process privilege, the joint defense privilege, common interest privilege, or law enforcement privilege; (d) material the disclosure of which would violate legitimate privacy interests and expectations of persons not party to this litigation; (e) information protected by any form of executive privilege, including the presidential communications privilege; or (f) any other applicable privilege or protection.

3. Defendants object to the interrogatory to the extent that it purports to require the identification of White House staff who were consulted for, participated in, or contributed to the analysis of the issues that are subject to this request. *See Cheney v. U.S. District Court*, 542 U.S. 367, 388 (2004).

4. Defendants object to Interrogatory No. 6 as vague and overbroad to the extent it seeks information about persons who "were consulted for, participated in, or contributed to analysis..." to the extent it seeks information about individuals with mere peripheral involvement, as the identity of such individuals is not relevant, such individuals are unlikely to have relevant information, and identifying all such individuals would be excessively burdensome and disproportionate to the needs of the case. Defendants will construe Interrogatory No. 6 to seek information about non-White House individuals who participated materially in the subject of this Interrogatory.

5. Defendants object to Interrogatory No. 6 as vague and overbroad to the extent it seeks information about "any decision regarding the nature of the DACA termination."

Defendants will construe Interrogatory No. 6 to seek information about the decisions challenged in this litigation.

6. Defendants object to Interrogatory No. 6 as containing three discrete subparts regarding: (1) "analysis of the lawfulness of the DACA program"; (2) "the decision whether to continue or terminate the DACA program"; or (3) "any decision regarding the nature of the DACA termination." To the extent possible based on a reasonable review of their records and consistent with the above objections, Defendants will provide a non-privileged answer to each of these three sub-parts, but will treat them as separate interrogatories for the purpose of Plaintiffs' total limit on interrogatories.

Response to Interrogatory No. 6

Subject to these objections, Defendants have identified to date the following individuals as having consulted for, participated in, or contributed to the topics listed in the sub-parts of the interrogatory:

NAME	TITLE
DOJ	
Chad A. Readler	Assistant Attorney General (Acting), Civil Division
Curtis E. Gannon	Assistant Attorney General (Acting), Office of Legal Counsel (OLC)
Daniel L. Koffsky	Deputy Assistant Attorney General, OLC
Danielle Cutrona	Counselor to the Attorney General
Edwin Kneedler	Deputy Solicitor General
Henry C. Whitaker	Deputy Assistant Attorney General, OLC
Jefferson B. Sessions, III	Attorney General
Jeffrey B. Wall	Principal Deputy Solicitor General
Jeremy Bylund	Deputy Associate Attorney General
Jesse Panuccio	Principal Deputy Associate Attorney General
Jody Hunt	Chief of Staff to the Attorney General
Laura E. Heim	Attorney-Adviser, OLC
Noel Francisco	Solicitor General
Rachael Tucker	Counsel to the Attorney General
Rachel Brand	Associate Attorney General
Rosemary Hart	Special Counsel, OLC
Scott G. Stewart	Counsel to the Assistant Attorney General, OLC
Zack Tripp	Assistant to the Solicitor General

DHS[3]	
Adam V. Loiacono	Deputy Principal Legal Advisor for Enforcement and Litigation, ICE
Ben Cassidy	Assistant Secretary, DHS Office of Legislative Affairs (OLA)
Chad Wolf	Acting Chief of Staff to the Acting Secretary
Craig Symons	USCIS Chief Counsel
Dimple Shah	Deputy General Counsel
Donald Neufeld	Associate Director, Service Center Operations Directorate
Elaine Duke	Acting Secretary of Homeland Security
Elizabeth Neumann	Deputy Chief of Staff to the Acting Secretary
Ernest DeStefano	Chief, Office of Intake and Data Production (Acting Deputy Associate Director, Service Center Operations Directorate July 8, 2017 – September 8, 2017)
Gene Hamilton	Senior Counselor to the Acting Secretary
Gillian Christensen	Senior Advisor, Office of External Affairs
James D. Nealon	Assistant Secretary for International Engagement
James W. McCament	Deputy Director (then Acting Director) of USCIS
Jennifer Higgins	Associate Director, Refugee, Asylum and International Operations Directorate (then Acting Deputy Director)
John Feere	Senior Advisor, ICE
Joseph B. Maher	Acting General Counsel
Joseph Moore	Chief Financial Officer
Julie Koller	Deputy Associate Chief Counsel, Enforcement and Operations, CBP Office of the Chief Counsel
Kathy Nuebel-Kovarik	Chief of the USCIS Office of Policy and Strategy
Lora Ries	Acting Chief of Staff (August 28, 2017 to the present)
Michael Dougherty	Assistant Secretary for Border, Immigration and Trade Policy
Nader Baroukh	Associate General Counsel
Thomas D. Homan	Acting Director of U.S. Immigrations and Customs Enforcement (ICE)
Todd Hoffman	Executive Director, Admissibility and Passenger Programs, Office of Field Operations
EXECUTIVE OFFICE OF THE PRESIDENT	
Andrew Bremberg	Assistant to the President and the Director of the Domestic Policy Council for President Trump
Donald McGahn	White House Counsel and Assistant to the President
Gregory Katsas	Deputy Assistant and Deputy Counsel to President Trump

[3] The USCIS personnel listed below were aware of, participated in meetings and/or conversations, and or provided operational information related to DACA rescission or wind-down before September 5, 2017.

John Bash	Special Assistant and Associate Counsel
John Kelly	White House Chief of Staff
Kirstjen Nielsen	Principal Deputy White House Chief of Staff
Marc Short	White House Director of Legislative Affairs and Deputy Assistant to the President
Mick Mulvaney	Director, Office of Management and Budget
Rick Dearborn	White House Deputy Chief of Staff for Legislative, Intergovernmental Affairs and Implementation
Robert Porter	White House Staff Secretary
Stephen Miller	Senior Advisor for Policy

Defendants reserve the right to supplement this response with any additional relevant, responsive, non-privileged information that is within its possession, custody, or control and capable of being ascertained with reasonable diligence.

Interrogatory No. 7

Please state the number of DACA recipients who are eligible to apply for DACA renewal between September 6, 2017 and October 5, 2017, both nationally and for each state. Please also state the number of DACA recipients who have applied for DACA renewal since September 5, 2017, broken down by date (both the date the application was received and the date a decision was made), and the total number that were granted, rejected on the merits, returned without adjudication on the merits due to the date the renewal application was received, or denied for any other reason (broken down by the reason for denial).

Objections to Interrogatory No. 7

1. Defendants incorporate by reference the above objections which apply to all interrogatories as well as the objections to the definitions and instructions.

2. Defendants object to Interrogatory No. 7 to the extent that the request seeks information protected by the law enforcement privilege; material the disclosure of which would

07/05/17	0	0	0	0	7	0	1,535	0	228	1,770
07/06/17	0	0	0	0	0	0	0	0	64	64
07/07/17	0	0	0	0	0	0	0	0	1,186	1,186
07/10/17	0	0	0	0	0	0	1,757	1,885	1,142	4,784
07/11/17	0	0	0	0	3	0	6	0	1,250	1,259
07/12/17	0	0	0	0	3	11	1	2	1,535	1,552
07/13/17	0	0	0	0	0	0	0	0	119	119
07/14/17	0	0	0	0	0	0	0	0	201	201
07/15/17	0	0	0	0	0	0	0	0	1,901	1,901
Total	1	1	1	1	13	920	34,239	52,906	112,496	200,578

Dated: October 16, 2017

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

JOHN R. TYLER
Assistant Branch Director

/s/ Brad P. Rosenberg
BRAD P. ROSENBERG (DC Bar #467513)
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2017, I caused to be served the foregoing DEFENDANTS' OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANTS via e-mail upon:

Lourdes Rosado	lourdes.rosado@ag.ny.gov
Diane Lucas	diane.lucas@ag.ny.gov
Abigail Taylor	abigail.taylor@state.ma.us
Genevieve Nadeau	Genevieve.Nadeau@MassMail.State.MA.US
Colleen Melody	ColleenM1@ATG.WA.GOV
Marsha Chien	MarshaC@ATG.WA.GOV
Jerome Frank Legal Servs. Org.	BatallaVidal_LSO@mailman.yale.edu
Batalla	Batalla@nilc.org
Amy Taylor	amy.taylor@maketheroadny.org
Scott Foletta	scott.foletta@maketheroadny.org
Alexa Schapira	Alexia.Schapira@maketheroadny.org
Justin Cox	cox@nilc.org

/s/ Brad P. Rosenberg
BRAD P. ROSENBERG

VERIFICATION

Based on information that I obtained in the course of my official USCIS duties, I declare under penalty of perjury that the substance of the USCIS narrative responses to these Interrogatories are true and correct.

DATE: October 16, 2017 SIGNATURE: James W. McCament

VERIFICATION

I, Scott Krause, am the Executive Secretary of the United States Department of Homeland Security (DHS). Based on information that I obtained in the course of my official DHS duties, I declare under penalty of perjury that the substance of the DHS Headquarters narrative responses to these Interrogatories are true and correct.

Executed on October 16, 2017

Scott Krause

EXHIBIT WW

State of California

Office of the Attorney General

XAVIER BECERRA
ATTORNEY GENERAL

July 21, 2017

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

RE: June 29, 2017 letter from Ken Paxton re *Texas, et al., v. United States, et al.*, Case No. 1:14-cv-00254 (S.D. Tex.)

Dear Mr. President:

We write to urge you to maintain and defend the Deferred Action for Childhood Arrivals program, or DACA, which represents a success story for the more than three-quarters of a million "Dreamers" who are currently registered for it. It has also been a boon to the communities, universities, and employers with which these Dreamers are connected, and for the American economy as a whole.

