

July 22, 2015

The Honorable Jeh Johnson, Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Re: Retractions of Three-Year Employment Authorization Documents for Some DACA Recipients

Dear Secretary Johnson:

We write on behalf of the National Hispanic Leadership Agenda (NHLA), a coalition of 39 leading national Latino nonpartisan civil rights and advocacy organizations, to strongly urge you to reconsider the proposed steps taken by U.S. Citizenship and Immigration Services (USCIS) in connection with the retrieval of 2,600 Employment Authorization Documents (EADs) for those Deferred Action for Childhood Arrivals (DACA) recipients whose three-year EADs were mailed after the court-ordered injunction issued in *Texas v. U.S.*, on February 16, 2015. While we understand the Administration finds itself in a sensitive position due to the need to comply with the court-ordered injunction, we have serious concerns about the drastic repercussions DACA recipients will face for failure to return their EADs by the aggressive timeline set out by USCIS.

Earlier this year, UCSIS sought to retract approximately 2,100 three-year EADs issued to individuals in error, as they were mailed after the February 16 injunction. In addition, we understand that the Administration later identified approximately 500 additional DACA recipients who were mailed a three-year EAD prior to the February 16 injunction, but it was returned as undeliverable, and subsequently re-mailed after the injunction. In the past week, USCIS began implementing an aggressive operation to retrieve those EADs that have yet to be returned. These measures have included follow-up letters, phone calls, home visits to affected DACA recipients, and the issuance of Notifications of Intent to Terminate (NOIT). Those who received NOITs were notified in mid-July, and have been instructed to return their EAD to a field office—or during a home visit if one is conducted—before July 30, 2015 to avoid termination of their DACA status, EAD, and to ensure that they do not face or receive negative penalties in a subsequent petition for relief.

Given when the NOITs were issued, an expectation for individuals to comply with less than two weeks' notice is frankly unacceptable and is likely to result in individuals failing to return their EAD by the July 30 deadline. Furthermore, the threat to terminate DACA status for affected individuals who do not return their three-year EAD unfairly penalizes DACA holders for the Administration's error. While we agree that comprehensive messaging and community outreach is necessary to reach all those individuals who must return their three-year EAD, any contemplated action against DACA holders must be balanced against the severe repercussions they might have on employment, status, and eligibility for future immigration benefits or

MEMBER ORGANIZATIONS

- American G.I. Forum
- ASPIRA Association
- Avance Inc.
- Casa de Esperanza
- Cuban American National Council
- Farmworker Justice
- Hispanic Association of Colleges & Universities
- Hispanic Federation
- Hispanic National Bar Association
- Inter-University Program for Latino Research
- Labor Council for Latin American Advancement
- LatinoJustice PRLDEF
- League of United Latin American Citizens
- MANA, A National Latina Organization
- Mexican American Legal Defense and Educational Fund
- National Alliance of Latin American and Caribbean Communities
- National Association of Hispanic Federal Executives
- National Association of Hispanic Publications
- NALEO Educational Fund
- National Association of Latino Independent Producers
- National Conference of Puerto Rican Women, Inc.
- National Council of La Raza
- National Hispanic Caucus of State Legislators
- National Hispana Leadership Institute
- National Hispanic Council on Aging
- National Hispanic Environmental Council
- National Hispanic Foundation for the Arts
- National Hispanic Medical Association
- National Hispanic Media Coalition
- National Institute for Latino Policy
- National Latina Institute for Reproductive Health
- National Puerto Rican Coalition
- Presente.org
- SER Jobs for Progress – National Southwest Voter Registration Education Project
- United States Hispanic Chamber of Commerce
- United States Hispanic Leadership Institute
- United States-Mexico Chamber of Commerce

U.S.- Mexico Foundation

relief. This is particularly true in this instance, where the error lies with the Administration alone.

Unfortunately, USCIS is planning to take drastic measures against this discreet group of DACA holders while a number of DACA renewal requestors are still being processed in an untimely manner, resulting in delayed issuances of EADs. As a result, DACA recipients who filed their renewal request in a timely manner face unemployment and lapses in status. NHLA urges your agency to rectify this problem with the same voracity shown to address the retraction of those EADs issued in error.

We appreciate your attention to our concerns. Please contact NHLA through Andrea Senteno, of MALDEF, at asenteno@maldef.org or 202-572-0467, with any questions regarding this letter. Thank you for your time and consideration.

Sincerely,



Thomas A. Saenz
MALDEF, President and General Counsel
NHLA Immigration Committee Co-Chair



Jose Calderón
Hispanic Federation, President
NHLA Immigration Committee Co-Chair

Cc:

Alejandro Mayorkas, Deputy Secretary of Homeland Security
Leon Rodriguez, Director of U.S. Citizenship and Immigration Services
Julie Rodriguez, Deputy Director of White House Office of Public Engagement
Felicia Escobar, Special Assistant to the President for Immigration Policy

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U.S. Citizenship
and Immigration
Services

NOV 24 2015

Thomas A. Saenz
MALDEF, President and General Counsel
National Hispanic Leadership Agenda
815 16th Street, NW, 3rd Floor
Washington, DC 20005

Dear Mr. Saenz:

Thank you for your July 22, 2015 letter. Secretary Johnson asked that I respond on his behalf.

