July 14, 2020

The Honorable Mitch McConnell Majority Leader U.S. Senate 317 Russell Senate Office Building Washington, D.C. 20510 The Honorable Charles Schumer Minority Leader U.S. Senate 322 Hart Senate Office Building Washington, D.C. 20510

Re: Extension of Employment Authorization for DACA, TPS, and Other Work-Authorized Immigrants in Fourth COVID-19 Legislative Package

Dear Senators:

The undersigned 183 organizations write to encourage you to include legislative language in the fourth COVID-19 legislative package that would direct U.S. Citizenship and Immigration Services (USCIS) to automatically, and at no cost, extend employment authorization documents (EADs) and the underlying status for Deferred Action for Childhood Arrivals (DACA) recipients, Temporary Protected Status (TPS) holders, and all other work-authorized immigrants. Specifically, we ask that the Senate include the legislative language present in the House-passed HEROES Act, which would extend work authorization and protection from deportation for DACA recipients for two years, TPS holders for 18 months, and other immigrants for a reasonable period in light of the ongoing COVID-19 crisis.¹ Despite the personal risk, work authorized immigrants are on the front lines of healthcare, keep our food industry functioning, and keep our country running in transportation, manufacturing, construction, and more.

The extension of work permits for TPS holders is also particularly critical in light of the awaited court decision in the *Ramos v. Nielsen* case challenging the administration's attempts to end TPS. It is unknown how the courts will ultimately rule on the case; there is a real risk that the administration could succeed in its attempts to expel hundreds of thousands of TPS holders amidst a global pandemic.

COVID-19 has made it substantially more likely that immigrants, including DACA recipients and TPS holders, will be unable to obtain renewal of their EADs. Regardless of minor processing

¹ The Heroes Act, H.R.6800, 116th Cong. (2020). The relevant language is as follows:

⁽A) In general.—With respect to any alien whose immigration status, employment authorization, or other authorized period of stay has expired or will expire during the period described in subsection (d), during the one-year period beginning on the date of the enactment of this title, or during both such periods, the Secretary of Homeland Security shall automatically extend such status, authorization, or period of stay until the date that is 90 days after the last day of whichever of such periods ends later.

⁽B) Exception.—If the status, authorization, or period of stay referred to in subparagraph (A) is based on a grant of deferred action, or a grant of temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), the extension under such subparagraph shall be for a period not less than the period for which deferred action or temporary protected status originally was granted by the Secretary of Homeland Security.

adjustments², closures of Application Support Centers (ASCs)³ and a dramatic increase of telework for adjudicators—coupled with pre-COVID-19 adjudication backlogs and delays⁴—means that USCIS will struggle to approve work permit applications in a timely manner. Moreover, USCIS is currently facing a historic fiscal shortfall and has begun to furlough adjudicators.⁵ These furloughs will only exacerbate current backlogs and make it substantially more difficult for DACA recipients and TPS holders to renew in a timely manner.

Applicants face a variety of COVID-19 barriers, including difficulty in paying filing fees due to job losses and loss of savings and investments. At the pandemic's peak, over 316 million individuals were under "stay at home" orders, meaning that many applicants are literally forbidden from leaving their house outside of essential activities, erecting significant legal barriers to prepare, print, and mail their applications (which would not be an essential activity under most "stay at home" orders).⁶ Furthermore, many applicants cannot access the legal service providers required for renewal, as many of these providers are closed, furloughed, or overcapacity. Practically, an applicant may be unable to submit their application if they or their family members become ill with COVID-19. While we support the automatic extension of work permits for all work-authorized immigrants, we highlight the acute need for extensions for DACA recipients and TPS holders.

DACA. The Supreme Court recently held that the administration did not lawfully rescind DACA and must therefore reinstitute the full DACA initiative. However, the administration has yet to move forward on accepting initial applications. It is also increasingly likely that the administration will attempt to rescind DACA once again, likely in the coming weeks, through the issuance of a new memorandum. DACA recipients are also on the front lines of battling COVID-19. An estimated 200,000 DACA recipients serve our nation as essential workers, including 29,000 DACA recipients in the healthcare industry.⁷ Rescission of DACA would also lead to \$6.3 billion in unnecessary turnover costs and job losses for nearly 7,000 employees each

³ USCIS Temporary Office Closure Extended until at least May 3, U.S. Cit. & Immigr. Servs.,

https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays.