Since 2012, nearly 800,000 young immigrants who were brought to this country as children have been granted DACA after completing applications, submitting to and passing a background check, and applying for a work permit. In the case of young adults granted DACA, they are among our newest soldiers, college graduates, nurses and first responders. They are our neighbors, coworkers, students and community and church leaders. And they are boosting the economies and communities of our states every day. In fact, receiving DACA has increased recipients' hourly wages by an average of 42 percent[1] and given them the purchasing power to buy homes, cars and other goods and services, which drives economic growth for all.[2]

In addition to strengthening our states and country, DACA gives these bright, driven young people the peace of mind and stability to earn a college degree and to seek employment that matches their education and training. The protection afforded by

[1] Tom Wong, et al., Center for American Progress, *New Study of DACA Beneficiaries Shows Positive Economic and Educational Outcomes* (Oct. 18, 2016), https://www.americanprogress.org/issues/immigration/news/2016/10/18/146290/new-study-of-daca-beneficiaries-shows-positive-economic-and-educational-outcomes/ (last visited July 17, 2017).

[2] *See, e.g.*, United We Dream, *New National Survey of DACA Recipients: Proof That Executive Action Works* (Oct. 18, 2016), https://unitedwedream.org/press-releases/new-national-survey-of-daca-recipients-proof-that-executive-action-works/ (last visited July 10, 2017) (finding that 95 percent of DACA beneficiaries are working, and that 54 percent bought their first car and 12 percent bought their first home after receiving DACA).

DACA gives them dignity and the ability to fully pursue the American dream. For many, the United States is the only country they have ever known.

The consequences of rescinding DACA would be severe, not just for the hundreds of thousands of young people who rely on the program—and for their employers, schools, universities, and families—but for the country's economy as a whole. For example, in addition to lost tax revenue, American businesses would face billions in turnover costs, as employers would lose qualified workers whom they have trained and in whom they have invested.[3] And as the chief law officers of our respective states, we strongly believe that DACA has made our communities safer, enabling these young people to report crimes to police without fear of deportation.

You have repeatedly expressed your support for Dreamers. Today, we join together to urge you not to capitulate to the demands Texas and nine other states set forth in their June 29, 2017, letter to Attorney General Jeff Sessions. That letter demands, under threat of litigation, that your Administration end the DACA initiative. The arguments set forth in that letter are wrong as a matter of law and policy.

There is broad consensus that the young people who qualify for DACA should not be prioritized for deportation. DACA is consistent with a long pattern of presidential exercises of prosecutorial discretion that targeted resources in a constitutional manner. Indeed, as Justice Antonin Scalia recognized in a 1999 opinion, the Executive has a long history of "engaging in a regular practice . . . of exercising [deferred action] for humanitarian reasons or simply for its own convenience." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483-84 (1999). DACA sensibly guides immigration officials' exercise of their enforcement discretion and reserves limited resources to address individuals who threaten our communities, not those who contribute greatly to them.

Challenges have been brought against the original DACA program, including in the Fifth Circuit, but none have succeeded. On the other hand, in a case relating to Arizona's efforts to deny drivers' licenses to DACA recipients, the Ninth Circuit stated that it is "well settled that the [DHS] Secretary can exercise deferred action." *Ariz. Dream Act Coalition v. Brewer*, 855 F.3d 957, 967-968 (9th Cir. 2017). The court also observed that "several prior administrations have adopted programs, like DACA, to prioritize which noncitizens to remove." *Id.* at 976.[4]

As the Fifth Circuit was careful to point out in its ruling in the *Texas* case, the Deferred Action for Parents of Americans and Lawful Permanent Residents ("DAPA")

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[3] Jose Magaña-Salgado, Immigrant Legal Resource Center, *Money on the Table: The Economic Cost of Ending DACA* (Dec. 2016), https://www.ilrc.org/sites/default/files/resources/2016-12-13_ilrc_report_-_money_on_the_table_economic_costs_of_ending_daca.pdf (last visited July 17, 2017).

[4] In another opinion relating to the Arizona law, while deciding the appeal before it on other grounds, the Ninth Circuit stated that given the "broad discretion" that Congress gave to the executive branch "to determine when noncitizens may work in the United States," the President's decision to authorize (indeed, strongly encourage) DACA recipients to work was legally supported. *Ariz. Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1062 (9th Cir. 2014).

initiative that was struck down is "similar" but "not identical" to DACA. *Texas v. United States*, 809 F.3d 134, 174 (5th Cir. 2015). Indeed, as DHS Secretary Kelly pointed out in a press conference the day after his June 15 memorandum explaining that DACA would continue, DACA and DAPA are "two separate issues," appropriately noting the different populations addressed by each program. Notably, only a fraction of the 25 states which joined with Texas in the DAPA case before the Supreme Court chose to co-sign the letter threatening to challenge DACA.

Among other significant differences, DACA has been operative since 2012 while DAPA never went into effect. More than three-quarters of a million young people, and their employers, among others, have concretely benefitted from DACA, for up to five years. The interests of these young people in continuing to participate in DACA and retain the benefits that flow from DACA raise particular concerns not implicated in the pre-implementation challenge to DAPA. Further, the Fifth Circuit placed legal significance on the "economic and political magnitude" of the large number of immigrants who were affected by DAPA, *Texas*, 809 F.3d at 181; thus, it is notable that many fewer people have received DACA (about 800,000) than would have been eligible for DAPA (up to 4.3 million).

One additional, but related, issue concerns DHS's current practices regarding DACA recipients. A number of troubling incidents in recent months raise serious concerns over whether DHS agents are adhering to DACA guidelines and your repeated public assurances that DACA-eligible individuals are not targets for arrest and deportation. We urge you to ensure compliance with DACA and consistent enforcement practices towards Dreamers.

Mr. President, now is the time to affirm the commitment you made, both to the "incredible kids" who benefit from DACA and to their families and our communities, to handle this issue "with heart." You said Dreamers should "rest easy." We urge you to affirm America's values and tradition as a nation of immigrants and make clear that you will not only continue DACA, but that you will defend it. The cost of not doing so would be too high for America, the economy, and for these young people. For these reasons, we urge you to maintain and defend DACA, and we stand in support of the effort to defend DACA by all appropriate means.

Sincerely,

XAVIER BECERRA
California Attorney General

GEORGE JEPSEN
Connecticut Attorney General

MATTHEW DENN
Delaware Attorney General

KARL A. RACINE
District of Columbia Attorney General

DOUGLAS S. CHIN
Hawaii Attorney General

LISA MADIGAN
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JANET T. MILLS
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Oregon Attorney General

JOSH SHAPIRO
Pennsylvania Attorney General

PETER KILMARTIN
Rhode Island Attorney General

TJ DONOVAN
Vermont Attorney General

MARK HERRING
Virginia Attorney General

BOB FERGUSON
Washington State Attorney General

cc: The Honorable John F. Kelly, Secretary of Homeland Security
The Honorable Jeff Sessions, Attorney General of the United States

EXHIBIT XX

Center for American Progress FWD.us

STUDY: THE IMPACT OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) PROGRAM REPEAL ON JOBS

A TIMELINE OF THE DEVASTATING AND FAR-REACHING JOB LOSS CONSEQUENCES IF DACA IS REPEALED

Developed by the Center for American Progress (CAP) and FWD.us

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SUMMARY

Since the Deferred Action for Childhood Arrivals (DACA) Program was established in 2012, nearly 800,000 young people who came to this country as children have been granted temporary protection from deportation and allowed to live, work, and contribute to the only country most of them have ever known (U.S. Citizenship and Immigration Services, 2017). Over the past five years, 91% of DACA recipients have found gainful employment, and are currently working for companies across the country (Wong, T., et al., (2017)).

The following report, developed by the Center for American Progress (CAP) and FWD.us, highlights the escalating job losses that will occur over the course of 2 years if DACA renewals are put on hold, even for a short period of time. The findings reinforce the devastating consequences a repeal would inflict on DACA recipients and their families, as well as the dire, far-reaching consequences to communities across the country, to employers, and to the American economy across all regions and sectors. This report specifically finds that for every business day that DACA renewals are put on hold, more than 1,400 DACA recipients will lose their ability to work and could be let go by American employers. This could result in monthly job losses for more than 30,000 individuals each month. In total, if DACA is revoked, nearly 700,000 individuals who are currently employed and contributing as a productive part of the American

workforce would be stripped of their ability to work and could be fired over the course of the next two years.[1]

BACKGROUND

Five years ago, the Department of Homeland Security issued a memo establishing the DACA program (Department of Homeland Security, 2012). The memo delineated a set of criteria by which "certain young people who were brought to the United States as young children, do not present a risk to national security or public safety, and meet several key criteria" would be able to receive a temporary protection from deportation, for a period of two years, and be eligible to apply for work authorization. Individuals who are eligible are required to complete an application process and undergo a thorough background check, including fingerprinting, and are required to renew their deferred action every two years. Further, the DHS Secretary issued a memo directing the heads of Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services (USCIS), and Customs and Border Protection (CBP) to establish a process to implement this exercise of prosecutorial discretion across their agencies to ensure that "enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities" (Department of Homeland Security, 2014).