U.S. Citizenship and Immigration Services (USCIS) takes seriously its obligation to meet the terms of the February 2015 injunction issued by Judge Andrew Hanen in *Texas v. United States*, No. B-14-254 (S.D. Tex.). In an effort to meet this obligation and collect the approximately 2,600 three-year Employment Authorization Documents (EADs) issued or re-mailed to Deferred Action for Childhood Arrivals (DACA) recipients after the court-ordered injunction, USCIS took extraordinary steps to contact affected individuals in advance of a court-imposed deadline before they may have faced additional potential repercussions.

Prior to July 30, 2015, USCIS took the following actions to contact individuals in order to secure the return of all the post-injunction issued and re-mailed three-year EADs:

- initiated 4,674 phone calls to 1,511 individuals and their representatives;
- responded to 20,197 phone calls to a "hotline" established for this effort at the USCIS National Customer Service Center;
- sent more than 2,990 text messages to individuals and their representatives;
- sent 1,627 emails to individuals and their representatives;
- hosted 13 stakeholder engagements with over 1,300 participants to raise community awareness; and
- conducted 721 home visits by 306 USCIS officers from over 50 field office locations.

USCIS was able to do this, in no small part, as a result of extensive collaboration with community organizations and stakeholders, and we are grateful for their assistance.

As a result of these extraordinary efforts, 2,117 of the 2,128 three-year EADs issued after the injunction were retrieved or otherwise accounted for by July 30, which represents 99.5 percent of the three-year EADs issued post-injunction. Similarly, USCIS succeeded in retrieving or otherwise accounting for 473 of the 484 three-year EADs re-mailed after the injunction, representing 97.7 percent of the three-year EADs re-mailed post-injunction.

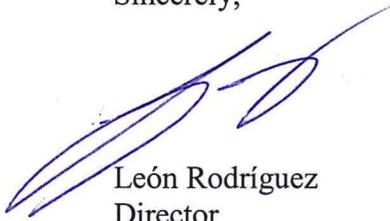
Individuals required to return their three-year EADs under these scenarios were issued replacement EADs valid for a 2-year period. Notwithstanding the success of these extraordinary efforts and the DACA community's overwhelming cooperation, USCIS terminated deferred action and employment authorization for 22 individuals whose EADs had not been accounted for by July 30.

After July 30, 2015, USCIS successfully retrieved or otherwise accounted for all of the 22 outstanding EADs from those individuals whose deferred action and employment authorization were terminated on July 31. Accordingly, USCIS is able to account for 100 percent of the impacted three-year work permits. USCIS is currently conducting a case-by-case review to determine whether to afford those individuals deferred action and employment authorization for 2-year terms from their original approval date. For a subset of these individuals, USCIS has determined that such action is appropriate, and the remaining individuals continue to be reviewed on a case-by-case basis.

USCIS continues to engage with community organizations and stakeholders to emphasize the importance of timely filing requests for renewals of deferred action. In March 2015, USCIS also began issuing renewal reminder notices to DACA recipients 180 days prior to the expiration of their deferred action period, while prior practice had been to issue reminders 100 days before that time. There is a noticeable improvement in the percentage of individuals filing DACA renewal requests within USCIS' suggested timeframe of 150 to 120 days before the expiration of the current period of deferred action.

Thank you again for your letter. The co-signer of your letter will receive a separate, identical response.

Sincerely,



León Rodríguez
Director



U.S. Citizenship
and Immigration
Services

NOV 24 2015

Jose Calderón
President, Hispanic Federation
Co-Chair, National Hispanic Leadership Agenda
815 16th Street, NW, 3rd Floor
Washington, DC 20005

Dear Mr. Calderón:

Thank you for your July 22, 2015 letter. Secretary Johnson asked that I respond on his behalf.

U.S. Citizenship and Immigration Services (USCIS) takes seriously its obligation to meet the terms of the February 2015 injunction issued by Judge Andrew Hanen in *Texas v. United States*, No. B-14-254 (S.D. Tex.). In an effort to meet this obligation and collect the approximately 2,600 three-year Employment Authorization Documents (EADs) issued or re-mailed to Deferred Action for Childhood Arrivals (DACA) recipients after the court-ordered injunction, USCIS took extraordinary steps to contact affected individuals in advance of a court-imposed deadline before they may have faced additional potential repercussions.

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Thank you again for your letter. The co-signer of your letter will receive a separate, identical response.

Sincerely,

A handwritten signature in blue ink, appearing to read "León Rodríguez", is written over the printed name and title.

León Rodríguez
Director