

**Congress of the United States**  
**Washington, DC 20515**

April 23, 2018

The Honorable Kirstjen Michele Nielsen  
Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Ave, NW  
Washington, D.C. 20016

The Honorable L. Francis Cissna  
Director  
U.S. Citizenship and Immigration Services  
20 Massachusetts Ave, NW  
Washington, D.C. 20529

Dear Secretary Nielson and Director Cissna:

We write to respectfully request that the U.S. Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) provide up-to-date data regarding the continued administration of Deferred Action for Childhood Arrivals (DACA). As you know, on September 5, 2017, then-Acting Secretary Elaine C. Duke directed USCIS to stop accepting all initial and most renewal requests for DACA.<sup>1</sup> On January 9, 2018, a federal district court in California issued a nationwide preliminary injunction directing USCIS to resume accepting renewal requests.<sup>2</sup> On February 13, 2018, another federal district court in New York issued a second injunction similar in scope.<sup>3</sup> On February 27, 2018, the Supreme Court of the United States denied expedited review of the California injunction, requiring USCIS to continue to accept renewal applications for the time being.<sup>4</sup> Additional litigation on a variety of related issues to DACA has also been filed, discussed below.

We commend USCIS' April 3, 2018 release of DACA-related data for adjudications through March 31, 2018.<sup>5</sup> In light of the continued administration of DACA under these injunctions, we respectfully request that USCIS and DHS answer the proceeding questions and provide the data

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<sup>1</sup> Memorandum from Elaine C. Duke, Acting Secretary, U.S. Department of Homeland Security on Memorandum on Rescission Of Deferred Action For Childhood Arrivals (DACA) to James W. McCament, Acting Director, U.S. Citizenship and Immigration Services, et. al. (Sept. 5, 2017), available at <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>

<sup>2</sup> *Regents of Univ. of California v. United States Dep't of Homeland Sec.*, 279 F. Supp. 3d 1011 (N.D. Cal. 2018), cert. denied, 583 U.S. \_\_\_ (2019).

<sup>3</sup> *Batalla Vidal v. Nielsen*, 1:16-cv-04756 (E.D.N.Y.).

<sup>4</sup> *Id.*

<sup>5</sup> U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Immigration and Citizenship Data (March 21, 2018), <https://www.uscis.gov/tools/reports-studies/immigration-forms-data> (Under "Deferred Action for Childhood Arrivals (DACA)" header) [hereinafter "Form I-821D Data"].

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requested below.<sup>6</sup> Unless otherwise noted, all requests are for data as of the date of this request.

1. **Processing Time.** Please provide data regarding the current processing time for requests for DACA renewal, including the percentage of DACA renewal requests adjudicated within 30, 60, 90, 120, 150, and over 150 days from receipt.
2. **Population Data.** Please provide data regarding the number of:
  - a. Noncitizens who possess a valid, unexpired grant of DACA (referred to as “Active DACA Recipients” by USCIS);
  - b. All approved, denied, and pending renewal requests (“DACA Renewals Pending”);
  - c. All approved, denied, and pending initial requests (“DACA Initials Pending”); and
  - d. All approved, denied, and pending renewal requests filed since January 10, 2018.
3. **Backlogged Initial Requests.** As of March 31, 2018, USCIS currently has 16,252 initial DACA requests pending.<sup>7</sup> These requests have been pending for at least five months, as these requests must have been accepted by USCIS by September 5, 2017. What is the average number of days these initial requests have been pending? Why has USCIS not yet processed 16,000 outstanding initial DACA requests?
4. **Quarterly Data.** Throughout the existence of DACA, USCIS regularly released quarterly data on its website regarding the number of requests accepted, rejected, approved, denied, and pending.<sup>8</sup> Does USCIS plan to continue to release this dataset on a quarterly basis? If not, why not?
5. **Records Release.** As part of preliminary injunction in *Regents of the University of California v. Department of Homeland Security*, the judge ordered USCIS to “keep records of its actions on all DACA-related applications and provide summary reports . . . on the first business day of each quarter.” Is USCIS’ April 3, 2018 data release<sup>9</sup> in response to this order? If so, are there other records or summary reports that USCIS has or will provide to the court? If so, will USCIS commit to publicly posting these reports on the USCIS website? If not, why not?
6. **Terminations without Due Process.** As part of the preliminary injunction in a third case, *Inland Empire Immigrant Youth Collective et al v. Elaine C. Duke* (where plaintiffs sued to enjoin DHS from terminating DACA grants without due process),<sup>10</sup> the district court directed DHS to identify and restore the deferred action status of all DACA recipients whose DACA status was revoked without due process since January 19, 2017.