Despite the positive economic benefits of the program and overwhelming public support for DACA recipients[2], the program has recently come under imminent threat of repeal, putting the safety, livelihoods, and wellbeing of these incredible young people at risk. Ten Republican state Attorneys General and Idaho Governor Butch Otter have threatened to sue President Trump if he doesn't end DACA by September 5 (Attorney General Ken Paxton, 2017), setting up a virtual collision course where DACA could be put on hold by a federal judge, or where the program could be repealed, with DACA renewal applications being halted immediately by the Administration. Further, recent reports have indicated that the Trump Administration is strongly considering ending DACA.[3]

DACA recipients are upstanding members of our communities, and everyone in the program has gone through an application process, passed an extensive

[1] See Fig. 1. Benefit Expiration with Loss of Work Authorization & Subject to Deportation and Forced Job Loss Chart
[2] https://morningconsult.com/wp-content/uploads/2017/04/170409_crosstabs_Politico_v1_AG-2.pdf
[3] https://www.axios.com/trump-seriously-considering-ending-daca-2476724345.html

background check including fingerprinting, paid the required fee, and is a student, or servicemember, or holds a job. DACA recipients are required to renew their deferral every two years in order to maintain their work authorization and their protection from deportation, and to show that they have continued to meet the program requirements. An estimated 200,000 DACA recipients have had their Deferred Action renewed by President Trump since he took office in January.[4]

ECONOMIC IMPACT OF A REPEAL

Total DACA Recipients

Benefit Expiration with Loss of Work Authorization & Subject to Deportation

Quarter	Months	Total DACA Expirations Per Quarter	DACA expirations per month	Per Week
Q4 2017	Oct-Dec	90,299	30,100	7,167
Q1 2018	Jan-Mar	115,380	38,460	9,157
Q2 2018	Apr-Jun	86,165	28,722	6,838
Q3 2018	July-Sept	152,429	50,810	12,098
Q4 2018	Oct-Dec	120,287	40,096	9,547
Q1 2019	Jan-Mar	36,427	12,142	2,891

DACA Recipients With Job

Forced Job Loss Chart

Quarter	Months	Total DACA Expirations	Estimate DACA Job Loss (91% have jobs)	DACA recipient Job loss per Month	Per Week	Per Business Day (5 days per week)	Per Business Day Hour (8 hours per business day)	Per Business Minute	Every XXX seconds, a DACA recipeint loses their job?
Q4 2017	Oct-Dec	**90,299**	82,172	27,391	**6,522**	1,304	163.0	2.7	22.1
Q1 2018	Jan-Mar	**115,380**	104,996	34,999	**8,333**	1,667	208.3	3.5	17.3
Q2 2018	Apr-Jun	**86,165**	78,410	26,137	**6,223**	1,245	155.6	2.6	23.1
Q3 2018	July-Sept	**152,429**	138,710	46,237	**11,009**	2,202	275.2	4.6	13.1
Q4 2018	Oct-Dec	**120,287**	109,461	36,487	**8,687**	1,737	217.2	3.6	16.6
Q1 2019	Jan-Mar	**36,427**	33,149	11,050	**2,631**	526	65.8	1.1	54.7
Average			91,150	30,383	7,234	1,447	180.9	3.0	

Fig. 1. Benefit Expiration with Loss of Work Authorization & Subject to Deportation and Forced Job Loss Chart

New research has brought to light the dramatic consequences to U.S. employers if DACA is repealed and renewals are put on hold, even for a brief period of time. The chart above outlines the chronological job loss consequences of repealing DACA, resulting in the potential for an average of 30,000 DACA recipients to lose their jobs each month. Furthermore, for every business day that DACA renewals are put on hold, an average of more than 1,400 individuals can be fired from their jobs. And because DACA recipients live in all fifty states and the District of Columbia (U.S.

[4] Estimate based on average monthly renewals during first quarter of the Trump Administration, expanded to include estimated 2nd quarter renewals.

Citizenship and Immigration Services, 2017), the economic consequences will be felt all across the country.

This data further shows that job loss resulting directly from the repeal of DACA will begin immediately, and will continue over the course of the next 2 years until all employed DACA recipients, nearly 700,000 individuals, are removed from the work force, and all nearly 800,000 are subject to deportation. This study found that firings will increase over the course of the next 2 years to reach a high point in the 3rd quarter of 2018, when more than 11,000 individuals can be fired each week, a total of nearly 140,000 total individuals fired during that quarter. During the 3rd quarter of 2018, a DACA recipient can be fired from their job every 13 seconds.

Work authorizations issued to DACA recipients are no different than those issued through countless other visa categories, meaning many U.S. businesses may not even know whether they are employing a DACA recipient. Revoking the ability for current DACA recipients to renew their deferrals would force businesses into the impossible and extremely costly position of having to fire productive employees for no other reason than an arbitrary change in federal policy, potentially resulting in backlash from other employees, or their broader community. DACA recipients are already living openly in our communities. They are our coworkers, teachers, nurses and home health care workers, among many other professions. Repealing this program and forcing businesses around the country to fire hundreds of thousands of people within our communities will have a devastating impact. Further, such

action by the federal government would place a staggering cost, both financially and in relationship to their employees, on businesses in nearly every sector of the economy, and, in turn, in the communities across the United States.

Reporting by the Center for American Progress has found that nearly 91% of DACA recipients (Svajlenka, Jawetz and Bautista-Chavez, 2017) are currently employed across the country, contributing billions of dollars to our communities, our economy, and in tax revenue. Removing DACA recipients from the workforce will cost $460.3 billion in GDP loss over a decade (Svajlenka, Jawetz and Bautista-Chavez, 2017). It will cost employers $3.4 billion in unnecessary turnover costs, and would cut contributions to Medicare and Social Security by $24.6 billion over a decade (Magaña-Salgado, 2016). Moreover, DACA recipients have been important drivers of economic growth in their communities. Nearly 6% of DACA recipients have launched businesses, many employing American citizens (Wong et al., 2016). Further, almost 55% of DACA recipients purchased a vehicle, and more than one in ten have purchased their first home (Brannon and Albright, 2017).

CONCLUSION

By every measure, DACA has been extraordinarily beneficial, allowing nearly 800,000 individuals in the United States to live, work legally, and contribute to the only country most of them have ever known. The economic benefits of this program are clear and profound, and the dire consequences of repeal would be devastating. As this report has outlined, even a temporary hold on DACA renewals

would cause tens of thousands of individuals to lose their ability to live and work in the United States. Every day that DACA renewals are put on hold will result in more than 1,400 individuals losing their ability to work legally. In addition to the reprehensible moral consequences, ending DACA would place severe economic strain on businesses around the country, putting them into the impossible and extremely costly position of having to fire productive employees for no other reason than an arbitrary change in federal policy, potentially resulting in backlash from other employees, or their broader community.

DACA was always designed to be temporary, but repealing the program without a process for individuals currently protected by it to continue to live and work in the United States will place an extreme hardship on U.S. businesses, on local communities, and on the American economy. Congress is considering a number of pieces of legislation to protect current DACA recipients statutorily, and the Administration should not take action to change the existing DACA program without first signing legislation to address the urgent challenge or protecting DACA recipients.

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EXHIBIT EEE

Talking Points - DACA Rescission

BACKGROUND

On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano issued a memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children," establishing an administrative program that permitted certain individuals who came to the United States as juveniles and met several criteria-including lacking any lawful immigration status-to request consideration of deferred action for a period of two years, subject to renewal and eligibility for work authorization.

Recognizing the complexities associated with terminating the program, the Department will provide a limited window during which it will adjudicate certain requests for DACA and associated applications meeting certain parameters specified below.

TALKING POINTS: President Trump Directs Phased Ending of DACA

- Acting Secretary Duke issued a memo rescinding the June 15, 2012 memorandum that created the Deferred Action for Childhood Arrivals (DACA) program.

- President Donald J. Trump, in close coordination with the Department of Homeland Security and the Department of Justice, considered a number of factors, including the legality of the DACA program, the likely outcome of imminent litigation, and the administrative complexities associated with ending the program.

- We are a nation of laws. DACA was an unconstitutional, unwarranted exercise of authority by the Executive Branch. Only the U.S. Congress has the authority to pass legislation to provide immigration benefits to individuals.

- President Obama noted repeatedly in the months and years leading up to the creation of DACA that the President of the United States does not have the authority to create such a an open-ended, wide-ranging program without Congressional authorization.

- DACA will be phased out. All DACA benefits are provided on a two-year basis, so individuals who currently have DACA will be allowed to retain both DACA and their work authorizations (EADs) until they expire.

- U.S. Citizenship and Immigration Services 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 as of September 5, 2017.

- USCIS 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 as of the date of this memorandum, and from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017.

- Individuals who have not submitted a request by September 5th, for an initial grant under DACA may no longer do so. All requests for initial grants received after September 5th will be rejected.

- In general, individuals who will no longer have DACA will not proactively be referred to ICE and placed in removal proceedings unless they satisfy one of the Department's enforcement priorities.

- The Department of Homeland Security urges DACA recipients to use the time remaining on their work authorizations to prepare for and arrange their departure from the United States-including

proactively seeking travel documentation-or to apply for other immigration benefits for which they may be eligible.

- As of September 4, 2017, there are 689,821 individuals with current valid DACA.
- It should be noted that DACA was not intended to be available to persons who entered illegally after 2007. Thus, persons entering the country illegally today, tomorrow or in the future will not be eligible for the wind down of DACA.

§	TOPIC	EXHIBITS
	Benefits Available to DACA Recipients	
1.	Educational benefits	Ex. 13 (Cardenas Decl.) ¶¶ 9, 10 (App. at 0090) Ex. 15 (Chabolla Decl.) ¶¶ 48, 58–62 (App. at 0109, 0112) Ex. 16 (Chen Dec.) ¶ 4 (App. at 0167) Ex. 20 (Eidmann Decl.) ¶ 9 (App. at 0210) Ex. 23 (Feldblum Decl.) ¶¶ 4–6, 12–13 (App. at 0243–44, 0245–46) Ex. 24 (Fuentes Decl.) ¶¶ 2–3, 5 (App. at 0251) Ex. 25 (D. Garcia Decl.) ¶¶ 37–39 (App. at 0262–63) Ex. 27 (G. Garcia Dec.) ¶¶ 6 (App. at 0336) Ex. 29 (Gin Dec.) ¶ 5 (App. 0347–48) Ex. 31 (R. Gonzales Decl.) ¶¶ 20, 23 (App. at 0364–65) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 30, 41 (App. at 0398, 0400) Ex. 33 (Gorjian Decl.) ¶ 9–11 (App. at 0447–48) Ex. 40 (Holmes-Sullivan Decl.) ¶ 3 (App. at 0508) Ex. 41 (Huang Decl.) ¶¶ 5–6 (App. at 0518) Ex. 44 (Jimenez Decl.) ¶¶ 36–37 (App. at 0555) Ex. 49 (Latthivongskorn Decl.) ¶¶ 25, 33 (App. at 0665, 0667) Ex. 55 (Madara Dec.) ¶¶ 3–6 (App. 0766–77) Ex. 71 (Ochoa Decl.) ¶¶ 22, 24 (App. at 1104) Ex. 75 (Pelissero & Callaghan) ¶¶ 5–7, 9, 10 (App. 1132–33) Ex. 76 (Pereira Decl.) ¶¶ 7–9 (App. at 1138) Ex. 78 (Ramirez Decl.) ¶¶ 34–37 (App. at 1156–57) Ex. 80 (Rodriguez Cabrera Decl.) ¶ 7 (App. at 1257) Ex. 82 (Roe Smith Dec.) ¶¶ 17–20 (App. at 1269–70) Ex. 87 (Santos Toledo Decl.) ¶¶ 21–22 (App. at 1309–10) Ex. 88 (Sati Decl.) ¶¶ 20–21, 27 (App. at 1319, 1320) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 25 (App. at 1368) Ex. 95 (Suárez-Orozco Decl.) ¶ 9 (App. at 1375) Ex. 99 (Valdez-Ward Decl.) ¶ 17 (App. at 1470) Ex. 103 (Wong Decl.) ¶¶ 23–26, 45, 51, 57 (App. at 1506–07, 1517, 1519, 1521) Ex. 105 (Young Dec.) ¶¶ 4, 5, 8–11 (App. 1564–65) Ex. 108 (Jayes-Green Decl.) ¶ 3 (App. at 1580–81)
2.	Financial benefits	Ex. 7 (Vazquez Decl.) ¶ 16 (App. at 0041) Ex. 15 (Chabolla Decl.) ¶¶ 47, 50, 63–64 (App. at 0108, 0110, 0112) Ex. 18 (Doe #1 Decl.) ¶¶ 14–16 (App. at 0185) Ex. 25 (D. Garcia Decl.) ¶¶ 37–39, 47–48 (App. at 0262–64) Ex. 27 (G. Garcia Dec.) ¶¶ 5–6 (App. at 0335–36) Ex. 31 (R. Gonzales Decl.) ¶ 20 (App. at 0364) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 30, 33, 34, 36 (App. at 0398–99) Ex. 39 (Hexter Decl.) ¶ 10 (App. at 0502–03) Ex. 44 (Jimenez Decl.) ¶¶ 38–41 (App. at 0556) Ex. 49 (Latthivongskorn Decl.) ¶ 36 (App. at 0668) Ex. 66 (Napolitano Decl.) ¶ 12 (App. at 0889)

