

Delivered electronically

January 26, 2021

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Secretary-Designate Xavier Becerra
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

RE: REQUEST TO RESTORE ACA ACCESS FOR DACA RECIPIENTS IN LIGHT OF COVID-19

Dear President Biden and Secretary Xavier Becerra:

The 320 undersigned national, state, and local organizations in the areas of immigration, health, civil rights, human rights, labor, faith, and education respectfully request that you direct the U.S. Department of Health and Human Services (HHS) to restore access to benefits under the Patient Protection and Affordable Care Act (ACA) for Deferred Action for Childhood Arrivals (DACA) recipients in light of the COVID-19 pandemic. Access to COVID-19 testing and treatment for DACA recipients and their U.S. citizen children is absolutely critical during this pandemic, particularly for the 202,500 DACA recipients employed as essential workers on the frontlines of COVID-19 to keep our country healthy and running.¹ Specifically, we request that HHS issue a Notice of Proposed Rule Making (NPRM) with a 30-day comment period that would repeal 45 C.F.R. § 152.2(8), which excludes DACA recipients from the definition of “lawfully present” and, consequently, benefits under the ACA.² Issuing this NPRM within the first 100 days of the administration is critical, for any additional delay in healthcare access during the COVID-19 pandemic puts the health of DACA recipients, their families, and the wider community at risk.³ President Biden has also made a commitment to expand access to the ACA for undocumented immigrants, including DACA recipients, and rescinding this harmful regulation will help deliver on that promise.⁴

As a result of the regulation, DACA recipients cannot: (a) generally obtain comprehensive health insurance under Medicaid or CHIP in their state; (b) purchase health insurance in the ACA’s health insurance marketplace, even at full cost using their own funds; and (c) obtain federal tax credits to make private health insurance affordable (even though DACA recipients still file and pay federal taxes) in the marketplace.

¹ Nicole Prechal Svajlenka, *A Demographic Profile of DACA Recipients on the Frontlines of the Coronavirus Response*, Ctr. for Am. Progress (Apr. 6, 2020), <https://www.americanprogress.org/issues/immigration/news/2020/04/06/482708/demographic-profile-daca-recipients-frontlines-coronavirus-response/>.

² The language in question reads as follows: “An individual with deferred action under the Department of Homeland Security’s deferred action for childhood arrivals process, as described in the Secretary of Homeland Security’s June 15, 2012, memorandum, shall not be considered to be lawfully present . . .” 45 C.F.R. § 152.2(8) (2012).

³ The APA states that an agency may forgo the requirement that an NPRM be published at least 30 days before its effective date if there is good cause to say that the procedure would be “impracticable, unnecessary, or contrary to the public interest. . . .” 5 U.S.C. § 553 (2018).

⁴ Selena Simmons-Duffin, *What Biden’s Election Means for U.S. Health Care and Public Health*, NPR (Nov. 9, 2020), <https://www.npr.org/sections/health-shots/2020/11/09/932071991/what-bidens-election-means-for-u-s-health-care-and-public-health>.

Under DACA, immigrant youth with long-term residency in the United States who satisfy a strict set of criminal background and educational criteria are eligible for employment authorization and protection from deportation.⁵ Rescission of the regulation, originally implemented under the Obama administration, would restore access to the ACA for approximately 650,000 current DACA recipients and would ultimately benefit a total of 1.7 million with the restoration of DACA.⁶ The regulation unnecessarily excludes a significant pool of young, healthy adults—the exact type of participants that Congress sought to encourage to participate in the ACA—in the midst of a global pandemic. The regulation promotes worse health outcomes for DACA recipients and their families by foreclosing access to health care, including unsubsidized purchases on health care exchanges, and creates counterproductive barriers to COVID-19 testing and treatment.

In furtherance of this administration’s commitment to reduce regulatory burden and expand access to health care, we ask that you undo this misguided regulation. Thank you for your consideration of this request. If you have any questions, please contact Jose Magaña-Salgado at (480) 678-0040 or at jose@masadc.com.