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<sup>6</sup> Many of the data requests in this letter represent requests for updates of data USCIS previously released. Others represent new or previously unreleased categories of data. *See id.*

<sup>7</sup> Form I-821D Data, *supra* note 5 (“DACA Pending Renewal and Initial Requests, as of Jan. 31, 2018”).

<sup>8</sup> USCIS last released this quarterly data (including January of 2018) on February 28, 2018. Form I-821D Data, *supra* note 5 (“Form I-821D: cumulative number of requests accepted for processing, biometrics appointments scheduled, requests ready for review and requests completed to-date”).

<sup>9</sup> Form I-821D Data, *supra* note 5 (Referring to all the data released by USCIS outside of its regular quarterly release).

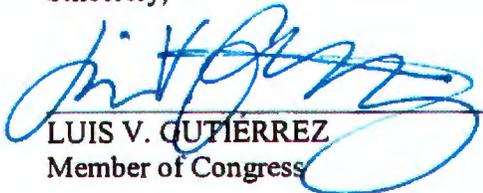
<sup>10</sup> 5:17CV02048 (2018).

As of the date of this request, how many individuals has DHS identified that fall under this class? How many grants of DACA has USCIS restored under this injunction?

7. **Terminations, Generally.** USCIS released *DACA Terminations Related to Criminal and Gang Activity by Fiscal Year*, which provides an overview of public safety-related terminations of DACA.<sup>11</sup> Not surprisingly these terminations represent less than 0.15 percent of all DACA requests the agency has ever approved. USCIS, however, has not released data regarding terminations of DACA grants for *all* categories. Accordingly, how many grants of DACA has USCIS terminated (under all grounds and not just public safety grounds) since the beginning of DACA?
8. **Advance Parole Filing Fees.** As part of DACA's rescission, then-Acting Secretary Duke directed DHS to reject requests for advance parole (Form I-131), administratively close any pending requests, and refund filing fees to applicants. Please provide data regarding the number of DACA-related advance parole requests rejected and administratively closed under this policy. Has DHS refunded all pending filing fees for administratively closed advance parole applications? If not, how many cases with pending refunds remain outstanding?
9. **Written Reminders to Renew.** Previously, 180 days before an individual's DACA expiration, USCIS mailed written notices reminding DACA recipients to submit their renewal requests. Has USCIS resumed mailing these reminder notices? If not, why not and will USCIS agree to resume this practice in the spirit of fully complying with the two injunctions?
10. **Confidentiality.** As part of the injunction in *Casa De Maryland v. U.S. Department of Homeland Security*, the court ordered that DHS would be enjoined "from using or sharing Dreamer-provided information obtained through the DACA program for enforcement or deportation purposes."<sup>12</sup> How does USCIS plan to implement this order and prevent the sharing of confidential DACA recipient information with U.S. Immigration and Customs Enforcement (ICE)? How many DACA recipients has USCIS referred to ICE for enforcement?

Thank you for your consideration of the above requests. If you have any questions, please contact AnneRose Menachery (Rep. Gutiérrez) at (202) 225-8203 and Jeremy Lippert (Rep. Coffman) at (202) 225-7882.

Sincerely,

  
LUIS V. GUTIÉRREZ  
Member of Congress

  
MIKE COFFMAN  
Member of Congress

<sup>11</sup> Form I-821D Data, *supra* note 5 ("Terminations Related to Criminal and Gang Activity from 2013 to 2017, as of 10/01/2017").

<sup>12</sup> 8:17-CV-02942-RWT (2018).



**U.S. Citizenship  
and Immigration  
Services**

July 9, 2018

The Honorable Luis V. Gutiérrez  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Gutiérrez:

Thank you for your April 23, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

Due to ongoing litigation, the Department is unable to provide answers to some of your questions. Enclosed are responses to the questions we can answer regarding the Deferred Action for Childhood Arrivals data.

Thank you again for your letter and interest in this important issue. Representative Coffman, who co-signed your letter, will receive a separate, identical response. Should you require additional assistance, please have your staff contact the U.S. Citizenship and Immigration Services Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in blue ink, appearing to read "LFC", written over a horizontal line.