§	TOPIC	EXHIBITS
		Ex. 75 (Pelissero & Callaghan) ¶ 8 (App. 1132–33) Ex. 78 (Ramirez Decl.) ¶¶ 38–42 (App. at 1157–58) Ex. 80 (Rodriguez Cabrera Decl.) ¶ 7 (App. at 1257) Ex. 88 (Sati Decl.) ¶ 18 (App. at 1318) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 24 (App. at 1368) Ex. 95 (Suárez-Orozco Decl.) ¶ 11 (App. at 1375) Ex. 96 (Tabares Decl.) ¶ 9 (App. at 1447) Ex. 103 (Wong Decl.) ¶¶ 17–21, 30, 44, 50, 56 (App. at 1503–05, 1509–10, 1516–17, 1519, 1521) Ex. 106 (Zheng Decl.) ¶¶ 6–8 (App. at 1569) Ex. 108 (Jayes-Green Decl.) ¶¶ 6, 7 (App. at 1581)
3.	International travel	Ex. 5 (Arevalo Decl.) ¶¶ 5, 8 (App. at 0026–27) Ex. 15 (Chabolla Decl.) ¶ 53 (App. at 0110) Ex. 23 (Feldblum Decl.) ¶¶ 6, 12–13 (App. at 0244, 0245–46) Ex. 32 (Gonzalez Avila Decl.) ¶ 29 (App. at 0398) Ex. 39 (Hexter Decl.) ¶ 13 (App. at 0504) Ex. 49 (Latthivongskorn Decl.) ¶ 34 (App. at 0667) Ex. 66 (Napolitano Decl.) ¶ 15 (App. at 0890) Ex. 71 (Ochoa Decl.) ¶¶ 22, 24 (App. at 1104) Ex. 78 (Ramirez Decl.) ¶¶ 43–44 (App. at 1158–59) Ex. 96 (Tabares Decl.) ¶ 11 (App. at 1447–1448) Ex. 100 (Vazquez-Ramos Decl.) ¶¶ 4, 6–7 (App. at 1479)
4.	Provided Sense of Security, Dignity, and Comfort	Ex. 7 (Vazquez Decl.) ¶ 17 (App. at 0041) Ex. 15 (Chabolla Decl.) ¶¶ 46, 52 (App. at 0109–10) Ex. 16 (Chen Dec.) ¶ 13 (App. at 0170) Ex. 18 (Doe #1 Decl.) ¶¶ 8,11–12 (App. at 0184) Ex. 23 (Feldblum Decl.) ¶ 7 (App. at 0244) Ex. 25 (D. Garcia Decl.) ¶¶ 0037–42, 47–48, 60–64 (App. at 0262–64, 0266–67) Ex. 32 (Gonzalez Avila Decl.) ¶ 31 (App. at 0399) Ex. 38 (Helguera Decl.) ¶ 8 (App. at 0494) Ex. 41 (Huang Decl.) ¶ 13 (App. at 0519) Ex. 44 (Jimenez Decl.) ¶¶ 36–37 (App. at 0555) Ex. 49 (Latthivongskorn Decl.) ¶ 37 (App. at 0668) Ex. 60 (Mendez Decl.) ¶ 16 (App. at 0808) Ex. 63 (Montes Decl.) ¶ 18 (App. at 0866) Ex. 71 (Ochoa Decl.) ¶ 25 (App. at 1104) Ex. 72 (Oh Decl.) ¶ 6 (App. at 1109) Ex. 76 (Pereira Decl.) ¶¶ 7–9 (App. at 1138) Ex. 78 (Ramirez Decl.) ¶¶ 34–37 (App. at 1156–57) Ex. 79 (Roche Decl.) ¶ 4 (App. at 1251) Ex. 82 (Roe Smith Dec.) ¶ 12 (App. at 1268) Ex. 87 (Santos Toledo Decl.) ¶¶ 10, 27, 34 (App. at 1307, 1310–12) Ex. 88 (Sati Decl.) ¶¶ 5–6 (App. at 1316) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 19 (App. at 1367) Ex. 95 (Suárez-Orozco Decl.) ¶ 10 (App. at 1375) Ex. 96 (Tabares Decl.) ¶ 8 (App. at 1447) Ex. 103 (Wong Decl.) ¶¶ 28–29 (App. at 1508–09) Ex. 106 (Zheng Decl.) ¶ 15 (App. at 1570)

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		Ex. 108 (Jayes-Green Decl.) ¶ 2 (App. at 1580)
5.	Professional opportunities	Ex. 7 (Vazquez Decl.) ¶15 (App. at 0041) Ex. 8 (Beckwith Decl.) ¶ 7 (App. at 0046) Ex. 14 (Carrizales Decl.) ¶ 10 (App. at 0096) Ex. 15 (Chabolla Decl.) ¶ 49 (App. at 0109) Ex. 16 (Chen Dec.) ¶¶ 5, 12 (App. at 0167–69) Ex. 21 (Engelmann Decl.) ¶¶ 5–9 (App. at 0214–16) Ex. 23 (Feldblum Decl.) ¶¶ 12–16 (App. at 0245–47) Ex. 25 (D. Garcia Decl.) ¶¶ 37–39, 49–59 (App. at 0262–66) Ex. 27 (G. Garcia Dec.) ¶¶ 3–5 (App. at 0335–36) Ex. 29 (Gin Dec.) ¶¶ 5–6 (App. at 0347–48) Ex. 31 (R. Gonzales Decl.) ¶¶ 20, 25, 31 (App. at 0364, 0366–67) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 30, 38, 39, 41 (App. at 0398, 0400) Ex. 33 (Gorjian Decl.) ¶¶ 12 (App. at 0448) Ex. 38 (Helguera Decl.) ¶ 8 (App. at 0494) Ex. 41 (Huang Decl.) ¶¶ 9–11 (App. at 0518–19) Ex. 44 (Jimenez Decl.) ¶¶ 36–37 (App. at 0555) Ex. 49 (Latthivongskorn Decl.) ¶ 35 (App. at 0668) Ex. 55 (Madara Dec.) ¶¶ 3–6 (App. 0766–77) Ex. 59 (Melvoin Decl.) ¶¶ 11–13, 20 (App. at 0797–99) Ex. 60 (Mendez Decl.) ¶ 17 (App. at 0808) Ex. 72 (Oh Decl.) ¶¶ 4, 6 (App. at 01109) Ex. 75 (Pelissero & Callaghan) ¶¶ 5–10 (App. 1132–33) Ex. 76 (Pereira Decl.) ¶¶ 7–9 (App. at 1138) Ex. 78 (Ramirez Decl.) ¶¶ 34–37 (App. at 1156–57) Ex. 80 (Rodriguez Cabrera Decl.) ¶¶ 2–4 (App. at 1257) Ex. 82 (Roe Smith Dec.) ¶¶ 17–20 (App. at 1269–70) Ex. 87 (Santos Toledo Decl.) ¶¶ 21, 23 (App. at 1309–10) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 21–23, 25 (App. at 1368) Ex. 95 (Suárez–Orozco Decl.) ¶ 11 (App. at 1375) Ex. 96 (Tabares Decl.) ¶ 8 (App. at 1447) Ex. 99 (Valdez–Ward Decl.) ¶ 21 (App. at 1471) Ex. 103 (Wong Decl.) ¶¶ 12–16 (App. at 1500–03) Ex. 105 (Young Dec.) ¶¶ 4, 5, 8–11 (App. 1564–65) Ex. 106 (Zheng Decl.) ¶ 4 (App. at 1569) Ex. 108 (Jayes-Green Decl.) ¶¶ 4, 5 (App. at 1581)
6.	Public benefits	Ex. 7 (Vazquez Decl.) ¶14 (App. at 0041) Ex. 15 (Chabolla Decl.) ¶¶ 38, 50 (App. at 0107, 110) Ex. 25 (D. Garcia Decl.) ¶ 46 (App. at 0264) Ex. 31 (R. Gonzales Decl.) ¶ 20 (App. at 0364) Ex. 32 (Gonzalez Avila Decl.) ¶ 32 (App. at 0399) Ex. 33 (Gorjian Decl.) ¶ 6 (App. at 0446–47) Ex. 41 (Huang Decl.) ¶¶ 12–13 (App. at 0519) Ex. 44 (Jimenez Decl.) ¶¶ 38–40 (App. at 0556) Ex. 49 (Latthivongskorn Decl.) ¶ 37 (App. at 0668) Ex. 66 (Napolitano Decl.) ¶ 12 (App. at 0889) Ex. 72 (Oh Decl.) ¶ 10 (App. at 1109–10) Ex. 78 (Ramirez Decl.) ¶¶ 38–41 (App. at 1157–58) Ex. 87 (Santos Toledo Decl.) ¶¶ 20, 25–26 (App. at 1309–10)