Sincerely,

National

Adorers of the Blood of Christ
Adrian Dominican Sisters
African Communities Together
African Public Affairs Committee
Alianza Americas
Alianza Nacional de Campesinas
America’s Voice
American Federation of State, County & Municipal Employees
American Federation of Teachers
American Friends Service Committee
American Psychological Association
Anti-Defamation League
Asian & Pacific Islander American Health Forum
Asian American Legal Defense and Education Fund (AALDEF)
Asian Americans Advancing Justice - AAJC
Asian Pacific Institute on Gender-Based Violence
ASISTA
AsylumConnect

⁵ Janet Napolitano, Dep’t of Homeland Security, Memorandum Letter on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

⁶ *Immigration and Citizenship Data*, U.S. Cit. & Immigr. Servs., <http://bit.ly/38SKZbh> (last visited Nov. 23, 2020); *Deferred Action for Childhood Arrivals (DACA) Data Tools*, Migration Pol’y Inst., <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles> (last visited Nov. 23, 2020).

Autistic Self Advocacy Network
Bend the Arc Jewish Action
Blevins Strategies LLC
Boston University International Human Rights Clinic
Carmelite Sisters, Vedruna
CASA
Center for American Progress
Center for Law and Social Policy
Center for Popular Democracy
Center for Reproductive Rights
Centro de los Derechos del Migrante, Inc.
Chinese American Progressive Action
Chispa LCV
Christian Reformed Church Office of Social Justice
Church World Service
Coalition for Disability Health Equity
Coalition on Human Needs
Congregation of Our Lady of the Good Shepherd, U.S. Provinces
Congregation of Sisters of St. Agnes
Congregation of St. Joseph Justice Team
Daughters of Charity
Daughters of Charity USA
Disciples Refugee & Immigration Ministries
Doctors for Camp Closure
Dominican Leadership Conference
Dominican Sisters of Sinsinawa
Dominican Sisters of Sparkill
Empowering Pacific Islander Communities (EPIC)
Evangelical Lutheran Church in America
Faith in Public Life
Families Belong Together (FBT)
First Focus on Children
Franciscan Action Network
Franciscan Sisters of the Poor
Freedom Network USA
Freedom To Thrive
Girls Inc.
Grey Nuns of the Sacred Heart
Haitian Bridge Alliance
HIAS
Hispanic Federation
Holy Union Sisters - U.S. Province
Ignatian Solidarity Network
Immigration Hub
ImmSchools

Intercommunity Peace & Justice Center
International American Relief Society (IARS)
International Refugee Assistance Project
International Rescue Committee
Japanese American Citizens League
Jesuit Social Research Institute
Lawyers for Good Government
Leadership Conference of Women Religious
League of Conservation Voters
Maryknoll Office for Global Concerns
Medical Mission Sisters
Mi Familia Vota
MomsRising
MoveOn
NAPAFASA
National Advocacy Center of the Sisters of the Good Shepherd
National Asian Pacific American Women's Forum (NAPAWF)
National Center for Transgender Equality
National Council of Asian Pacific Americans
National Council of Jewish Women
National Education Association
National Family Planning & Reproductive Health Association
National Immigrant Justice Center
National Immigration Law Center
National Korean American Service & Education Consortium (NAKASEC)
National Latina Institute for Reproductive Justice
National Network for Immigrant and Refugee Rights
National Organization for Women
National Partnership for New Americans
Network in Solidarity with the People of Guatemala (NISGUA)
NETWORK Lobby for Catholic Social Justice
New American Leaders
New American Leaders Action Fund
Next100
Our Lady of Victory Missionary Sisters
Oxfam America
People's Action
Planned Parenthood Federation of America
Poder Latinx
Presidents' Alliance on Higher Education and Immigration
Provincial Council Clerics of St. Viator (Viatorians)
Roman Union Ursulines in the United States
School Sisters of Notre Dame - Atlantic Midwest Province
School Sisters of Notre Dame - Central Pacific Province
Service Employees International Union (SEIU)