L. Francis Cissna  
Director

Enclosure

**The Department of Homeland Security's Response to  
Representative Gutierrez's April 23, 2018 Letter**

- 1. Processing Time. Please provide data regarding the current processing time for requests for DACA renewal, including the percentage of DACA renewal requests adjudicated within 30, 60, 90, 120, 150, and over 150 days from receipt.**

U.S. Citizenship and Immigration Services (USCIS) records show that between October 1, 2017 and April 30, 2018, 29 percent of Deferred Action for Childhood Arrivals (DACA) renewal requests were being processed within 30 days; 69 percent within 60 days; 79 percent within 90 days; 90 percent within USCIS' DACA renewal processing time goal of 120 days; and 94 percent within 150 days. The remaining 6 percent were being processed over 150 days from the date of receipt. Over that same time period, 41 percent of DACA renewal requests without a Request for Evidence, Notice of Intent to Deny, or other background check issues were being processed within 30 days; 88 percent within 60 days, 95 percent within 90 days; 98 percent within USCIS' DACA renewal processing time goal of 120 days; and 99 percent within 150 days. The remaining 1 percent were being processed over 150 days from the date of receipt.

- 2. Population Data. Please provide data regarding the number of:**

- a. Noncitizens who possess a valid, unexpired grant of DACA (referred to as "Active DACA Recipients" by USCIS);**

As of April 30, 2018, the number of Active DACA Recipients was approximately 699,990.

- b. All approved, denied, and pending renewal requests ("DACA Renewals Pending");**

As of April 30, 2018, USCIS had approved approximately 1,161,920 DACA renewal requests and denied approximately 12,300 DACA renewal requests. Approximately 32,480 DACA renewal requests remained pending.

- c. All approved, denied, and pending initial requests ("DACA Initials Pending"); and**

As of April 30, 2018, USCIS had approved approximately 817,010 DACA initial requests and denied approximately 75,830 DACA initial requests. Approximately 14,120 DACA initial requests remained pending.

- d. All approved, denied, and pending renewal requests filed since January 10, 2018.**

Between January 10, 2018 and April 30, 2018, USCIS received approximately 84,210 DACA renewal requests. As of April 30, 2018, 51,840 had been approved, 160 had been denied, and 32,210 remained pending.

- 3. Backlogged Initial Requests. As of March 31, 2018, USCIS currently has 16,252 initial DACA requests pending. These requests have been pending for at least five months, as these requests must have been accepted by USCIS by September 5, 2017. What is the average number of days these initial requests have been pending? Why has USCIS not yet processed 16,000 outstanding initial DACA requests?**

As of March 31, 2018, the average cycle time for pending DACA initial requests was 9.4 months.

USCIS is working diligently to complete all pending requests and has allocated resources to reduce the number of pending DACA requests. As outlined in Secretary Napolitano's June 2012 memo "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children" and the archived USCIS DACA FAQs ([www.uscis.gov/archive/frequently-asked-questions](http://www.uscis.gov/archive/frequently-asked-questions)), individuals may be considered for initial DACA if they meet several guidelines. Each DACA request may present unique circumstances and potentially raise policy questions that must be vetted and resolved prior to adjudication.

While USCIS cannot discuss specific cases, delays in processing initial DACA requests may also be caused by issues of national security, criminality or public safety discovered during the background check process that require further vetting and/or the submission was incomplete or contained evidence that suggests a requestor may not satisfy the DACA guidelines, requiring USCIS to send a request for additional evidence or an explanation.

Due to federal court orders issued by the U.S. District Court for the Northern District of California and the U.S. District Court for the Eastern District of New York, USCIS is accepting initial DACA requests from individuals who previously received DACA, but whose DACA expired before September 5, 2016, or their most recent DACA grant was previously terminated. Therefore, not all pending initial DACA requests are those that were received by September 5, 2017.

- 4. Quarterly Data. Throughout the existence of DACA, USCIS regularly released quarterly data on its website regarding the number of requests accepted, rejected, approved, denied, and pending. Does USCIS plan to continue to release this dataset on a quarterly basis? If not, why not?**

USCIS has been posting this data on its public website and has no immediate plans to change this practice.

5. **Records Release.** As part of preliminary injunction in *Regents of the University of California v. Department of Homeland Security*, the judge ordered USCIS to “keep records of its actions on all DACA-related applications and provide summary reports ... on the first business day of each quarter.” Is USCIS’ April 3, 2018 data release in response to this order? If so, are there other records or summary reports that USCIS has or will provide to the court? If so, will USCIS commit to publicly posting these reports on the USCIS website? If not, why not?