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		Ex. 88 (Sati Decl.) ¶¶ 18, 24, 48 (App. at 1318, 1320, 1324) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 29 (App. at 1369) Ex. 95 (Suárez-Orozco Decl.) ¶ 8 (App. at 1374–75) Ex. 96 (Tabares Decl.) ¶ 9 (App. at 1447) Ex. 99 (Valdez-Ward Decl.) ¶ 16 (App. at 1470) Ex. 106 (Zheng Decl.) ¶ 5 (App. at 1569)
Irreparable Harm from the DACA Rescission		
7.	Allocation of scarce resources	Ex. 5 (Arevalo Decl.) ¶ 13 (App. at 0028–29) Ex. 40 (Holmes-Sullivan Decl.) ¶¶ 14–17 (App. at 0511–12) Ex. 43 (Jenkins Decl.) ¶¶ 3, 4 (App. at 0543) Ex. 45 (Jones Decl.) ¶¶ 12–13 (App. at 0634–35) Ex. 63 (Montes Decl.) ¶¶ 6–9, 12 (App. at 0863–64) Ex. 64 (Morrill Decl.) ¶ 28 (App. at 0876) Ex. 67 (Nguyen Decl.) ¶¶ 6–8 (App. at 0895) Ex. 88 (Sati Decl.) ¶¶ 48–49 (App. at 1324–25) Ex. 97 (Tellefson Decl.) ¶¶ 7–10 (App. at 1454–55) Ex. 98 (Treseder Decl.) ¶ 14 (App. at 1462) Ex. 101 (Weiner Decl.) ¶¶ 5, 10 (App. at 1483, 1485)
8.	Demand for mental health services	Ex. 40 (Holmes-Sullivan Decl.) ¶ 15 (App. at 0511–12) Ex. 74 (Parham Decl.) Decl. ¶ 12 (App. at 1126)
9.	Diminished academic opportunities	Ex. 5 (Arevalo Decl.) ¶ 8 (App. at 0027) Ex. 7 (Vazquez Decl.) ¶¶ 23 (App. at 0042) Ex. 16 (Chen Dec.) ¶¶ 15–18 (App. at 0170–71) Ex. 18 (Doe #1 Decl.) ¶¶ 19, 21 (App. at 0186) Ex. 23 (Feldblum Decl.) ¶¶ 11, 14–16 (App. at 0245–47) Ex. 24 (Fuentes Decl.) ¶¶ 4, 6–7 (App. at 0251) Ex. 29 (Gin Dec.) ¶¶ 6–8 (App. at 0348) Ex. 30 (L. Gonzales Decl.) ¶ 6 (App. at 0353) Ex. 31 (R. Gonzales Decl.) ¶ 36 (App. at 0369) Ex. 32 (Gonzalez Avila Decl.) ¶ 47 (App. at 0401) Ex. 33 (Gorjian Decl.) ¶ 16 (App. at 0449) Ex. 39 (Hexter Decl.) ¶ 10 (App. at 0502–03) Ex. 40 (Holmes–Sullivan Decl.) ¶¶ 13, 19 (App. at 0511, 0513) Ex. 41 (Huang Decl.) ¶ 15 (App. at 0519) Ex. 44 (Jimenez Decl.) ¶¶ 42, 45, 52 (App. at 0556–58) Ex. 45 (Jones Decl.) ¶ 16 (App. at 0635) Ex. 49 (Latthivongskorn Decl.) ¶ 47 (App. at 0670) Ex. 55 (Madara Dec.) ¶¶ 3–6 (App. at 0766–77) Ex. 74 (Parham Decl.) Decl. ¶¶ 13–14 (App. at 1126–27) Ex. 75 (Pelissero & Callaghan) ¶ 11 (App. at 1133–34) Ex. 78 (Ramirez Decl.) ¶ 52 (App. at 1161) Ex. 80 (Rodriguez Cabrera Decl.) ¶ 7 (App. at 1257) Ex. 82 (Roe Smith Dec.) ¶¶ 26–28 (App. at 1272) Ex. 83 (Rojas Decl.) ¶¶ 11–12 (App. at 1280) Ex. 87 (Santos Toledo Decl.) ¶¶ 32–33 (App. at 1308) Ex. 88 (Sati Decl.) ¶¶ 33, 44–45, 49 (App. at 1321, 1324–25) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 27 (App. at 1368–69) Ex. 98 (Treseder Decl.) ¶ 10 (App. at 1461)

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		Ex. 99 (Valdez–Ward Decl.) ¶¶ 25–26 (App. at 1472) Ex. 103 (Wong Decl.) ¶ 27 (App. at 1507–08) Ex. 105 (Young Dec.) ¶¶ 8–11 (App. at 1565)
10.	Diminished professional and economic opportunities	Ex. 8 (Beckwith Decl.) ¶ 8 (App. at 0046) Ex. 10 (Braddock Decl.) ¶¶ 4–5, 8 (App. at 0065–67) Ex. 12 (Brick Decl.) ¶¶ 17 (App. at 0084) Ex. 13 (Cardenas Decl.) ¶ 12 (App. at 0091) Ex. 15 (Chabolla Decl.) ¶¶ 67–69, 72 (App. at 0113–14) Ex. 16 (Chen Dec.) ¶¶ 15–18 (App. at 0170–71) Ex. 18 (Doe #1 Decl.) ¶¶ 18–20 (App. at 0185–86) Ex. 19 (Duenas Decl.) ¶ 7–13 (App. at 0192–93) Ex. 20 (Eidmann Decl.) ¶ 10 (App. at 0210) Ex. 21 (Engelmann Decl.) ¶ 11 (App. at 0216) Ex. 24 (Fuentes Decl.) ¶¶ 4, 6–7 (App. at 0251) Ex. 25 (D. Garcia Decl.) ¶ 67, 68 (App. at 0267–68) Ex. 29 (Gin Dec.) ¶¶ 5–6 (App. at 0347–48) Ex. 30 (L. Gonzales Decl.) ¶¶ 6–8 (App. at 0353–54) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 46, 47 (App. at 0401) Ex. 33 (Gorjian Decl.) ¶¶ 15–16 (App. at 0448–49) Ex. 35 (Hadaway Decl.) ¶ 10 (App. at 0460) Ex. 37 (Hartz Decl.) ¶ 7 (App. at 0489) Ex. 39 (Hexter Decl.) ¶ 14 (App. at 0504) Ex. 41 (Huang Decl.) ¶ 16 (App. at 0519–20) Ex. 44 (Jimenez Decl.) ¶¶ 42, 44–45, 48–52 (App. at 0556–58) Ex. 47 (Keller Decl.) ¶ 10 (App. at 0648) Ex. 49 (Latthivongskorn Decl.) ¶¶ 48, 49 (App. at 0671) Ex. 53 (Lucey Decl.) ¶¶ 13–18 (App. at 0723–24) Ex. 59 (Melvoin Decl.) ¶ 20 (App. at 0799) Ex. 55 (Madara Dec.) ¶¶ 3–6 (App. 0766–77) Ex. 60 (Mendez Decl.) ¶ 17 (App. at 0808) Ex. 63 (Montes Decl.) ¶¶ 15, 18, 19 (App. at 0865–66) Ex. 66 (Napolitano Decl.) ¶ 11 (App. at 0889) Ex. 72 (Oh Decl.) ¶ 10 (App. at 1109–1110) Ex. 75 (Pelissero & Callaghan) ¶ 11 (App. at 1133–34) Ex. 76 (Pereira Decl.) ¶¶ 7–9, 12–15 (App. at 1138–39) Ex. 78 (Ramirez Decl.) ¶¶ 16–17, 48–49, 51–53 (App. at 1152–53, 1159–60, 1160–61) Ex. 79 (Roche Decl.) ¶ 5 (App. at 1251–52) Ex. 80 (Rodriguez Cabrera Decl.) ¶ 7 (App. at 1257) Ex. 82 (Roe Smith Dec.) ¶¶ 26–28 (App. at 1272) Ex. 83 (Rojas Decl.) ¶¶ 11–12 (App. at 1280) Ex. 87 (Santos Toledo Decl.) ¶ 33 (App. at 1312) Ex. 88 (Sati Decl.) ¶¶ 26, 28–29, 42, 44 (App. at 1320–21, 1323–24) Ex. 93 (Stobo Decl.) ¶¶ 6, 10, 12 (App. at 1357, 1359) Ex. 94 (Stoicescu-Ghica Decl.) ¶¶ 28, 32 (App. at 1369) Ex. 96 (Tabares Decl.) ¶¶ 13, 15 (App. at 1448) Ex. 102 (Womack Decl.) ¶ 8 (App. at 1492) Ex. 103 (Wong Decl.) ¶ 22 (App. at 1505–06) Ex. 105 (Young Dec.) ¶¶ 8–11 (App. at 1565)

