United States Senate

WASHINGTON, DC 20510

April 4, 2024

The Honorable Ur M. Jaddou
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

Dear Director Jaddou,

We are concerned by recent reports from Deferred Action for Childhood Arrivals (DACA) recipients regarding significant increases in processing times for DACA renewal applications.[1] We urge you to take all steps within your power to protect these noncitizens and process renewal applications in a timely manner.

The DACA program has allowed more than 834,000 Dreamers an opportunity to pursue higher education and meaningful careers while remaining in the only home they have ever known.[2] We thank you for your efforts to fortify the DACA program through rulemaking and for the Department of Homeland Security's defense of that rule in litigation. Despite these important efforts, DACA recipients face significant uncertainty given litigation challenging the DACA program, and threats by presidential candidate Donald Trump to end the program. Delays in processing DACA renewals are adding to the instability and uncertainty that DACA recipients already face each day.

Many applicants for DACA renewal report waiting well over five months for their applications to be processed this fiscal year.[3] USCIS median processing times doubled from fiscal year (FY) 2022 to FY 2023, and so far in FY 2024 (through February 28, 2024) are 90 percent longer than in FY 2023.[4] The reported median processing time of 1.9 months for renewals for FY 2024 thus far is the highest since FY 2017. USCIS data also shows significant increases in pending application volumes (to their highest total in three years) in addition to past

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[1] *See, e.g.,* CBS "DACA renewal delays threaten livelihood of "Dreamers" in Colorado and across the country", https://www.cbsnews.com/colorado/news/colorado-dreamers-joining-states-fighting-attempts-end-daca/ (last visited Mar. 12, 2024); ABC7 Chicago, "USCIS DACA renewal delays put livelihoods at risk for recipients as agency prioritizes migrants", *https://abc7chicago.com/uscis-daca-news-renewal-migrant-work-permits/14330581/* (last visited Mar. 12, 2024).

[2] *See* USCIS "Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, Requests by Intake and Case Status, by Fiscal Year", *https://www.uscis.gov/sites/default/files/document/data/daca_performancedata_fy2023_q4.pdf* (last visited Mar. 12, 2024);

[3] *See, e.g.,* CBS "DACA renewal delays threaten livelihood of "Dreamers" in Colorado and across the country", https://www.cbsnews.com/colorado/news/colorado-dreamers-joining-states-fighting-attempts-end-daca/ (last visited Mar. 12, 2024); ABC7 Chicago, "USCIS DACA renewal delays put livelihoods at risk for recipients as agency prioritizes migrants", *https://abc7chicago.com/uscis-daca-news-renewal-migrant-work-permits/14330581/* (last visited Mar. 12, 2024).

[4] *See* Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year, *https://egov.uscis.gov/processing-times/historic-pt* (last visited Mar. 25, 2024).

decreases in the quarterly rate of adjudication.[5] At the same time, deferred action for over 150,000 active DACA recipients will expire between March and September of this year, likely resulting in a significant number of new renewal filings.[6]

DACA recipients, their employers, and their families face significant disruptions due to these processing delays. For example, a financial analyst who filed for renewal several months before his status was to expire was forced to take unpaid leave due to the delay in processing his application.[7] Similarly, a young woman raising five children in the Chicago area applied more than four months before the expiration of her status and had yet to receive a response from USCIS three days before that expiration, putting her and her family at risk.[8] In addition, DACA recipients accrue unlawful presence during the period between the expiration of their status and USCIS' adjudication of their renewal applications, even when they apply well in advance of that expiration.[9] This can have significant negative consequences for them, such as making them ineligible for other benefits under our immigration laws.

To reduce these disruptions and uncertainty for DACA recipients, we urge you to make a focused effort to reduce processing times for DACA renewal applications and reduce the volume of pending cases. We also request that you amend your practices to prevent undue harm to DACA recipients, by starting an approved renewal applicant's DACA period on the date of expiration of the previous period, rather than the current practice of starting the renewal period from the date of approval. This would prevent DACA recipients from accruing unlawful presence through no fault of their own due to processing delays. It would be consistent with USCIS' approach to the renewal or extension of other immigration benefits.[10] Senator Durbin previously suggested this approach to USCIS in July 2021, as did many commenters on the DACA Notice of Proposed Rulemaking.[11] In the DACA final rule, the Department of Homeland Security stated that it would consider implementing this approach through subregulatory guidance "to improve efficiency and reliability for the DACA population."[12] Given the negative

