

Congress of the United States
Washington, DC 20515

September 18, 2017

The Honorable Elaine C. Duke
Acting Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

The Honorable James McCament
Acting Director
U.S. Citizenship and Immigration Services
Washington, D.C. 20529

Dear Acting Secretary Duke and Acting Director McCament:

We write to ask that the U.S. Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) implement a series of minor, technical fixes to ensure that the Administration's end of the Deferred Action for Childhood Arrivals (DACA) program proceeds in an efficient and transparent manner. As you know, on September 5, 2017, Attorney General Jeff Sessions announced that DHS and USCIS would no longer accept initial requests for DACA and provided a six-month window for certain DACA recipients to apply for a final, two-year renewal.¹ Specifically, USCIS will process renewal applications accepted by the agency on or before October 5, 2017 only for those applicants whose DACA expires between September 5, 2017 and March 5, 2018. The following recommendations are technical and noncontroversial in nature and geared toward fulfilling the Administration's goal of an orderly end to DACA.

Allow individuals whose DACA expired before September 5, 2017 to apply for renewal. According to DHS, individuals whose DACA expires between September 5, 2017 and March 5, 2018 are eligible to renew. However, individuals whose DACA expired before September 5, 2017 and whose applications had not been received by USCIS by that date are ineligible to renew. This policy marks a sharp and unforeseen break with USCIS' previous policy, which allowed individuals whose DACA had expired to apply for renewal within one year of expiration. The purpose of the Administration's six-month delay is to allow DACA recipients whose deferred action is about to expire to apply for a final two-year period of deferred action. Functionally, these pre-September 5 expirations are no different than the quarter of the DACA population that this Administration has stated will be allowed to renew before October 5, 2017. We urge you to allow individuals whose DACA expired before September 5, 2017 to file for renewal.

¹ Memorandum from Elaine C. Duke, Acting Secretary, U.S. Department of Homeland Security on Rescission of Deferred Action for Childhood Arrivals (DACA), to James W. McCament, Acting Director, U.S. Citizenship and Immigration Services, Sept. 5, 2017, <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.

Accept and process renewal applications postmarked on or before October 5, 2017. DHS requires renewal applicants to submit their renewal application on or before October 5, 2017. Through its stakeholder engagement, DHS has indicated that USCIS will reject applications that are postmarked on or before October 5 but not received by that date. Applicants are facing a very tight deadline as they have less than a month to gather their renewal materials, consult with an attorney, and gather sufficient funds to pay the filing fee. Not accepting postmarked applications also runs contrary to the federal government's historic policy on immigration deadlines. For example, when implementing various immigration filing deadlines for the LIFE Act, the legacy Immigration and Naturalization Service accepted applications for relief as long as they were postmarked on or before the deadline.² We urge you to clarify that applications postmarked on or before October 5 will be accepted and processed by USCIS.

Do not penalize applicants whose applications are rejected for minor, technical errors. As you know, when USCIS receives applications at its lockbox locations, some applications are rejected because of minor technical errors, such as a lack of signature. While normally such rejections could easily be remedied by the applicant resending the application, now applicants who have their applications rejected may not be able to refile before their window of opportunity closes on October 5, 2017. Thus, we ask that USCIS accept and adjudicate applications that are received and rejected on or before October 5, 2017 but subsequently refiled after October 5, 2017.

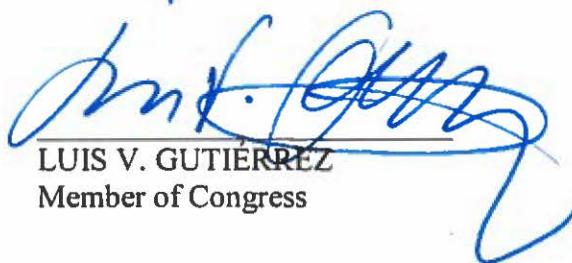
For those currently with unexpired DACA, provide two-year grants of deferred action from the date of the expiration of their current DACA grant, instead of the date of approval. As you know, USCIS currently provides a two-year grant of deferred action from the date a renewal application is approved and not from the (often prospective) date of expiration. Practically, this policy means that DACA recipients often lose one or more months of deferred action while their renewal application is pending. As USCIS is encouraging DACA recipients whose DACA expires within the next six months to renew immediately, many individuals who do so will likely lose months of their deferred action. Thus, we ask that USCIS issue approvals for renewal of DACA from the date of expiration for unexpired grants.

Thank you for your consideration of the above requests. If you have any questions, please contact Jeremy Lippert (Rep. Coffman) at (202) 225-7882 or AnneRose Menachery (Rep. Gutiérrez) at (202) 225-8203.

Sincerely,



MIKE COFFMAN
Member of Congress



LUIS V. GUTIÉRREZ
Member of Congress

² Press Release, Immigration and Naturalization Service, U.S. Department of Justice, INS Implements Section 245(i) Provision of the LIFE Act, March 23, 2001, https://www.uscis.gov/sites/default/files/files/pressrelease/Section245iLIFEAct_032301.pdf.