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		Ex. 106 (Zheng Decl.) ¶¶ 13–14 (App. at 1570)
11.	Harm to families and relationships	Ex. 7 (Vazquez Decl.) ¶¶ 19, 20 (App. at 0041–42) Ex. 15 (Chabolla Decl.) ¶ 70 (App. at 0113) Ex. 16 (Chen Dec.) ¶ 13 (App. at 0170) Ex. 18 (Doe #1 Decl.) ¶ 9 (App. at 0184) Ex. 21 (Engelmann Decl.) ¶ 9 (App. at 0215–16) Ex. 25 (D. Garcia Decl.) ¶¶ 70–71 (App. at 0268) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 48, 49 (App. at 0401, 402) Ex. 38 (Helguera Decl.) ¶¶ 9–11 (App. at 0494–95) Ex. 40 (Holmes-Sullivan Decl.) ¶ 13 (App. at 0511) Ex. 44 (Jimenez Decl.) ¶ 39 (App. at 0556) Ex. 47 (Keller Decl.) ¶ 14 (App. at 0649) Ex. 54 (Maciel Decl.) ¶ 9 (App. at 0730–31) Ex. 56 (Márquez Decl.) ¶ 18 (App. at 0779) Ex. 59 (Melvoin Decl.) ¶¶ 13, 20 (App. at 0798–99) Ex. 60 (Mendez Decl.) ¶ 18 (App. at 0808) Ex. 62 (Menicocci Decl.) ¶ 14 (App. at 0858) Ex. 66 (Napolitano Decl.) ¶ 13 (App. at 0890) Ex. 72 (Oh Decl.) ¶ 7 (App. at 1109) Ex. 79 (Roche Decl.) ¶ 6 (App. at 1252) Ex. 80 (Rodriguez Cabrera Decl.) ¶ 7 (App. at 1257) Ex. 82 (Roe Smith Dec.) ¶¶ 23–26 (App. at 1271–72) Ex. 83 (Rojas Decl.) ¶¶ 14–16 (App. at 1281–82) Ex. 87 (Santos Toledo Decl.) ¶¶ 24, 34 (App. at 1310, 1312) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 30 (App. at 1369) Ex. 96 (Tabares Decl.) ¶¶ 6, 14 (App. at 1447–48) Ex. 99 (Valdez-Ward Decl.) ¶¶ 16, 18–19 (App. at 1470–71) Ex. 103 (Wong Decl.) ¶¶ 31–32 (App. at 1510–12) Ex. 106 (Zheng Decl.) ¶ 16 (App. at 1570)
12.	Impact on academic and job performance	Ex. 15 (Chabolla Decl.) ¶ 74 (App. at 0114) Ex. 23 (Feldblum Decl.) ¶¶ 14, 15 (App. at 0246) Ex. 30 (L. Gonzales Decl.) ¶¶ 6, 8, 10 (App. at 0353–54) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 43, 44, 50 (App. at 0401, 402) Ex. 44 (Jimenez Decl.) ¶ 51 (App. at 0558) Ex. 49 (Latthivongskorn Decl.) ¶ 45 (App. at 0670) Ex. 65 (Mosquera Decl.) ¶ 9 (App. at 0883) Ex. 78 (Ramirez Decl.) ¶¶ 50–51, 53 (App. at 1160–61) Ex. 83 (Rojas Decl.) ¶¶ 10, 16–17 (App. at 1279–80, 1282) Ex. 102 (Womack Decl.) ¶¶ 8–9 (App. at 1492–93)

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13.	Impact on emotional and physical health	Ex. 2 (Aguilar Decl.) ¶¶ 3–4 (App. at 0011) Ex. 7 (Vazquez Decl.) ¶¶ 21 (App. at 0042) Ex. 15 (Chabolla Decl.) ¶¶ 65–66, 73, 75 (App. at 0113–14) Ex. 18 (Doe #1 Decl.) ¶ 19 (App. at 0186) Ex. 19 (Duenas Decl.) ¶ 12 (App. at 0193) Ex. 21 (Engelmann Decl.) ¶ 11 (App. at 0216) Ex. 23 (Feldblum Decl.) ¶¶ 14, 15 (App. at 0246) Ex. 25 (D. Garcia Decl.) ¶¶ 65–66 (App. at 0267) Ex. 31 (R. Gonzales Decl.) ¶¶ 12–14, 34, 37 (App. at 0362–63, 0368–369) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 43, 44 (App. at 0401) Ex. 44 (Jimenez Decl.) ¶¶ 51 (App. at 0558) Ex. 49 (Latthivongskorn Decl.) ¶¶ 45, 46 (App. at 0670) Ex. 54 (Maciel Decl.) ¶ 9 (App. at 0730–31) Ex. 59 (Melvoin Decl.) ¶ 20 (App. at 0799) Ex. 60 (Mendez Decl.) ¶ 15 (App. at 0808) Ex. 65 (Mosquera Decl.) ¶ 9 (App. at 0883) Ex. 76 (Pereira Decl.) ¶ 15 (App. at 1140) Ex. 78 (Ramirez Decl.) ¶¶ 50–51, 53 (App. at 1160–61) Ex. 79 (Roche Decl.) ¶¶ 7, 8 (App. at 1252) Ex. 82 (Roe Smith Dec.) ¶¶ 23–26 (App. at 1271–72) Ex. 83 (Rojas Decl.) ¶¶ 10–11, 16–17 (App. at 1279–80, 1282) Ex. 87 (Santos Toledo Decl.) ¶ 34 (App. at 1312) Ex. 88 (Sati Decl.) ¶¶ 48–49 (App. at 1325) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 27, 31, 32 (App. at 1368–69) Ex. 95 (Suárez–Orozco Decl.) ¶¶ 12–15 (App. at 1376) Ex. 102 (Womack Decl.) ¶¶ 8–9 (App. at 1492–93) Ex. 103 (Wong Decl.) ¶¶ 33–34 (App. at 1513–14) Ex. 104 (Yaffe Decl.) ¶¶ 9, 10 (App. at 1558) Ex. 106 (Zheng Decl.) ¶ 15 (App. at 1570) Ex. 108 (Jayes-Green Decl.) ¶ 10 (App. at 1582)
14.	Impact on schools and education	Ex. 1 (Abrams Decl.) ¶¶ 9–10, 13 (App. at 0005–06) Ex. 2 (Aguilar Decl.) ¶¶ 3–8 (App. at 0011) Ex. 3 (D. Anderson Decl.) ¶¶ 4–5 (App. at 0015–16) Ex. 4 (R. Anderson Decl.) ¶¶ 5–7 (App. at 0021) Ex. 10 (Braddock Decl.) ¶¶ 6, 8 (App. at 0066–67) Ex. 12 (Brick Decl.) ¶¶ 2, 4, 19 (App. at 0081, 85) Ex. 14 (Carrizales Decl.) ¶¶ 6, 8–9, 11 (App. at 0095–97) Ex. 16 (Chen Dec.) ¶ 10 (App. at 0169) Ex. 23 (Feldblum Decl.) ¶¶ 11, 14, 15 (App. at 0245–46) Ex. 27 (G. Garcia Dec.) ¶¶ 3–5 (App. at 0335–36) Ex. 30 (L. Gonzales Decl.) ¶¶ 5, 9–11 (App. at 0353–55) Ex. 39 (Hexter Decl.) ¶¶ 7, 9 (App. at 0501–02) Ex. 40 (Holmes–Sullivan Decl.) ¶¶ 8, 18, 20 (App. at 0508, 0512–13) Ex. 45 (Jones Decl.) ¶¶ 6–11, 15 (App. at 0633–35) Ex. 46 (Jordan Decl.) ¶¶ 8, 10, 12 (App. at 0641–42) Ex. 48 (Kutz Decl.) ¶¶ 10–12 (App. at 0655–56) Ex. 57 (Maxwell Decl.) ¶ 9 (App. at 0784) Ex. 59 (Melvoin Decl.) ¶¶ 15–17, 18 (App. at 0798–99)

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		Ex. 64 (Morrill Decl.) ¶¶ 9–10, 13 (App. at 0872–74) Ex. 66 (Napolitano Decl.) ¶ 13 (App. at 0889–90) Ex. 69 (Oakley Decl.) ¶¶ 8, 10 (App. at 0906–07) Ex. 74 (Parham Decl.) ¶ 9 (App. at 1125) Ex. 77 (Pribbenow Decl.) ¶¶ 5–6 (App. at 1144–45) Ex. 85 (Rosenberg Decl.) ¶¶ 4–5 (App. at 1294–95) Ex. 89 (Sayles Decl.) ¶¶ 9–11 (App. at 1330) Ex. 98 (Treseder Decl.) ¶¶ 11–12 (App. at 1461) Ex. 99 (Valdez-Ward Decl.) ¶¶ 25–26 (App. at 1472) Ex. 100 (Vazquez-Ramos Decl.) ¶¶ 3–4, 7 (App. at 1479) Ex. 105 (Young Dec.) ¶¶ 4–5 (App. at 1564) Ex. 107 (Wells Decl.) ¶¶ 3–6, 11 (App. at 1574–76)
15.	Impact on public health	Ex. 17 (Cody Decl.) ¶¶ 11–14 (App. at 0177–78) Ex. 19 (Duenas Decl.) ¶¶ 7–11 (App. at 0192) Ex. 21 (Engelmann Decl.) ¶ 10 (App. at 0216) Ex. 26 (Garcia Decl.) ¶ 9 (App. at 0330–31) Ex. 36 (Hainmueller, Lawrence Decl.) ¶¶ 4, 7, 11–13 (App. at 0464–68) Ex. 52 (Lorenz Decl.) ¶ 6 (App. at 0716) Ex. 54 (Maciel Decl.) ¶¶ 9–10 (App. at 0729–30) Ex. 55 (Madara Dec.) ¶¶ 3–6 (App. at 0766–77) Ex. 56 (Márquez Decl.) ¶ 17 (App. at 0779) Ex. 58 (McLeod Decl.) ¶¶ 2, 4–7 (App. at 0789–91) Ex. 60 (Mendez Decl.) ¶ 19 (App. at 0808–09) Ex. 61 (Mendoza Decl.) ¶¶ 4, 6–8 (App. at 0815–16) Ex. 76 (Pereira Decl.) ¶¶ 11–15 (App. at 1139–40) Ex. 92 (J. Smith Decl.) ¶ 11 (App. at 1349) Ex. 105 (Young Dec.) ¶¶ 7, 8 (App. at 1564)
16.	Impact on public safety	Ex. 26 (Garcia Decl.) ¶ 9 (App. at 0330–31) Ex. 28 (Gascón Decl.) ¶¶ 3–6, 9–12 (App. at 0340–43) Ex. 56 (Márquez Decl.) ¶ 16 (App. at 0778) Ex. 60 (Mendez Decl.) ¶ 20 (App. at 0809) Ex. 73 (O'Malley Decl.) ¶¶ 5–10, 12, 14 (App. at 1115–19) Ex. 76 (Pereira Decl.) ¶¶ 11–15 (App. at 1139–40) Ex. 84 (Rosen Decl.) ¶¶ 5, 8–10 (App. at 1288–90) Ex. 91 (L. Smith Decl.) ¶¶ 6–8 (App. at 1341–42) Ex. 103 (Wong Decl.) ¶ 35 (App. at 1514)
17.	Impact on state and local economies	Ex. 4 (R. Anderson Decl.) ¶ 6 (App. at 0021) Ex. 9 (Blazar Decl.) ¶¶ 3–5 (App. at 0060) Ex. 11 (Brannon, Albright Decl.) ¶¶ 11, 14–16 (App. at 0073–74) Ex. 19 (Duenas Decl.) ¶ 12 (App. at 0193) Ex. 22 (Essig, Wiehe, Hill Decl.) ¶¶ 8–10, 12–14 (App. at 0224–30) Ex. 25 (D. Garcia Decl.) ¶¶ 43–44, 51, 54–55, 57–59 (App. at 0263, 265–66) Ex. 46 (Jordan Decl.) ¶ 7 (App. at 0641) Ex. 69 (Oakley Decl.) ¶¶ 5, 9 (App. at 0905, 0907) Ex. 76 (Pereira Decl.) ¶¶ 7–9 (App. at 1138–39) Ex. 92 (J. Smith Decl.) ¶ 6 (App. at 1347–48)