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[5] *See* USCIS "Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, Requests by Intake and Case Status, Current Fiscal Year by Quarter" for Fiscal Year 2023, *https://www.uscis.gov/sites/default/files/document/data/daca_performancedata_fy2023_q4.pdf* (last visited Mar. 12, 2024); USCIS "Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, Requests by Intake and Case Status, Current Fiscal Year by Quarter" for Fiscal Year 2022, *https://www.uscis.gov/sites/default/files/document/data/DACA_performancedata_fy2022_qtr4.pdf* (last visited Mar. 12, 2024).

[6] *See* USCIS "Count of Active DACA Recipients By Month of Current DACA Expiration As of September 30, 2023", *https://www.uscis.gov/sites/default/files/document/data/active_daca_recipients_fy23_q4.pdf* (last visited Mar. 12, 2024).

[7] *See* Dallas Morning News, "How a delay in DACA renewal threatens a Goldman Sachs worker's livelihood in Dallas", https://www.dallasnews.com/business/2024/01/30/how-a-delay-in-daca-renewal-threatens-a-goldman-sachs-workers-livelihood-in-dallas/ (last visited Mar. 12, 2024).

[8] *See* ABC7 Chicago, "USCIS DACA renewal delays put livelihoods at risk for recipients as agency prioritizes migrants", *https://abc7chicago.com/uscis-daca-news-renewal-migrant-work-permits/14330581/* (last visited Mar. 12, 2024).

[9] *See* USCIS "Consideration of Deferred Action for Childhood Arrivals (DACA) Frequently Asked Questions", https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca/frequently-asked-questions#renewal (last visited Mar. 12, 2024).

[10] *See* USCIS Policy Manual, Volume 2, Chapter 4 – Extension of Stay, Change of Status, and Extension of Petition Validity, https://www.uscis.gov/policy-manual/volume-2-part-a-chapter-4 (last visited Mar. 18, 2024).

[11] *See* "Deferred Action for Childhood Arrivals," 86 FR 53736 (Sep. 28, 2021).

[12] *See* "Deferred Action for Childhood Arrivals," 87 FR 53152, 53241-53242 (Aug. 30, 2022).

impact that recent processing delays have had on the DACA population, we urge you to implement this practice now.

We appreciate your attention to this important issue.

Sincerely,

Richard J. Durbin
United States Senator

Alex Padilla
United States Senator

Chris Van Hollen
United States Senator

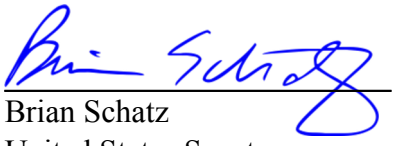
Jacky Rosen
U.S. Senator

Laphonza Butler
United States Senator

Peter Welch
United States Senator

Patty Murray
United States Senator

Raphael Warnock
United States Senator



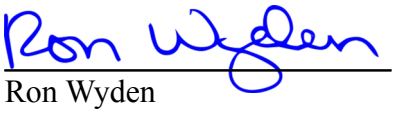
Brian Schatz
United States Senator

Jack Reed
United States Senator

Bernard Sanders
United States Senator

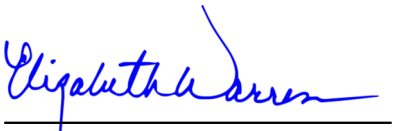
Catherine Cortez Masto
United States Senator

