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Congress of the United States
House of Representatives

Juan Vargas

51st District, California

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MIDDLE EAST, NORTH AFRICA,
AND INTERNATIONAL TERRORISM

June 17, 2021

Secretary Alejandro Mayorkas
United States Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, D.C. 20528

Acting Director Tracy Renaud
United States Citizenship and Immigration Services
111 Massachusetts Avenue NW
Washington, D.C., U.S. 20001

Dear Secretary Mayorkas and Acting Director Renaud:

I am writing to respectfully request that the U.S. Department of Homeland Security (DHS) and the U.S. Citizenship and Immigration Services (USCIS) agency immediately expand eligibility for Deferred Action for Childhood Arrivals (DACA) recipients to receive an automatic and temporary 180-day extension on their expiring Employment Authorization Documents (EADs).

As of January 17, 2017, the USCIS provides an automatic temporary 180-day extension for expiring EADs to select individuals. Unfortunately, DACA receipts are ineligible for the automatic EAD extension. EAD renewals, even when submitted prior to the expiration of the initial EAD, can undergo a lengthy approval process and extensive backlogs. As a result, documents expire, and employers are forced to terminate such individuals. Consequently, many individuals experience unnecessary financial hardship and the loss of job seniority. As our nation continues to recover from the detrimental economic impact of the COVID-19 pandemic, it is imperative that we identify and pursue all avenues that can contribute to the recovery process. Including DACA recipients on the list of those eligible for automatic temporary extensions of their EADS seems like a reasonable request.

As a nation, it is our responsibility to support DACA recipients, many of whom have spent their entire lives overcoming intergenerational trauma, economic hardship, and perpetual uncertainty about their legal status. Again, I respectfully ask that you expand eligibility to DACA recipients for an automatic and temporary 180-day extension of expiring Employment Authorization Documents (EADs). Please give my request full and fair consideration within all applicable rules and regulations set forth. Should you have additional questions, feel free to contact Angel Marquez, of my staff, at (619) 422-5963.

Sincerely,

JUAN VARGAS
Member of Congress



U.S. Citizenship
and Immigration
Services

September 27, 2021

The Honorable Juan Vargas
U.S. House of Representatives
Washington, DC 20515

Dear Representative Vargas:

Thank you for your June 17, 2021 letter regarding support for recipients of Deferred Action for Childhood Arrivals (DACA) and requesting an automatic and temporary 180-day extension on all expiring DACA employment authorization documents (EADs). Secretary Mayorkas asked that I respond on his behalf. I apologize for the delay in responding.

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

The Biden-Harris Administration and DHS remain committed to ensuring that Dreamers are protected from the threat of deportation and are allowed to continue to contribute to this country that is their home. DHS remains focused on safeguarding DACA and will engage the public in a rulemaking process to further preserve and fortify DACA.

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

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

In the meantime, consistent with the ruling, DHS will continue processing DACA renewal requests and related employment authorization applications. DHS is committed to minimizing processing times for DACA renewal requests, with a goal of adjudicating such requests within 120 days. Currently, the median processing time for DACA renewals through July 31 of fiscal year 2021 is 1.5 months³ and DACA-related EAD applications are generally adjudicated concurrently with DACA renewal requests. These processing times include those DACA renewal requests that resulted in Requests for Evidence and those that were filed later than the recommended timeframe of 150 to 120 days prior to expiration. For these reasons, we do not believe an automatic extension for EADs is necessary.

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

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

Thank you again for your letter. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Sincerely,



Ur M. Jaddou
Director

³ See Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year, available online at <https://egov.uscis.gov/processing-times/historic-pt> (accessed September 14, 2021).