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		Ex. 103 (Wong Decl.) ¶¶ 21, 42–43, 48–49, 54–55 (App. at 1505, 1515–16, 1518–19, 1520–21) Ex. 107 (Wells Decl.) ¶¶ 2, 10 (App. at 1574–75)
18.	Impact on state and local government agencies	Ex. 19 (Duenas Decl.) ¶¶ 7–11 (App. at 0192) Ex. 26 (Garcia Decl.) ¶ 9 (App. at 0330–31) Ex. 42 (Hudson Decl.) ¶¶ 2, 7, 11 (App. at 0524–26) Ex. 50 (Lee Decl.) ¶¶ 5–7 (App. at 0706–07) Ex. 52 (Lorenz Decl.) ¶¶ 6–7 (App. at 0716) Ex. 54 (Maciel Decl.) ¶ 9 (App. at 0729–70) Ex. 56 (Márquez Decl.) ¶¶ 6–9, 12–14 (App. at 0776–78) Ex. 60 (Mendez Decl.) ¶ 20 (App. at 0809) Ex. 76 (Pereira Decl.) ¶¶ 7-9, 11–15 (App. at 1138–40) Ex. 84 (Rosen Decl.) ¶ 7 (App. at 1289) Ex. 92 (J. Smith Decl.) ¶¶ 9–10 (App. at 1349)
19.	Inability to apply for DACA	Ex. 18 (Doe #1 Decl.) ¶ 21 (App. at 0186) Ex. 44 (Jimenez Decl.) ¶¶ 51–52 (App. at 0558) Ex. 47 (Keller Decl.) ¶ 12 (App. at 0649) Ex. 60 (Mendez Decl.) ¶ 17 (App. 0808) Ex. 78 (Ramirez Decl.) ¶¶ 51–53 (App. at 1160–61) Ex. 97 (Tellefson Decl.) ¶ 6 (App. at 1454)
20.	Inability to make long–term commitments	Ex. 7 (Vazquez Decl.) ¶¶ 22, 23 (App. at 0042) Ex. 10 (Braddock Decl.) ¶ 4 (App. at 0065) Ex. 16 (Chen Dec.) ¶¶ 15–18 (App. at 0170–71) Ex. 18 (Doe #1 Decl.) ¶ 19 (App. at 0186) Ex. 25 (D. Garcia Decl.) ¶¶ 60–64, 69–70 (App. at 0266–68) Ex. 29 (Gin Dec.) ¶¶ 5–8 (App. 0347–48) Ex. 32 (Gonzalez Avila Decl.) ¶¶ 46, 47 (App. at 0401) Ex. 33 (Gorjian Decl.) ¶¶ 15–16 (App. at 0448–49) Ex. 40 (Holmes–Sullivan Decl.) ¶ 13 (App. at 0511) Ex. 49 (Latthivongskorn Decl.) ¶¶ 47–49 (App. at 0670–71) Ex. 53 (Lucey Decl.) ¶¶ 13–15 (App. at 0723) Ex. 66 (Napolitano Decl.) ¶ 15 (App. at 0890) Ex. 74 (Parham Decl.) ¶ 13 (App. at 1126–27) Ex. 82 (Roe Smith Dec.) ¶¶ 23–26 (App. at 1271–72) Ex. 87 (Santos Toledo Decl.) ¶ 33 (App. at 1312) Ex. 88 (Sati Decl.) ¶¶ 44–45 (App. at 1324) Ex. 93 (Stobo Decl.) ¶¶ 10, 12 (App. at 1359) Ex. 108 (Jayes–Green Decl.) ¶¶ 8, 9 (App. at 1581–82)
21.	Inability to renew DACA	Ex. 5 (Arevalo Decl.) ¶¶ 8–10, 12, 13 (App. at 0027–29) Ex. 18 (Doe #1 Decl.) ¶21 (App. at 0186) Ex. 19 (Duenas Decl.) ¶¶ 7–11 (App. at 0192) Ex. 43 (Jenkins Decl.) ¶ 5 (App. at 0543–44) Ex. 47 (Keller Decl.) ¶ 11 (App. at 0648–49) Ex. 54 (Maciel Decl.) ¶ 9 (App. at 0729–30) Ex. 60 (Mendez Decl.) ¶17 (App. at 0808) Ex. 63 (Montes Decl.) ¶¶ 12, 14–19 (App. at 0864–66) Ex. 67 (Nguyen Decl.) ¶ 9 (App. at 0895–96) Ex. 76 (Pereira Decl.) ¶¶ 13–15 (App. at 1139–40)

§	TOPIC	EXHIBITS
		Ex. 97 (Tellefson Decl.) ¶ 5 (App. at 1454–54) Ex. 101 (Weiner Decl.) ¶¶ 6–9, 14–15 (App. at 1484–87)
22.	Increased costs to employers	Ex. 5 (Arevalo Decl.) ¶ 11 (App. at 0028) Ex. 40 (Holmes–Sullivan Decl.) ¶19 (App. at 0513) Ex. 44 (Jimenez Decl.) ¶¶ 51–52 (App. at 0558) Ex. 47 (Keller Decl.) ¶ 4 (App. at 0646–47) Ex. 56 (Márquez Decl.) ¶ 7 (App. at 0776) Ex. 60 (Mendez Decl.) ¶19 (App. at 0808–09) Ex. 68 (Nishi Decl.) ¶ 4 (App. at 0900) Ex. 70 (O'Brien Decl.) ¶¶ 3, 5–8 (App. at 1070–71) Ex. 74 (Parham Decl.) ¶ 13 (App. at 1126–27) Ex. 78 (Ramirez Decl.) ¶¶ 50–51, 53 (App. at 1160–61) Ex. 90 (Schwartz Decl.) ¶¶ 3, 7–9 (App. at 1334–36) Ex. 92 (J. Smith Decl.) ¶ 8 (App. at 1348–49) Ex. 97 (Tellefson Decl.) ¶ 11 (App. at 1455) Ex. 104 (Yaffe Decl.) ¶¶ 7, 8 (App. at 1557–58)
23.	Limits on international travel	Ex. 1 (Abrams Decl.) ¶ 12 (App. at 0006) Ex. 5 (Arevalo Decl.) ¶ 8 (App. at 0027) Ex. 23 (Feldblum Decl.) ¶ 14 (App. at 0246) Ex. 48 (Kutz Decl.) ¶ 13 (App. at 0656–57) Ex. 49 (Latthivongskorn Decl.) ¶¶ 48, 49 (App. at 0671) Ex. 64 (Morrill Decl.) ¶ 21 (App. at 0875) Ex. 66 (Napolitano Decl.) ¶ 12 (App. at 0889) Ex. 74 (Parham Decl.). ¶ 11 (App. at 1126) Ex. 88 (Sati Decl.) ¶¶ 39–41 (App. at 1322–23) Ex. 100 (Vazquez–Ramos Decl.) ¶¶ 6–7 (App. at 1479)
24.	Use of sensitive personal information	Ex. 7 (Vazquez Decl.) ¶ 21 (App. at 0042) Ex. 18 (Doe #1 Decl.) ¶ 8 (App. at 0184) Ex. 45 (Jones Decl.) ¶¶ 15–16 (App. at 0635) Ex. 47 (Keller Decl.) ¶ 13 (App. at 0649) Ex. 63 (Montes Decl.) ¶ 13 (App. at 0865) Ex. 79 (Roche Decl.) ¶ 7 (App. at 1252) Ex. 87 (Santos Toledo Decl.) ¶ 17 (App. at 1308–09) Ex. 94 (Stoicescu-Ghica Decl.) ¶ 31 (App. at 1369) Ex. 96 (Tabares Decl.) ¶ 16 (App. at 1448–49) Ex. 99 (Valdez–Ward Decl.) ¶ 12 (App. at 1469) Ex. 103 (Wong Decl.) ¶¶ 36–40 (App. at 1514–15) Ex. 106 (Zheng Decl.) ¶ 12 (App. at 1570)

U.S. Citizenship and Immigration Services

Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, by Fiscal Year, Quarter, Intake, Biometrics and Case Status Fiscal Year 2012-2017 (March 31)

