

Congress of the United States
Washington, DC 20510

February 12, 2019

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security

The Honorable L. Francis Cissna
Director
U.S. Citizenship and Immigration Services

Dear Secretary Nielsen and Director Cissna:

When the Trump administration announced on September 5, 2017 that it intended to terminate the Deferred Action for Childhood Arrivals (DACA) program, the futures of hundreds of thousands of young Americans and the wellbeing of our communities were put at risk. Federal courts have since ordered the government to maintain the program for current DACA recipients.¹ Unfortunately, the Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) have prevented DACA recipients from receiving advance parole to allow them to travel internationally to visit sick and elderly family members, study, or work, as they previously were permitted to do.² DHS and USCIS officials have not accounted for their failure to exercise their lawful discretion. We write to urge you to reconsider your harmful position and request that you provide us with detailed information on DACA recipients' eligibility for advance parole.

Since the DACA program was established in 2012, it has provided over 800,000 young people who arrived in this country as children temporary protection from deportation, allowing them to pursue higher education and lawfully work.³ DACA recipients have made essential contributions to critical U.S. industries, including education and health care, founded small businesses, and invested in and enriched American communities.⁴ Prior to September 5, 2017, USCIS exercised its discretion under its statutory authority to issue eligible DACA applicants advance parole documents to allow them to travel abroad for humanitarian, educational, and employment purposes and return to the U.S., weighing particular circumstances of each request on a case-by-case basis.⁵

USCIS' failure to continue to allow DACA recipients to apply for advance parole has cruelly denied them opportunities to address personal emergencies. Critical advance parole requests that USCIS has failed to consider include DACA recipients seeking to obtain specialized medical treatment, to visit a dying family member, or to attend funeral services of loved ones outside of the U.S. For example, Mayra Garibo—a DACA recipient studying at California State University, Dominguez Hills—who applied for advance parole before

September 5, 2017 but whose application USCIS never approved because of the policy shift, was unable to visit her father in Mexico before he died in January 2018 following 20 years of separation. Mayra's father was the primary caregiver for her grandparents, who are now both sick and whom she cannot visit and care for.⁶ In another unfortunate example of the harm of USCIS' policy, in 2018, DACA recipient Angel Martinez—who was diagnosed with terminal acute lymphoblastic leukemia—faced an impossible dilemma of choosing between saying goodbye to his family in Mexico or receiving appropriate palliative medical care to ease his pain in the U.S.⁷

Further, USCIS' failure to continue to allow DACA recipients to apply for advance parole senselessly prohibits them from participating in educational enrichment and professional development opportunities abroad, including study abroad programs, overseas seminars, conferences, and training sessions. It also limits their ability to work with international clients. Leading education experts emphasize how participation in study abroad programs fosters respect among individuals of diverse backgrounds, develops next generation leadership, and contributes to a more interconnected, secure, and prosperous country.⁸ Denying DACA recipients an opportunity to travel internationally for study and work is detrimental not only to their personal and professional wellbeing but also undermines the strength of the American economy to which they are contributing their knowledge and skills. As one extraordinary example of the harm of USCIS' policy, Harvard student Jin Park—the first DACA recipient to be awarded the prestigious Rhodes Scholarship—is being forced to contemplate leaving the U.S. to pursue an advanced degree at the University of Oxford in the U.K. with knowledge he likely cannot return upon completion of his studies.⁹

In light of the strong benefits that access to advance parole has provided and could continue to provide DACA recipients and American communities, we request that DHS and USCIS jointly respond within 30 days to the following:

1. Please provide a detailed explanation about why USCIS has failed to exercise its lawful discretion to allow DACA recipients to apply for or receive advance parole for humanitarian, educational, and employment purposes since September 5, 2017.
2. Please clarify if USCIS is now treating DACA recipients differently than other deferred action recipients with respect to advance parole applications, and if so, provide an explanation, including how other advance parole applications are adjudicated.
3. Please provide complete documentation of any research and analysis DHS and USCIS have conducted since 2012 about benefits to individuals, educational institutions, employers, and the American economy of allowing DACA recipient to apply for advance parole.
4. Please provide complete written documentation of DHS and USCIS policy relating to advance parole applications and adjudications from DACA recipients since January 2017, including all research and analysis informing the policy shift since September 5, 2017.
5. Please provide complete written documentation on guidance and training provided to USCIS employees regarding adjudications of advance parole applications from DACA recipients and

communications with DACA recipients about advance parole and international travel, including on advising DACA recipients about risks to their DACA status of travel abroad, since January 2017.

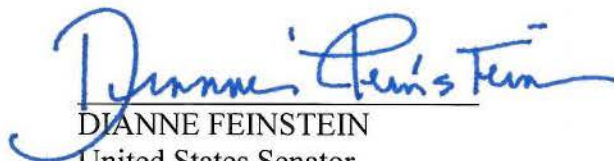
6. Please provide complete written documentation on USCIS policies, procedures, and processes to inform DACA recipients who submitted advance parole applications prior to September 5, 2017 about the status of their applications, including issuance of notices of intent to deny and final decisions to deny, and to refund their application fees following the policy shift.
7. Please provide complete written documentation on USCIS policies, procedures, and processes to inform DACA recipients who submitted advance parole applications after September 5, 2017 about the status of their applications, including issuance of notices of intent to deny and final decisions to deny, and to refund their application fees following the policy shift.
8. Please provide the total annual number of applications USCIS received from DACA recipients for advance parole, broken down by humanitarian, educational, or employment purposes, as well as the number of such applications approved, respectively, during each fiscal year from 2012-2018. Please also provide a monthly breakdown of this data.
9. Please provide the total number of applications USCIS received from DACA recipients for humanitarian parole as well as the number of such applications approved since September 5, 2017.