Sisters of Bon Secours USA
Sisters of Charity of Nazareth Congregational Leadership
Sisters of Charity of Nazareth Western Province Leadership
Sisters of Charity, BVM
Sisters of Christian Charity
Sisters of Mercy of the Americas - Justice Team
Sisters of Mercy of the Holy Cross USA Province
Sisters of Notre Dame de Namur
Sisters of Providence, Saint Mary-of-the-Woods, Indiana
Sisters of Saint Francis, Rochester, Minnesota
Sisters of St. Benedict of Ferdinand, Indiana
Sisters of St. Francis Justice, Peace and Care for Creation Committee
Sisters of St. Francis of Philadelphia
Sisters of St. Francis of the Providence of God
Sisters of St. Francis, Clinton, Iowa
Sisters of St. Francis, Sylvania, OH
Sisters of St. Joseph of Carondelet
Sisters of St. Joseph of Carondelet - HI
Sisters of St. Joseph of Chambery
Sisters of the Holy Cross
Sisters of the Presentation of the Blessed Virgin Mary, New Windsor, NY
Society of Jesus
Sojourners
South Texas Human Rights Center
Southeast Asia Resource Action Center (SEARAC)
Sugar Law Center for Economic and Social Justice
T'ruah: The Rabbinic Call for Human Rights
Tahirih Justice Center
Teach For America
The Confess Project
The Jus Semper Global Alliance
The Leadership Conference on Civil and Human Rights
U.S. Committee for Refugees and Immigrants (USCRI)
U.S. Federation of the Sisters of St. Joseph
UFW Foundation
UMC Board of Church and Society RRT
UndocuBlack Network
Union for Reform Judaism
United Church of Christ Justice and Witness Ministries
United Methodist General Board of Church and Society
United We Dream
Voices for Progress
Women's Alliance for Theology, Ethics, and Ritual (WATER)
Young Center for Immigrant Children's Rights
YWCA USA

State or Local

AB540 Ally Training Project
Adhikaar
Advocates for Immigrant Rights
Advocating Opportunity
AIDS Foundation of Chicago
Alianza
Alliance for Action
Alliance4Action Immigration Action Group
American Friends Service Committee Colorado
ARISE Adelante
Arizona Palestine Solidarity Alliance
Arkansas United
Asian Americans Advancing Justice - Los Angeles
Association of Mexicans in North Carolina, Inc. (AMEXCAN)
Ayuda
Benedictine Sisters of Baltimore
Benedictine Sisters of Chicago
Benedictine Sisters of Colorado Springs, Benet Hill Monastery
Benedictine Sisters of Elizabeth, NJ
Benedictine Sisters of Erie
Benedictine Sisters of Florida
Benedictines for Peace, Local Chapter at St. Scholastica Monastery in Chicago
Benet Hill Monastery
Cabrini Immigrant Services of NYC, Inc.
California Immigrant Policy Center
Caminando Juntos - Presentation Sisters Hispanic Ministry
Canal Alliance
Capuchin Franciscans, Prov. of St. Joseph
Casa San Jose
Catholic Charities of Central & Northern Missouri/Refugee & Immigration Services
Catholic Charities of Southwest Kansas
Catholic Charities of West Tennessee
Central American Resource Center
Chesapeake Multicultural Resource Center
Church of Our Saviour/La Iglesia de Nuestro Salvador
Church Women United in New York State
Clergy and Laity United for Economic Justice of Ventura County
Cleveland Jobs with Justice
Coalición de Derechos Humanos
Coalition for Humane Immigrant Rights (CHIRLA)
Community Legal Access
Convención Bautista Hispana de Texas
Crossing Borders - Dubuque

