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Glen S. Lewy, President

Submitted via [www.regulations.gov](http://www.regulations.gov)

November 29, 2021

Andria Strano  
Acting Chief, Division of Humanitarian Affairs  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
5900 Capital Gateway Drive  
Camp Springs, MD 20746

Re: CIS No. 2691-21; DHS Docket No. USCIS-2021-0006; RIN 1615-AC64; Proposed Rule Regarding Deferred Action for Childhood Arrivals

To Whom It May Concern,

On behalf of ADL (the Anti-Defamation League), we are writing to submit the following comment to DHS/USCIS and DOJ/EOIR in response to the proposed rule issued by the Departments on September 28, 2021 (Deferred Action for Childhood Arrivals; CIS No. 2691-21; DHS Docket No. USCIS-2021-0006; RIN 1615-AC64).

ADL is a leading anti-hate organization founded in 1913 to stop the defamation of the Jewish people and to secure justice and fair treatment for all. Rooted in a community that has experienced the plight of living as refugees throughout its history, ADL has advocated for fair and humane immigration policy since our founding and has been a leader in exposing anti-immigrant and anti-refugee hate that has poisoned our nation's debate. We have long supported protections and a pathway to citizenship for young undocumented immigrants brought to this country as children, and improvements and protection of the DACA program as an interim fix.

In light of our history and mission, ADL firmly supports USCIS's intent to preserve DACA through this rulemaking and urges USCIS to take further steps to strengthen these protections, which are often unattainable for those who do not meet the inflexible standards and categories set nearly a decade ago.

In recent years, Americans have become increasingly aware of the plight facing undocumented residents brought into the U.S. as children, who bear no responsibility for their lack of status and who lack pathways to permanent residency. These undocumented

residents, commonly known as Dreamers, remain vulnerable to deportation despite the implementation of DACA nearly a decade ago. Dreamers deserve better.

While this proposed rule is an important step to protect Dreamers and expand access to the DACA program, it fails to offer key protections that those eligible for DACA and those currently enrolled in DACA deserve. For example, the proposed rule leaves open the possibility of denying work permits to hundreds of thousands of immigrant youth. In this rule, USCIS proposes to decouple the DACA application (Form I-821D) from the application process for employment authorization (Forms I-765 and I-765WS). This change will create confusion and could deprive DACA recipients' access to or ability to work, which is necessary for Dreamers to establish their own family's safety and security in the U.S.

ADL therefore calls on the administration to **maintain employment authorization benefits as part of the DACA application process**. ADL also calls on the administration to further improve the DACA program by:

**Preserving and fortifying DACA** by advancing the eligibility date. This would expand the number of individuals eligible for DACA and strengthen the program's humanitarian impact while yielding greater economic and social benefits detailed in the proposed rule.

**Expanding eligibility to grant DACA for detained individuals.** While the proposed rule advances the DACA program by permitting detained individuals to apply for DACA with USCIS, it withholds adjudication until ICE grants release from detention. This will likely deny detained individuals a key benefit of DACA: demonstrating that they are low-priority for removal and eligible for deferred action. Additionally, since DACA was created a decade ago, our society has advanced in its understanding that the criminal legal system responsible for detaining the applicants is steeped in racism and injustice that disproportionately targets Black, Brown, and Indigenous youth. Thus, DACA eligibility should be expanded to include detained individuals. The proposal also makes DACA's codification inefficient because it places relief forms in two DHS agencies (USCIS and ICE) rather than in one. Because USCIS is tasked with adjudicating many applications regardless of an individual's detention status, the agency has the skills and ability to extend its jurisdiction to permit adjudication of detained and non-detained DACA applicants without waiting for ICE determinations. This would streamline the process, making it more efficient for the government to administer and more accessible to applicants.

**Reducing barriers to DACA eligibility for individuals impacted by the criminal legal system.** The proposed rule disqualifies individuals from DACA eligibility if they have been convicted of a felony, multiple misdemeanors, or any single misdemeanor if it falls within a broadly defined list of offenses that includes driving under the influence. As mentioned above, since DACA was created, our society has advanced in its understanding that the criminal legal system responsible for detaining the applicants is steeped in racism and injustice that disproportionately targets Black, Brown, and Indigenous youth. The Rule's approach effectively

imposes a double punishment on individuals who have complied with the requirements and consequences of the criminal legal system. The agency's policy subjects these immigrants to additional harm by triggering more negative consequences flowing from this unjust and racist system.

The DACA program is a vital lifeline for countless individuals, families, and communities. ADL urges DHS/USCIS and DOJ/EOIR to consider the recommendations proposed in this comment, and hopes that the Departments and the administration will continue to work to protect those most vulnerable and to ensure safety, security, and welcome for immigrants in this country.

Please do not hesitate to contact us with questions or for further information.

Sincerely,



Steven M. Freeman  
Vice President  
Civil Rights



Karen Levit  
National Civil Rights Counsel



Max Sevilla  
Vice President  
Government Relations,  
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