The April 3, 2018 data, published on the USCIS website, was not released “in response to” the court order in *Regents*. Rather, the Department of Homeland Security (DHS) filed reports on DACA data with the U.S. District Court for the Northern District of California to comply with the reporting requirement of the preliminary injunction. All of the data provided to the court in April 2018 was also posted on the USCIS website as part of the April 3, 2018 data release.

6. **Terminations without Due Process.** As part of the preliminary injunction in a third case, *Inland Empire Immigrant Youth Collective et al v. Elaine C. Duke* (where plaintiffs sued to enjoin DHS from terminating DACA grants without due process), the district court directed OHS to identify and restore the deferred action status of all DACA recipients whose DACA status was revoked without due process since January 19, 2017. As of the date of this request, how many individuals has OHS identified that fall under this class? How many grants of DACA has USCIS restored under this injunction?

DHS is in compliance with the *Inland Empire et al. v. Nielsen et al.* preliminary injunction. However, as this issue is the subject of ongoing litigation, DHS is unable to comment further at this time.

7. **Terminations, Generally.** USCIS released *DACA Terminations Related to Criminal and Gang Activity by Fiscal Year*, which provides an overview of public safety-related terminations of DACA. Not surprisingly these terminations represent less than 0.15 percent of all DACA requests the agency has ever approved. USCIS, however, has not released data regarding terminations of DACA grants for *all* categories. Accordingly, how many grants of DACA has USCIS terminated (under all grounds and not just public safety grounds) since the beginning of DACA?

From August 15, 2012 to April 30, 2018, there have been approximately 3,010 DACA requests terminated. This figure includes terminated DACA requests that were subsequently reinstated pursuant to a court order. USCIS notes that this number reflects the number of requests terminated, and not the number of unique individuals whose DACA was terminated.

8. **Advance Parole Filing Fees.** As part of DACA’s rescission, then-Acting Secretary Duke directed DHS to reject requests for advance parole (Form I-131), administratively close any pending requests, and refund filing fees to applicants. Please provide data regarding the number of DACA-related advance parole requests rejected and administratively closed under this policy. Has DHS refunded all pending filing fees for administratively closed advance parole applications? If not, how many cases with pending refunds remain outstanding?

Since September 6, 2017, USCIS has rejected approximately 969 DACA-related Form I-131 advance parole applications and administratively closed and refunded approximately 3,980 DACA-related Form I-131 advance parole applications.

Consistent with the DACA rescission memorandum, USCIS has either refunded or will initiate a refund for all appropriate DACA-related Form I-131 advance parole applications. USCIS has also identified hundreds of DACA-related Form I-131 advance parole applications that appear to have been improperly filed prior to the rescission. These applications were mailed to an incorrect filing address which has resulted in delays in identifying, administratively closing, and refunding the proper fees.

When a DACA-related Form I-131 advance parole application was submitted to the correct filing address, the application was systematically coded as a DACA-related Form I-131 in our adjudicative system. A DACA-related Form I-131 advance parole application that was not submitted to the correct filing address would not always have been systematically coded as a DACA-related Form I-131, and therefore was not always identifiable through systematic queries. As USCIS continues to encounter a small number of DACA-related Form I-131 filings that were improperly filed and not systematically identified, it is unknown how many additional filings may still be pending administrative closure and subsequent refund.

9. **Written Reminders to Renew.** Previously, 180 days before an individual’s DACA expiration, USCIS mailed written notices reminding DACA recipients to submit their renewal requests. Has USCIS resumed mailing these reminder notices? If not, why not and will USCIS agree to resume this practice in the spirit of fully complying with the two injunctions?

This issue is the subject of ongoing litigation, and, accordingly, DHS is unable to comment further at this time.

**10. Confidentiality.** As part of the injunction in *Casa De Maryland v. U.S. Department of Homeland Security*, the court ordered that OHS would be enjoined “from using or sharing Dreamer-provided information obtained through the DACA program for enforcement or deportation purposes.” How does USCIS plan to implement this order and prevent the sharing of confidential DACA recipient information with U.S. Immigration and Customs Enforcement (ICE)? How many DACA recipients has USCIS referred to ICE for enforcement?

DHS is in compliance with the *CASA de Maryland et al. v. DHS et al.* injunction. However, as this issue is the subject of ongoing litigation, DHS is unable to comment further at this time.