February 12, 2019

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security

The Honorable L. Francis Cissna
Director
U.S. Citizenship and Immigration Services

Dear Secretary Nielsen and Director Cissna:

When the Trump administration announced on September 5, 2017 that it intended to terminate the Deferred Action for Childhood Arrivals (DACA) program, the futures of hundreds of thousands of young Americans and the wellbeing of our communities were put at risk. Federal courts have since ordered the government to maintain the program for current DACA recipients. Unfortunately, the Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) have prevented DACA recipients from receiving advance parole to allow them to travel internationally to visit sick and elderly family members, study, or work, as they previously were permitted to do. DHS and USCIS officials have not accounted for their failure to exercise their lawful discretion. We write to urge you to reconsider your harmful position and request that you provide us with detailed information on DACA recipients' eligibility for advance parole.

Since the DACA program was established in 2012, it has provided over 800,000 young people who arrived in this country as children temporary protection from deportation, allowing them to pursue higher education and lawfully work. DACA recipients have made essential contributions to critical U.S. industries, including education and health care, founded small businesses, and invested in and enriched American communities. Prior to September 5, 2017, USCIS exercised its discretion under its statutory authority to issue eligible DACA applicants advance parole documents to allow them to travel abroad for humanitarian, educational, and employment purposes and return to the U.S., weighing particular circumstances of each request on a case-by-case basis.

USCIS' failure to continue to allow DACA recipients to apply for advance parole has cruelly denied them opportunities to address personal emergencies. Critical advance parole requests that USCIS has failed to consider include DACA recipients seeking to obtain specialized medical treatment, to visit a dying family member, or to attend funeral services of loved ones outside of the U.S. For example, Mayra Garibo—a DACA recipient studying at California State University, Dominguez Hills—who applied for advance parole before
September 5, 2017 but whose application USCIS never approved because of the policy shift, was unable to visit her father in Mexico before he died in January 2018 following 20 years of separation. Mayra’s father was the primary caregiver for her grandparents, who are now both sick and whom she cannot visit and care for. In another unfortunate example of the harm of USCIS’ policy, in 2018, DACA recipient Angel Martinez—who was diagnosed with terminal acute lymphoblastic leukemia—faced an impossible dilemma of choosing between saying goodbye to his family in Mexico or receiving appropriate palliative medical care to ease his pain in the U.S.

Further, USCIS’ failure to continue to allow DACA recipients to apply for advance parole senselessly prohibits them from participating in educational enrichment and professional development opportunities abroad, including study abroad programs, overseas seminars, conferences, and training sessions. It also limits their ability to work with international clients. Leading education experts emphasize how participation in study abroad programs fosters respect among individuals of diverse backgrounds, develops next generation leadership, and contributes to a more interconnected, secure, and prosperous country. Denying DACA recipients an opportunity to travel internationally for study and work is detrimental not only to their personal and professional wellbeing but also undermines the strength of the American economy to which they are contributing their knowledge and skills. As one extraordinary example of the harm of USCIS’ policy, Harvard student Jin Park—the first DACA recipient to be awarded the prestigious Rhodes Scholarship—is being forced to contemplate leaving the U.S. to pursue an advanced degree at the University of Oxford in the U.K. with knowledge he likely cannot return upon competition of his studies.

In light of the strong benefits that access to advance parole has provided and could continue to provide DACA recipients and American communities, we request that DHS and USCIS jointly respond within 30 days to the following:

1. Please provide a detailed explanation about why USCIS has failed to exercise its lawful discretion to allow DACA recipients to apply for or receive advance parole for humanitarian, educational, and employment purposes since September 5, 2017.

2. Please clarify if USCIS is now treating DACA recipients differently than other deferred action recipients with respect to advance parole applications, and if so, provide an explanation, including how other advance parole applications are adjudicated.

3. Please provide complete documentation of any research and analysis DHS and USCIS have conducted since 2012 about benefits to individuals, educational institutions, employers, and the American economy of allowing DACA recipient to apply for advance parole.

4. Please provide complete written documentation of DHS and USCIS policy relating to advance parole applications and adjudications from DACA recipients since January 2017, including all research and analysis informing the policy shift since September 5, 2017.

5. Please provide complete written documentation on guidance and training provided to USCIS employees regarding adjudications of advance parole applications from DACA recipients and
communications with DACA recipients about advance parole and international travel, including on advising DACA recipients about risks to their DACA status of travel abroad, since January 2017.

6. Please provide complete written documentation on USCIS policies, procedures, and processes to inform DACA recipients who submitted advance parole applications prior to September 5, 2017 about the status of their applications, including issuance of notices of intent to deny and final decisions to deny, and to refund their application fees following the policy shift.

7. Please provide complete written documentation on USCIS policies, procedures, and processes to inform DACA recipients who submitted advance parole applications after September 5, 2017 about the status of their applications, including issuance of notices of intent to deny and final decisions to deny, and to refund their application fees following the policy shift.

8. Please provide the total annual number of applications USCIS received from DACA recipients for advance parole, broken down by humanitarian, educational, or employment purposes, as well as the number of such applications approved, respectively, during each fiscal year from 2012-2018. Please also provide a monthly breakdown of this data.

9. Please provide the total number of applications USCIS received from DACA recipients for humanitarian parole as well as the number of such applications approved since September 5, 2017.

We thank you for your attention to this matter and look forward to your prompt response.

Sincerely,

KAMALA D. HARRIS
United States Senator

DIANNE FEINSTEIN
United States Senator

ALAN LOWENTHAL
United States Representative

GRACE MENG
United States Representative
ADRIANO ESPAILLAT  
United States Representative

LINDA SÁNCHEZ  
United States Representative

SUSAN A. DAVIS  
United States Representative

JANICE D. SCHAKOWSKY  
United States Representative

NANETTE BARRAGAN  
United States Representative

J. LUIS CORREA  
United States Representative

ANDY LEVIN  
United States Representative

RAUL M. GRIJALVA  
United States Representative
3 Alan Gomez, Who are the DACA DREAMers and How Many are Here?, USA TODAY, Feb. 13, 2018, available at: https://www.usatoday.com/story/news/poli
6itics/2018/02/13/who-daca-dreamers-and-how-many-here/333045002/
5 See Sections 103(a) and 212(d)(5) of the Immigration and Nationality Act (INA), Section 402(4) of the Homeland Security Act (P.L. 107-296), and implementing regulations.