



## United States Senate

August 16, 2021

The Honorable Ur Mendoza Jaddou  
Director of Citizenship and Immigration Services  
U.S. Citizenship and Immigration Services  
20 Massachusetts Ave, NW  
Washington, DC 20001

Dear Director Jaddou,

Congratulations on your confirmation as the Director of U.S. Citizenship and Immigration Services (USCIS). I believe that your extensive immigration experience in the executive and legislative branches makes you an excellent choice to lead the agency.

As you assume your office, I ask that you prioritize the elimination of the current backlog in USCIS's adjudication of Deferred Action for Childhood Arrivals (DACA) applications. According to public reports, there were approximately 81,000 DACA applications awaiting adjudication before the U.S. District Court for the Southern District of Texas issued its ruling stopping the processing of new applications on July 16. This was a forty-eight percent increase in the backlog from March.

Unfortunately, this is not the only program administered by USCIS that appears to be suffering from chronic backlogs. Despite years of efforts by the agency to eliminate its backlog of "affirmative" asylum applications, there were over 386,000 of these applications pending at USCIS at the end of the last fiscal year. More recently, the *Wall Street Journal* reported that USCIS is at risk of wasting approximately 100,000 employment-based green cards available this year.

Accordingly, I request that you explain, whether in writing or through a briefing to my staff, how USCIS will eliminate the current backlogs in its various programs, when it believes it will do so, and what steps it will take to ensure that similar backlogs do not recur in the future. I would appreciate your response by September 16, 2021.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dianne Feinstein".

Dianne Feinstein  
United States Senator



U.S. Citizenship  
and Immigration  
Services

September 8, 2021

The Honorable Dianne Feinstein  
United States Senate  
Washington, DC 20510

Dear Senator Feinstein:

Thank you for your August 16, 2021 letter to U.S. Citizenship & Immigration Services (USCIS) regarding USCIS's adjudication of Deferred Action for Childhood Arrivals (DACA), affirmative asylum applications, and employment-based adjustment of status applications. USCIS is committed to minimizing processing delays to help facilitate access to immigration benefits and restore confidence in our immigration system.

Consistent with President Biden's January 20, 2021 Presidential Memorandum, USCIS has been actively engaged in various efforts to preserve and strengthen DACA.<sup>1</sup> Our policies and processes have a direct impact on the ability of DACA recipients to enrich our nation with their talents, whether it is through entrepreneurship and innovation, public service, arts and education or building strong families and communities. Unfortunately, as you noted in your letter, on July 16, 2021, the U.S. District Court for the Southern District of Texas held that the DACA policy "is illegal" and prohibited USCIS from granting initial DACA requests and accompanying requests for employment authorization. I was deeply disappointed by the Court's ruling and acknowledge its impact on families across the country. The Department of Justice intends to appeal the Court's July 16th order. In the meantime, consistent with the ruling, USCIS continues to process DACA renewal requests and related employment authorization and advance parole applications. USCIS is committed to minimizing processing times for DACA renewal requests and related applications; our goal is to process DACA renewal requests within 120 days. Despite the challenges of operating during the COVID-19 pandemic, the median processing time for DACA renewals through July 31 of fiscal year (FY) 2021 is 1.5 months (approximately 45 days)<sup>2</sup> and DACA-related EADs are generally adjudicated concurrently with DACA renewal requests.

USCIS has taken several steps to ensure the timely adjudication of DACA renewal requests, including allowing for the reuse of biometrics where available, working to safely maximize biometrics appointment capacity at Application Support Centers (ASC) for those who

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<sup>1</sup> See Presidential Memorandum, *Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)*, January 20, 2021, available online at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/preserving-and-fortifying-deferred-action-for-childhood-arrivals-daca/>

<sup>2</sup> See Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year, available online at <https://egov.uscis.gov/processing-times/historic-pt> (accessed August 31, 2021).

must visit an ASC for biometrics collection, and shifting a significant number of resources from the DACA initial request workload to assist with processing of DACA renewal requests to reduce case processing times. As noted in the form instructions and the DACA FAQs, USCIS strongly encourages requestors to file their renewal requests within the 120-150 day filing period to minimize the possibility that their current period of DACA will expire before they receive a decision on their renewal request.

