



November 29, 2021

Submitted via <https://www.regulations.gov>

Samantha Deshommes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
5900 Capital Gateway Drive  
Camp Springs, MD 20746

**RE: DHS Docket No. USCIS-2021-0006, Comments in Response to Deferred Action for Childhood Arrivals, U.S. Citizenship and Immigration Services**

Chinese for Affirmative Action (CAA) was founded in 1969 to protect the civil and political rights of Chinese Americans and to advance multiracial democracy in the United States. Today, CAA is a progressive voice in and on behalf of the broader Asian American and Pacific Islander community. We write this public comment in response to the Department of Homeland Security's (DHS) proposed rulemaking published on September 27, 2021 regarding the Deferred Action for Childhood Arrivals (DACA) policy.

**Introduction and Background**

CAA works directly with low-income, limited-English proficient Chinese immigrant families and communities in the San Francisco Bay Area, providing a range of direct immigration legal services and community education and outreach on immigration and immigrant rights. Since the DACA program was established by President Obama in 2012, CAA has adopted a multi-pronged approach to conduct outreach about the program so as to increase participation amongst eligible AAPI undocumented youth. Over the years, CAA has hosted community workshops, presentations, and press events on the DACA program, along with the San Francisco Immigrant Legal and Education Network and the AAPI DACA Collaborative.

Since the inception of the DACA program, [more than 825,000 people have benefited](#), including [16,000 young immigrants coming from Asian countries or regions. If the DACA program and eligibility remain unchanged, Asian Americans would make up 10% of the total population that are eligible for the program.](#) The DACA program is vital to the well-being of the immigrant community, including the AAPI community. The DACA program provides recipients with temporary relief from immigration deportation, work authorization, and access to higher

education in the United States. The DACA program has offered many opportunities, but the temporary nature of the program has also put many current DACA recipients or eligible applicants into immigration limbo. Despite the numerous administrative and legal challenges led by the previous Trump Administration, CAA applauds the Biden Administration's intent to preserve and fortify the DACA program. CAA also urges the Administration to seize this rule-making opportunity to expand the program, with our suggestions detailed below. Further, CAA insists that the Administration create a pathway to citizenship for DACA recipients, as well as the broader undocumented population.

### **Family Reunification**

As a civil rights organization, CAA deeply believes that our immigration system must be rooted in the values of inclusion, human rights, and family unification. We envision an immigration system that works for all communities, regardless of a person's country of origin, race, or method of immigration. Our existing immigration system is far from those ideals. Immigrant communities faced tumultuous times under the Trump Administration, which utilized every means, including executive orders, administrative rules, and policies to destabilize immigrant families and communities, from separating families at the border to multiple attempts at ending the DACA program. It is time for President Biden to fortify and expand the DACA program, as the DACA program has and will continue to keep families together, strengthening immigrant families and communities that have been here for generations.

DACA recipients and their families are an essential part of the American social fabric. Based on the Center for American Progress's research, [over 250,000 children have been born in the country with at least one parent who is a DACA recipient and more than 1.5 million households in the country have at least one family member holding DACA status.](#)

The reason our youth have become undocumented to begin with is due to our outdated immigration system and visa backlogs. It is inevitable that families are pushed to immigrate through other means when they can no longer wait for decades for their family-based visas to become available. There are almost 3.7 million immigrants currently waiting for their family petition visas, and one third of them are from Asian countries and regions. Especially for countries with long visa backlogs, it is not uncommon for families to immigrate to the country and overstay their visas while their family-preference visa is still pending. As a result, many families have decided to immigrate here at the risk of losing their immigration status or active immigration petitions. It is inhumane and unjust to force immigrants, including many AAPI immigrant families, to make that decision. While we are pushing for a permanent solution to provide a pathway to citizenship for the 11 million undocumented immigrants, including more than 666,000 existing DACA recipients, the DACA program is crucial in keeping our families together.

### **Expanding DACA Eligibility Requirements**

CAA believes that the Administration should seize the opportunity to expand the DACA program, including more undocumented youth who might otherwise not be eligible to apply for the original version of the DACA program. The 2012 DACA program required applicants to meet certain criteria, such as those related to the age they came to the United States, their continuous residence, and any criminal background. We, along with many other immigrant rights groups and organizations, urge the Administration to consider expanding the program to include more youth, by moving up both the continuous residency and physical presence dates to allow for more undocumented individuals to be eligible. We also urge the Department to remove the criminal bar eligibility to ensure that the program is as inclusive as possible. Eliminating the criminal bar to the program would ensure that our legal system is more fair and just to everyone regardless of their immigration status. Everyone deserves a second chance, and no one should be subject to double jeopardy or double punishment. Therefore, the Department should eliminate the criminal bar of the DACA program.

### **Employment Authorization**

CAA believes that the right to work and the right to participate in our economy should be an essential part of the DACA program. Access to an employment authorization document for DACA program recipients allows them to live, take up employment opportunities, and participate fully in our society. The ability to work is key to ensuring that individuals can lead meaningful and dignified lives. DACA recipients should be able to earn an income and support their families financially, improving their quality of life. Many existing DACA recipients and eligible DACA recipients have also received their education and training in the United States, and it is in the best interest of our country to absorb them fully into the labor market, allowing them to contribute back to society with their knowledge and skills. The Biden Administration should ensure that employment authorization remains a key part of the DACA program.

### **Automatic Extension for Pending DACA Renewal Applications**

The existing DACA program allows DACA recipients to request consideration of deferred action for a period of two years, subject to renewal. DACA recipients' employment authorization is tied to their DACA status, so individuals will lose their right to work if their DACA status expires. Given the large number of renewal requests that USCIS processes on a regular basis, the Department should consider automatically extending DACA status and the accompanying employment authorization when applicants' renewal applications are pending. As of July 2021, there were more than 302,985 renewal DACA requests pending, and many have remained pending for longer than four months. Despite submitting their renewal requests more than 120 day before the expiration date, [many pending DACA applicants have been forced to experience a lapse of status and have to choose between losing their jobs or working without authorization.](#) As such, we urge the Department to automatically extend employment authorization for pending DACA renewal applicants, reducing the financial stress and fear of DACA recipients and their families.

### **Conclusion**

Keeping the DACA program is merely the very first step for the Biden Administration to take in protecting immigrant rights. The temporary nature of the DACA program makes it vulnerable to future legal challenges and ongoing litigation. President Biden and Congress must act to provide a permanent solution to DACA recipients as well as the larger undocumented community. We urge the Biden Administration and the Department to utilize the current opportunity to expand the DACA program, continue to provide employment authorization to DACA recipients, and strengthen the renewal process.

Sincerely,



Jose Ng  
Immigrant Rights Program Manager



Olivia Zheng  
Immigrant Rights Community Advocate