Period	Requests by Intake, Biometrics and Case Status								
	Intake[1]				Biometrics[6]	Case Review[8]			
	Requests Accepted[2]	Requests Rejected[3]	Total Requests	Average Accepted/Da	Biometrics Scheduled[7]	Requests Under	Approved[10]	Denied[11]	Pending[12]
Fiscal Year - Total [6]									
2012	152,431	5,395	157,826	3,629	124,055	38,024	1,684	-	150,747
2013	427,616	16,351	443,967	1,697	445,013	77,524	470,521	11,025	96,817
2014	238,899	24,888	263,787	952	209,670	101,568	158,397	21,087	156,232
2014 Initial	122,424	19,127	141,551	488	-	-	136,161	21,084	61,996
2014 Renewal	116,475	5,761	122,236	464	-	-	22,236	D	94,236
2015	448,850	35,479	484,329	1,781	525,499	48,355	510,289	21,452	73,341
2015 Initial	85,300	7,481	92,781	338	-	-	90,746	19,158	37,392
2015 Renewal	363,550	27,998	391,548	1,443	-	-	419,543	2,294	35,949
2016	260,700	12,325	273,025	1,035	68,140	-	198,916	14,503	120,622
2016 Initial	73,387	1,205	74,592	291	-	-	52,882	11,445	46,452
2016 Renewal	187,313	11,120	198,433	743	-	-	146,034	3,058	74,170
2017	242,979	23,398	266,377	1,960	-	-	246,850	6,930	109,821
2017 Initial	25,656	21	25,677	207	-	-	35,586	5,155	31,367
2017 Renewal	217,323	23,377	240,700	1,753	-	-	211,264	1,775	78,454
Total Cumulative	1,771,475	117,836	1,889,311	1,510	1,372,377	-	1,586,657	74,997	109,821
Total Cumulative Initial	886,814	49,580	936,394	756	-	-	787,580	67,867	31,367
Total Cumulative Renewal	884,661	68,256	952,917	754	-	-	799,077	7,130	78,454
Fiscal Year 2017 by Quarter [13]									
Q1. October - December	110,189	4,138	114,327	1,777	-	-	122,051	2,754	109,821
Q1. October - December Initial	15,294	15	15,309	247	-	-	18,311	2,106	31,367
Q1. October - December Renewal	94,895	4,123	99,018	1,531	-	-	103,740	648	78,454
Q2. January - March	132,790	19,260	152,050	2,142	-	-	124,799	4,176	124,437
Q2. January - March Initial	10,362	D	10,368	167	-	-	17,275	3,049	36,490
Q2. January - March Renewal	122,428	19,254	141,682	1,975	-	-	107,524	1,127	87,947
Q3. April - June									
Q3. April - June Initial									
Q3. April - June Renewal									
Q4. July - September									
Q4. July - September Initial									
Q4. July - September Renewal									

D - Data withheld to protect requestors' privacy.

- Represents zero.

[1]Refers to a request for USCIS to consider deferred removal action for an individual based on guidelines described in the Secretary of Homeland Security's memorandum issued June 15, 2012.

Each request is considered on a case-by-case basis.

See http://www.uscis.gov/childhoodarrivals.

[2]The number of new requests accepted at a Lockbox during the reporting period.

[3]The number of requests rejected at a Lockbox during the reporting period.

[4]The number of requests that were received at a Lockbox during the reporting period.

[5]The number of requests accepted per day at a Lockbox as of the end of the reporting period.

Also note the average accepted per day for initial plus renewal will not equal the total average.

[6]Refers to capture of requestors' biometrics.

[7]The number of appointments scheduled to capture requestors' biometrics during the reporting period.

[8]Refers to consideration of deferring action on a case-by-case basis during the reporting period.

[9]The number of new requests received and entered into a case-tracking system during the reporting period.

[10]The number of requests approved during the reporting period.

[11]The number of requests that were denied, terminated, or withdrawn during the reporting period.

[12]The number of requests awaiting a decision as of the end of the reporting period.

[13]Data on biometrics scheduled is not available past January 31, 2016. Totals reflect up to January 31, 2016.

NOTE: 1. Some requests approved or denied may have been received in previous reporting periods.

2. The report reflects the most up-to-date estimate available at the time the report is generated.

Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, Biometrics Capture Systems, CIS Consolidated Operational Repository (CISCOR), December 31, 2016

Top Countries of Origin	Accepted to Date[1]			Approved to Date[2]		
	Initials	Renewals	Total	Initials	Renewals	Total
Mexico	689,029	689,235	1,378,264	618,342	622,170	1,240,512
El Salvador	33,661	33,787	67,448	28,371	30,262	58,633
Guatemala	24,247	21,837	46,084	19,792	19,466	39,258
Honduras	22,114	21,107	43,221	18,262	18,526	36,788
Peru	9,721	11,061	20,782	9,066	10,245	19,311
South Korea	7,813	11,038	18,851	7,250	10,375	17,625
Brazil	8,447	8,251	16,698	7,361	7,542	14,903
Ecuador	7,649	7,787	15,436	6,696	7,037	13,733
Colombia	7,217	7,776	14,993	6,591	7,100	13,691
Philippines	5,055	5,774	10,829	4,655	5,444	10,099
Argentina	5,180	5,112	10,292	4,774	4,723	9,497
India	3,741	4,140	7,881	3,182	3,846	7,028
Jamaica	4,375	3,581	7,956	3,435	3,192	6,627
Venezuela	3,441	3,523	6,964	3,099	3,240	6,339
Dominican Republic	3,744	3,050	6,794	3,115	2,722	5,837
Uruguay	2,556	2,419	4,975	2,361	2,201	4,562
Unknown	2,589	2,535	5,124	1,960	2,238	4,198
Bolivia	2,202	2,469	4,671	2,062	2,246	4,308
Costa Rica	2,262	2,387	4,649	2,047	2,169	4,216
Tobago	2,440	1,707	4,147	2,096	1,691	3,787
Poland	1,951	1,997	3,948	1,782	1,827	3,609
Chile	1,874	2,009	3,883	1,736	1,854	3,590
Pakistan	1,927	1,975	3,902	1,685	1,791	3,476
Nicaragua	1,860	1,730	3,590	1,576	1,565	3,141
Guyana	1,467	1,462	2,929	1,266	1,347	2,613

Residence	Accepted to Date[1]			Approved to Date[2]		
	Initials	Renewals	Total	Initials	Renewals	Total
California	242,339	217,023	459,362	222,795	202,200	424,995
Texas	140,688	117,309	257,997	124,300	110,050	234,350
New York	49,710	61,523	111,233	41,970	53,693	95,663
Illinois	45,663	39,602	85,265	42,376	37,039	79,415
Florida	39,843	48,460	88,303	32,795	41,526	74,321
Missing	13,691	70,681	84,372	7,140	53,276	60,416
Arizona	30,652	25,314	55,966	27,865	23,638	51,503
North Carolina	29,584	23,576	53,160	27,385	22,327	49,712
New Jersey	25,650	28,580	54,230	22,024	25,106	47,130
Georgia	28,589	23,521	52,110	24,135	21,804	45,939
Washington	19,581	17,696	37,277	17,843	16,275	34,118
Colorado	19,103	15,321	34,424	17,258	14,302	31,560
Virginia	13,967	14,995	28,962	12,134	13,272	25,406
Maryland	11,513	12,357	23,870	9,785	10,917	20,702
Oregon	12,049	10,185	22,234	11,281	9,610	20,891
Massachusetts	9,517	12,449	21,966	7,934	10,854	18,788
Indiana	10,709	8,559	19,268	9,840	8,076	17,916
Utah	10,512	7,897	18,409	9,711	7,474	17,185
Tennessee	9,321	7,416	16,737	8,340	6,950	15,290
Pennsylvania	7,144	9,625	16,769	5,889	8,178	14,067
Michigan	7,339	8,450	15,789	6,430	7,443	13,873
Wisconsin	8,144	6,679	14,823	7,565	6,298	13,863
Minnesota	6,930	6,898	13,828	6,255	6,236	12,491
Oklahoma	7,488	6,157	13,645	6,865	5,771	12,636
Kansas	7,301	5,997	13,298	6,803	5,647	12,450
New Mexico	7,410	5,557	12,967	6,815	5,236	12,051
South Carolina	7,150	5,702	12,852	6,406	5,382	11,788

Residence	Accepted to Date[1]			Approved to Date[2]		
	Initials	Renewals	Total	Initials	Renewals	Total
Connecticut	5,676	6,675	12,351	4,929	5,882	10,811
Ohio	5,249	5,895	11,144	4,442	5,124	9,566
Arkansas	5,606	4,475	10,081	5,099	4,255	9,354
Alabama	4,803	3,844	8,647	4,270	3,584	7,854
Missouri	3,883	3,747	7,630	3,524	3,407	6,931
Nebraska	3,759	3,223	6,982	3,371	2,970	6,341
Kentucky	3,448	3,056	6,504	3,062	2,786	5,848
Idaho	3,383	2,845	6,228	3,132	2,694	5,826
Iowa	3,131	3,074	6,205	2,798	2,780	5,578
Louisiana	2,421	2,499	4,920	2,049	2,219	4,268
Rhode Island	1,460	1,979	3,439	1,229	1,733	2,962
Delaware	1,603	1,561	3,164	1,444	1,417	2,861
Mississippi	1,693	1,421	3,114	1,460	1,326	2,786
Hawaii	774	2,096	2,870	558	1,740	2,298
District of Columbia	943	1,240	2,183	764	1,049	1,813
Puerto Rico	519	1,275	1,794	325	1,080	1,405
Unknown	185	1,197	1,382	104	952	1,056
Wyoming	694	563	1,257	621	520	1,141
New Hampshire	450	729	1,179	367	599	966
Alaska	195	508	703	138	419	557
South Dakota	305	377	682	252	311	563
Maine	134	410	544	95	334	429
Guam	96	413	509	59	352	411
North Dakota	130	322	452	98	260	358
Virgin Islands	159	252	411	94	204	298
West Virginia	144	232	376	117	200	317
Montana	89	186	275	72	164	236
Vermont	56	192	248	42	162	204

D Data withheld to protect requestors' privacy.
- Represents zero.
[1] The number of requests that were accepted to date of the reporting period.
[2] The number of requests that were accepted to date of the reporting period.
[3] All fields with less than 10 or a blank in the state field are included in the field "not reported."
NOTE: 1) Some requests approved or denied may have been received in previous reporting periods.
2) The report reflects the most up-to-date estimate data available at the time the report is generated.
Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, Biometrics Capture Systems, CIS Consolidated Operational Repository (CISCOR), March 2017

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2018, I electronically filed the foregoing Supplemental Excerpts of Record (Vol. VI of VI) with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

Dated: March 13, 2018

/s/ Jeffrey M. Davidson
Jeffrey M. Davidson