² Minor adjustments have been made to biometric collection and Requests for Evidence. USCIS to Continue Processing Applications for Employment Authorization Extension Requests Despite Application Support Center Closures, U.S. Cit. & Immigr. Servs.,

https://www.uscis.gov/news/alerts/uscis-continue-processing-applications-employment-authorization-extension-re quests-despite-application-support-center-closures (last updated Mar. 30, 2020). USCIS Announces Flexibility for Requests for Evidence, Notices of Intent to Deny, U.S. Cit. & Immigr. Servs.,

https://www.uscis.gov/news/alerts/uscis-announces-flexibility-requests-evidence-notices-intent-deny (last updated Mar. 27, 2020).

https://www.uscis.gov/news/alerts/uscis-temporary-office-closure-extended-until-least-may-3 (last updated Apr. 1, 2020).

⁴ Am. Immigr. Lawyers' Ass'n, AILA Doc. No. 19012834, AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration (2019),

⁵ Geneva Sands and Priscilla Alvarez, *\$1 billion shortfall, furloughs could bring US immigration system to a halt,* CNN, July 2, 2020, <u>https://www.cnn.com/2020/07/02/politics/uscis-mass-furloughs-pandemic/index.html</u>.

⁶ Sarah Mervosh et al., *See Which States and Cities Have Told Residents to Stay at Home*, N.Y. Times (Apr. 20, 2020),

https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html.

⁷ Nicole Prchal Svajlenka, A Demographic Profile of DACA Recipients on the Frontlines of the Coronavirus Response, Center for American Progress, April 6, 2020,

https://www.americanprogress.org/issues/immigration/news/2020/04/06/482708/demographic-profile-daca-recipients-frontlines-coronavirus-response/.

week.⁸ The United States would lose a total of \$39.3 billion in Social Security and Medicare payments over a decade if DACA recipients were forced to return to their home countries.⁹

TPS. TPS holders also play a significant role in our fight against COVID-19. An estimated 131,300 TPS holders from El Salvador, Honduras, and Haiti alone serve our nation as essential workers, including 11,600 healthcare workers.¹⁰ In the midst of the worst economic recession in decades, we cannot afford to lose thousands of strong economic contributors. TPS holders are well established in the United States and have lived here for an average of 13-22 years.¹¹ If TPS holders could no longer work in their current jobs, employers would experience \$967 million in turnover costs. The United States would lose a total of \$6.9 billion in Social Security and Medicare payments over a decade if TPS holders were forced to return to their home countries.¹²

We therefore respectfully urge you to include language in the fourth COVID-19 legislative package that directs USCIS to automatically, and at no cost, extend EADs for all work authorized immigrants, including DACA recipients and TPS holders. This relief will not only benefit hundreds of thousands of individuals affected by COVID-19, but their families, communities, and the nation's continued economic recovery.

Sincerely,

National Organizations

ACCESS ADL (Anti-Defamation League) AFL-CIO African Communities Together Alianza Americas Alianza Nacional de Campesinas America's Voice American Business Immigration Coalition **American Family Voices** American Federation of Teachers (AFT) American Friends Service Committee American Immigration Lawyers Association (AILA) American-Arab Anti-Discrimination Committee (ADC) Asian American Legal Defense and Education Fund (AALDEF) Asian Americans Advancing Justice | AAJC Asian Pacific American Labor Alliance, AFL-CIO

⁸ David J. Bier, *Ending DACA Will Impose Billions in Employer Compliance Costs*, Cato Institute, Sept. 1, 2017, https://www.cato.org/blog/ending-daca-will-impose-billions-employer-compliance-costs.

⁹ Id.

¹⁰ Nicole Prchal Svajlenka and Tom Jawetz, *A Demographic Profile of TPS Holders Providing Essential Services During the Coronavirus Crisis*, Center for American Progress, April 14, 2020, https://www.americanprogress.org/issues/immigration/news/2020/04/14/483167/demographic-profile-tps-holder

s-providing-essential-services-coronavirus-crisis/

 $^{^{\}rm 11}$ Svajlenka et al., *TPS Holders Are Integral Members*, Center for American Progress (2017). $^{\rm 12}$ Id.