CT Shoreline Indivisible
Delaware Civil Rights Coalition
Doctors for Camp Closure Oregon Chapter (D4CC Oregon)
Dominican Sisters ~ Grand Rapids
Dominican Sisters of Houston
Dominican Sisters of Mission San Jose
Dominican Sisters of San Rafael
Education and Leadership Foundation
El Centro Hispano, Inc.
El Vínculo Hispano/The Hispanic Liaison
End Domestic Abuse Wisconsin
End Streamline Coalition
Equality California
Esperanza Immigrant Rights Project
EverThrive Illinois
Family Action Network Movement
Franciscan Sisters of Allegany, New York
Franciscans for Justice
Greater New York Labor Religion Coalition
Guatemala Solidarity Committee
Haitian Americans United Inc.
Heartland Alliance
HIAS Pennsylvania
IHM Sisters of Monroe, Michigan - Leadership Council
Illinois Coalition for Immigrant and Refugee Rights
Immaculate Heart of Mary Sisters, Immaculata, PA
Immigrant and Refugee Committee, Sisters of the Most Precious Blood, O'Fallon, MO
Immigration Action Coalition
Immigration Institute of the Bay Area
Immigration Refugee Covenant Group, United Churches of Olympia, WA
Indivisible Chicago - South Side
Indivisible Illinois
Intercommunity Justice and Peace Center
Interfaith Council for Peace & Justice
International Center of Kentucky
Jewish Voice for Peace, Atlanta Chapter
Kentucky Coalition for Immigrant and Refugee Rights
Kids for College
L.O.I.R.A. Lorain Ohio Immigrants Association
La Unión Del Pueblo Entero
Latino Pastoral Action Center
Lowcountry Immigration Coalition
LUCHA Arizona
LUCHA Ministries, Inc.
Lutheran Episcopal Advocacy Ministry NJ

Michigan Immigrant Rights Center
Michigan United
Migrant and Immigrant Community Action Project
MinKwon Center for Community Action
Mission Graduates
Mississippi Center for Justice
Mother of God Monastery
Motivation Motivates
Mount St. Scholastica Monastery, Atchison, Kansas
Nationalities Service Center
Nebraska Appleseed
New York Immigration Coalition
Benedictine Sisters of Newark, DE
NHCUCC Immigrant and Refugee Support Group
North Carolina Conference of the United Methodist Church
North Carolina Justice Center
Northeast Iowa Peace and Justice Center
NOVA Catholic Community
OneAmerica
Opening Doors International Services, Inc.
Our Lady of Guadalupe Monastery
Pennsylvania Council of Churches
Pennsylvania Immigration and Citizenship Coalition
Pittsburgh LCLAA
Progressive Leadership Alliance of Nevada
Proyecto Santo Nino de Atocha
Refugee Support Network
Rian Immigrant Center
Rio Grande Valley Equal Voice Network
SC Appleseed Legal Justice Center
Seattle Immigrant Rights Action Group
Servants of Mary US/Jamaica Community Council
Services, Immigrant Rights & Education Network (SIREN)
Silver State Equality - Nevada
Sintsirmas & Mueller Co. LPA
Sisters of Charity of New York
Sisters of Saint Francis
Sisters of Saint Joseph of Chestnut Hill, Philadelphia, PA
Sisters of St. Dominic of Blauvelt, New York
Sisters of St. Francis, Dubuque
Sisters of St. Francis, St. Francis Province
Sisters of St. Joseph of Boston
Sisters of St. Joseph of Carondelet, Albany Province
Sisters of St. Joseph of Carondelet, LA
Sisters of St. Joseph of Orange

Sisters of St. Joseph of Rochester
Sisters of St. Joseph of Springfield
Sisters of St. Joseph, Brentwood, NY
Sisters of the Most Precious Blood of O'Fallon, MO
Sisters of the Presentation of the Blessed Virgin Mary
Sisters of the Presentation of the BVM of Aberdeen, SD
Sisters of the Presentation, Dubuque, Iowa
Social Justice Coalition, Central Lutheran Church
Southeast Sustainability Directors Network
Southern Border Communities Coalition
St. John of God Church
St. Paul's Lutheran Church
St. Paul's Monastery
St. Placid Priory
St. Scholastica Monastery
Tennessee Immigration & Refugee Rights Coalition
Texas Civil Rights Project
The Children's Partnership
The Legal Project
The Semilla Center for Healing and the Arts
Thresholds
True Alliance Center, Inc. / GBNCC
University of Maryland Carey Immigration Clinic
Unitarian Universalist Mass Action
United Action for Idaho
United Vision for Idaho
University Legal Assistance (Gonzaga University School of Law)
University YMCA New American Welcome Center
Ursuline Sisters of Cleveland
Wallingford Indivisible
Wayne Action for Racial Equality
Western North Carolina Sanctuary Movement
Wilco Justice Alliance (Williamson County, Texas)
Wind of the Spirit Immigrant Resource Center

Cc:

Norris Cochran, Acting Secretary, U.S. Department of Health and Human Services
Domestic Policy Council, White House