We thank you for your attention to this matter and look forward to your prompt response.

Sincerely,



KAMALA D. HARRIS
United States Senator



DIANNE FEINSTEIN
United States Senator



ALAN LOWENTHAL
United States Representative



GRACE MENG
United States Representative



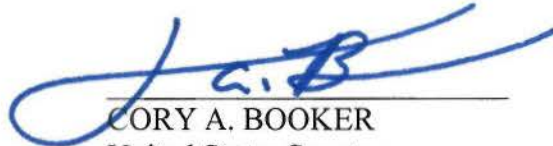
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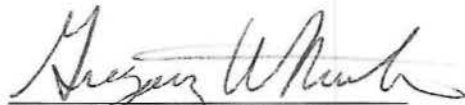
MICHAEL F. BENNET
United States Senator

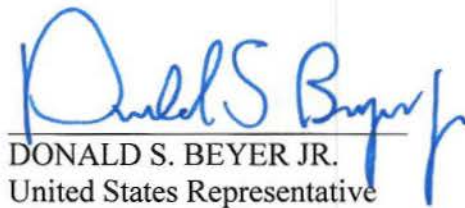


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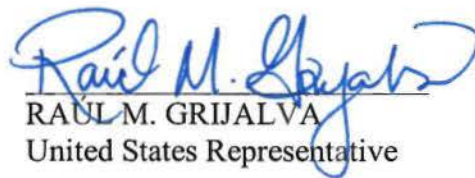
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ANDY LEVIN
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RAÚL M. GRIJALVA
United States Representative

¹ See Order Denying FRCP 12(b)(1) Dismissal and Granting Provisional Relief, *Regents of the University of California California v Department of Homeland Security*, No. 3:17-cv-05211 (N.D. Cal, Jan. 9, 2018), available at: https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Deferred%20Action%20for%20Childhood%20Arrivals/234_Order_Entering_Preliminary_Injunction.pdf; Amended Memorandum and Order and Preliminary Injunction, *Batalla Vidal v. Nielsen and State of New York v. Trump*, No. 1:16-cv-04756-NGG-JO, United States District Court Eastern District of New York (E.D.N.Y., Feb. 13, 2018), available at:

https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Deferred%20Action%20for%20Childhood%20Arrivals/255_EDNY_AMENDED_Order_Entering_Preliminary_Injunction.pdf;

² *Deferred Action for Childhood Arrivals: Response to January 2018 Preliminary Injunction*, U.S. Citizenship and Immigration Services, last updated Feb. 14, 2018, available at: <https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>

³ Alan Gomez, *Who are the DACA DREAMers and How Many are Here?*, USA TODAY, Feb. 13, 2018, available at: <https://www.usatoday.com/story/news/politics/2018/02/13/who-daca-dreamers-and-how-many-here/333045002/>

⁴ Democrats of the Committee on Small Business, U.S. House of Representatives, *Economic Impact of DACA Spotlight on Small Businesses*, Feb. 2018, available at <https://democrats-smallbusiness.house.gov/sites/democrats.smallbusiness.house.gov/files/documents/Economic%20Impact%20of%20DACA%20Report.pdf>; Elira Kuka et al, *Do Human Capital Decisions Respond to the Returns to Education? Evidence from DACA*, National Bureau on Economic Research Working Paper No. 24315, Feb. 2018, available at: <https://www.nber.org/papers/w24315>

⁵ See Sections 103(a) and 212(d)(5) of the Immigration and Nationality Act (INA), Section 402(4) of the Homeland Security Act (P.L. 107-296), and implementing regulations.

⁶ Emily Rasmussen, *How a Cal State Long Beach Professor and a Handful of Students are Heading to Washington D.C., to Fight for DACA's Travel Policy*, PRESS TELEGRAM, Jan. 4, 2019, available at:

<https://www.presstelegram.com/2019/01/04/how-a-cal-state-long-beach-professor-and-a-handful-of-students-are-heading-to-washington-d-c-to-fight-for-dacas-travel-policy/>; Kate Morrissey, *Dreamer Hoping for Permission to Say Goodbye to Dying Grandfather*, THE SAN DIEGO UNION-TRIBUNE, March, 22, 2018, available at: <https://www.sandiegouniontribune.com/news/immigration/sd-me-advance-parole-20180322-story.html>

⁷ Lauren Gambino, *A Dreamer's Impossible Dilemma: Where to Die?*, THE GUARDIAN, March, 30, 2018, available at: <https://www.theguardian.com/us-news/2018/mar/30/daca-cancellation-dreamer-uscis-immigration-dilemma-dream-act>

⁸ See National Association of Foreign Student Advisers, *Independent Research Measuring the Impact of Study Abroad*, available at:

https://www.nafsa.org/Policy_and_Advocacy/Policy_Resources/Policy_Trends_and_Data/Independent_Research_Measuring_the_Impact_of_Study_Abroad/; Agnes Constante, *Study Abroad Program for DACA Students 'Dead in the Water'*, NBC NEWS, Oct. 4, 2017, available at: <https://www.nbcnews.com/news/latino/study-abroad-program-daca-students-dead-water-n805701>

⁹ Erin Durkin, *Dreamer Who Won Rhodes scholarship Fears He Won't be Allowed Back in the US*, THE GAURDIAN, Jan. 10, 2019, available at: <https://www.theguardian.com/us-news/2019/jan/10/dreamer-who-won-rhodes-scholarship-fears-he-wont-be-allowed-back-in-the-us>