Martin Heinrich
United States Senator



Ron Wyden
United States Senator

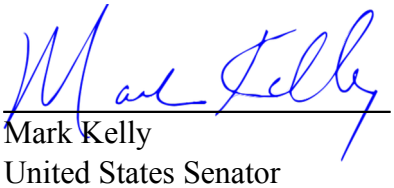
Mazie K. Hirono
United States Senator



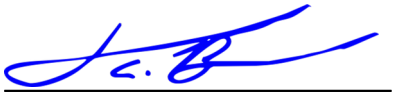
Elizabeth Warren
United States Senator

Tammy Duckworth
United States Senator

Gary C. Peters
United States Senator

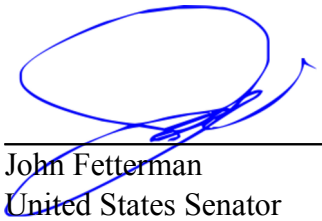


Mark Kelly
United States Senator



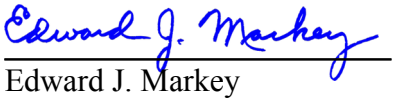
Cory A. Booker
United States Senator

Christopher A. Coons
United States Senator



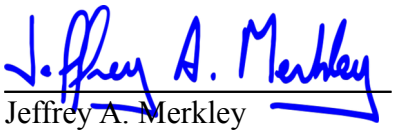
John Fetterman
United States Senator

Amy Klobuchar
United States Senator



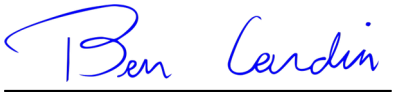
Edward J. Markey
United States Senator

Kyrsten Sinema
United States Senator



Jeffrey A. Merkley
United States Senator

Michael F. Bennet
United States Senator



Benjamin L. Cardin
United States Senator

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Camp Springs, MD 20588-0009

U.S. Citizenship and Immigration Services

May 3, 2024

The Honorable Richard Durbin
United States Senate
Washington, DC 20510

Dear Senator Durbin:

Thank you for your April 4, 2024 letter on Deferred Action for Childhood Arrivals (DACA). USCIS remains as committed as ever to ensuring that DACA recipients are protected from the threat of deportation and can continue to remain a vital part of their communities and contribute to this country that is their home. USCIS is proud to play an important role in implementing DACA, and I appreciated having an opportunity to discuss our shared commitment to the successful implementation of DACA and its role in unlocking the full potential of DACA recipients.

In your letter, you and your fellow Senators urge USCIS to take all steps within our power to protect DACA recipients and process renewal requests in a timely manner. USCIS Historical Data[1] shows the median processing time for DACA renewal requests and associated applications for employment authorization in fiscal year 2023 was one month, and less than two months for the first quarter of fiscal year 2024. At present, 80 percent of DACA renewal requests are currently being processed within three months.

As USCIS has long recommended, DACA renewal requests should be filed no earlier than 150 days and no later than 120 days before the expiration date located on the current Form I-797 DACA approval notice and Employment Authorization Document. Filing during this window reduces the risk that the individual's current period of DACA and employment authorization expires before they receive a decision on their renewal request.

USCIS acknowledges that in recent months some DACA renewal requestors have experienced processing times longer than the 120-day processing time goal. Specifically, several thousand DACA renewal requests filed from approximately August 2023 to February 2024 were impacted by a technical issue that has since been resolved.

Upon learning of the issue, USCIS devoted additional resources to review and resolve, as appropriate, those DACA renewal requests that were impacted by the technical issue. We anticipate the vast majority of impacted DACA renewal requests that have not already been

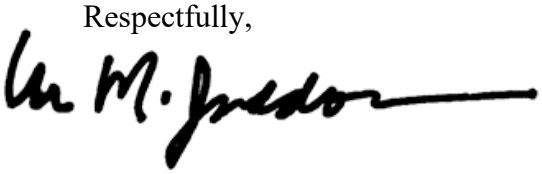
[1] *See* https://egov.uscis.gov/processing-times/historic-pt.

resolved will be reviewed within the next few weeks. DACA renewal requestors may submit an inquiry online at *egov.uscis.gov/e-request* about the status of renewal requests if pending more than 105 days. USCIS also considers expedite requests on a case-by-case basis. Please visit the USCIS Expedite Requests[2] website for more information and guidance on expedite requests.

Your letter also requests that USCIS start an approved renewal requestor's new DACA period on the date of expiration of the previous period, rather than the current practice of starting the renewal period from the date of approval. As you note in your letter, in the DACA Final Rule, the Department of Homeland Security (DHS) stated it would consider implementing this approach through subregulatory guidance "to improve efficiency and reliability for the DACA population." DHS continues to take the suggestion to consecutively date DACA validity periods under consideration as we assess all options to ensure DACA renewal processing is efficient and timely.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,



Ur M. Jaddou
Director

[2] *See* https://www.uscis.gov/forms/filing-guidance/expedite-requests