With regard to the affirmative asylum backlog, USCIS has made significant progress in backlog reduction efforts through an increase of dedicated resources. The backlog began to grow in 2012 with the dramatic increase of individuals apprehended at the southwest border who were placed in expedited removal but who claimed fear of return to their home countries. USCIS largely ended the affirmative asylum application backlog growth during FY 2018 following the employment of additional staff and the introduction of efficiency measures. By March 2020 the number of asylum officers increased from 530 to more than 800. During FY 2020, a significant number of the new officers were deployed to asylum offices for the purpose of backlog reduction. Unfortunately the COVID-19 pandemic has impeded USCIS's ability to make progress toward eliminating the affirmative asylum application backlog. Necessary social distancing guidelines reduced program capacity and productivity for interview-dependent asylum applications.

Despite this temporary setback, efforts to increase capacity for affirmative asylum case processing achieved significant successes in FY 2020 and in FY 2021. These efforts include expanded facilities and additional hiring and training of new staff to increase workload capacity. To maximize productivity while social distancing protocols remain in place, asylum offices have implemented operational changes to increase the number of interviews and case completions and to reduce backlog growth. Examples include video-assisted interviewing, remote interview participation by attorneys or accredited representatives, and the introduction of remote video interviews in which asylum officers conduct interviews while teleworking. USCIS recognizes, however, that reducing and eliminating the affirmative asylum backlog requires a multi-year, concerted effort and USCIS remains committed to those efforts.

USCIS is committed to adjudicating as many employment-based adjustment of status applications as possible during the remainder of the fiscal year while preserving national security and the integrity of the immigration system. USCIS has prioritized employment-based adjustment of status applications during every step of processing and adjudication during this fiscal year and continues to make processing and resource allocation decisions to increase the pace of adjudications and limit the potential for employment-based visa numbers to go unused. Among the actions that USCIS has taken during FY 2021 to maximize employment-based visa use are the following:

- Based on a multi-year study of employment-based adjustment of status adjudications, USCIS implemented a risk-based interview determination for these applications in March of 2020. Since that time, many employment-based adjustment of status cases are adjudicated without interview.
- Worked collaboratively with the Department of State (DOS) to ensure that the dates in the Visa Bulletin were set at a level to allow the filing of sufficient new employment-based adjustment of status applications early in FY 2021 and allowed applicants to file

using the *Dates for Filing of Employment-Based Visas* chart in the DOS Visa Bulletin during the first quarter of FY 2021.

- Prioritized the receipt and processing of the employment-based adjustment of status workload at our Lockbox intake facilities, redistributed workloads between Lockbox intake facilities, and redirected newly-filed employment-based adjustment of status applications, in order to improve processing and reducing agency front logs.
- Prioritized the processing of the employment-based adjustment of status workload and restored contractor processing capacity at the USCIS National Benefits Center.
- Prioritized the adjudication of Form I-140, Immigrant Petition for Alien Worker, at USCIS Service Centers based on visa availability (after accounting for filings with premium processing).
- Reused biometrics previously provided by adjustment of status applicants to the greatest extent possible, freeing up resources at our ASCs for other applicants, expanded hours at certain ASC locations to gain additional capacity for biometrics appointments, and prioritized the scheduling of biometrics appointments at ASCs for employment-based adjustment of status applicants.
- Redistributed employment-based adjustment of status workload between offices and directorates to match workloads with available resources.
- Provided overtime funds to USCIS employees processing and adjudicating employment-based adjustment of status applications.
- Temporarily extended the validity period for Form I-693, Report of Medical Examination and Vaccination Record, from 2 years to 4 years, through the end of FY 2021 to allow USCIS to adjudicate some applications where noncitizens previously provided a Form I-693 that had expired before USCIS was able to complete the adjudication.
- Utilized social media channels and USCIS website to remind employment-based applicants to respond to Requests for Evidence for Form I-693 swiftly in order to facilitate the adjudication of their applications before the end of FY 2021.

As a result of these efforts, USCIS is on track to approve more employment-based adjustment of status applications during FY 2021 than it has since FY 2005.

Thank you again for your letter and interest in these important issues. 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