Bend the Arc: Jewish Action CASA Center for American Progress Center for Gender & Refugee Studies Center for Law and Social Policy Center for Popular Democracy Center for Victims of Torture Centro de los Derechos del Migrante, Inc. Christian Reformed Church Office of Social Justice Church World Service Clearinghouse on Women's Issues **Council for Global Equality Demand Progress** Detention Watch Network **Disciples Immigration Legal Counsel Disciples Refugee & Immigration Ministries Dream Corps Empowering Pacific Islander Communities (EPIC)** Familia: Trans Queer Liberation Movement Families Belong Together Farmworker Justice Feminist Majority Foundation Franciscan Action Network Freedom Network USA **Future Coalition** Human Rights Campaign **Immigrant Defense Project Immigrant Justice Network** Immigrant Legal Resource Center **Immigration Hub** ImmSchools Indivisible Just Futures Law Justice Action Center Justice for Migrant Women Kickapoo-Guatemala Accompaniment Project Latin America Working Group Leadership Conference of Women Religious League of Conservation Voters League of United Latin American Citizens (LULAC) Lights for Liberty Lutheran Immigration and Refugee Service March On

Mi Familia Vota MoveOn Muslim Public Affairs Council (MPAC) National Asian Pacific American Women's Forum (NAPAWF) National Coalition Against Domestic Violence National Council of Asian Pacific Americans National Council of Jewish Women National Education Association National Employment Law Project National Equality Action Team (NEAT) National Health Law Program National Immigrant Justice Center National Immigration Law Center National Immigration Project of the National Lawyers Guild National Justice for Our Neighbors National Korean American Service & Education Consortium (NAKASEC) National Latina Institute for Reproductive Justice National Network for Immigrant and Refugee Rights National Partnership for New Americans National TPS Alliance National Women's Law Center Network in Solidarity with the People of Guatemala (NISGUA) NETWORK Lobby for Catholic Social Justice Oxfam America **PFLAG** National Planned Parenthood Federation of America Poligon Education Fund Presbyterian Church USA Service Employees International Union (SEIU) Sisters of Mercy of the Americas Justice Team Sojourners South Asian Americans Leading Together (SAALT) Southeast Asia Resource Action Center Southern Border Communities Coalition Sunrise Movement T'ruah: The Rabbinic Call for Human Rights **Teach For America** The Leadership Conference on Civil and Human Rights The United Methodist Church - General Board of Church and Society Transgender Law Center U.S. Committee for Refugees and Immigrants UndocuBlack Network UnidosUS

Union for Reform Judaism Unitarian Universalist Service Committee United Church of Christ, Justice and Witness Ministries United We Dream Voices for Progress Win Without War WOLA (Washington Office on Latin America) Working Families United Workplace Fairness Young Center for Immigrant Children's Rights

State and Local Organizations

Adhikaar Advocate Visitors with Immigrants in Detention in the Chihuahuan Desert Alianzas, Unitarian Universalist Church of Arlington Alliance San Diego **American Gateways** Americans for Immigrant Justice CARECEN SF **Center for Health Progress** Cleveland Jobs with Justice Coalition for Humane Immigrant Rights (CHIRLA) Colorado Immigrant Rights Coalition (CIRC) Colorado Jobs with Justice (CO JWJ) Colorado Organization for Latina Opportunity and Reproductive Rights Colorado People's Alliance **Comité TPS Massachusetts Connecticut Shoreline Indivisible CRECEN** - Houston CT Students for a Dream **Dream Project Equal Justice Center** Family Action Network Movement FANM In Action Farmworker Association of Florida **Families Rights Network** FIRN Inc Florida Immigrant Coalition Immigrant Legal Center of Boulder County Intercommunity Justice and Peace Center (IJPC) Just Neighbors La Unión del Pueblo Entero (LUPE) Los Angeles LGBT Center

Madrean Archipelago Wildlife Center Make the Road Nevada Mano Amiga Mexican American Legislative Caucus (MALC) of the Texas House of Representatives Michigan United Motivation Motivates Multicultural Efforts to end Sexual Assault (MESA) New Hampshire Guatemala Accompaniment Project New York Immigration Coalition NM CAFé OneAmerica **Rian Immigrant Center** SEIU 32BJ SEIU Local 105 The Door's Legal Services Center The Green Valley/Sahuarita Samaritans The Legal Aid Society (New York) The LGBTQ Center OC **Together Colorado** Venezuelans and Immigrants Aid Washington Immigrant Solidarity Network Wind of the Spirit Immigrant Resource Center Women Employed Workers Center of Central New York Workers Defense Action Fund Yemeni American Merchants Association (YAMA) YWCA Greater Austin