

Congress of the United States
Washington, DC 20515

July 1, 2020

Kenneth T. Cuccinelli
Senior Official Performer Duties of the Director
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
20 Massachusetts Avenue NW M.S. 2090
Washington, D.C. 20529

Dear Mr. Cuccinelli,

We are writing to urge U.S. Citizenship and Immigration Services (USCIS) to immediately begin accepting new applications for the Deferred Action for Childhood Arrivals (DACA) program.

On June 18, 2020, in an opinion authored by Chief Justice Roberts, the Supreme Court ruled that the Trump administration's attempted rescission of DACA was arbitrary and capricious, in violation of the Administrative Procedure Act. This conclusion rests on the well-settled principle of administrative law that "[a]n agency must defend its actions based on the reasons it gave when it acted," a principle that the Department of Homeland Security violated in its haste to deport hundreds of thousands of Dreamers.¹

We were disturbed to see that the USCIS website includes a statement that the recent U.S. Supreme Court decision "has no basis in law."² As noted above, the Court correctly held that the Trump administration violated fundamental tenets of administrative law in its eagerness to end DACA. We should not need to tell you that under our Constitution, the U.S. Supreme Court, not the Administration, determines whether the rescission of DACA was lawful.³ USCIS and the Administration must faithfully administer our nation's immigration laws by providing clear guidance implementing the Court's order.

The Supreme Court's decision was also a moral victory for the hundreds of thousands of Dreamers across our country, for their families and communities, and for our core values as a nation of immigrants. We were extremely disappointed to see Administration officials ignore their mandate and use USCIS's public platform to make a political attack undermining the rule of law and Dreamers.

¹ Department of Homeland Security v. Regents of the University of California, 2020 WL 321746 at * 14, 17 (June 18, 2020) (noting that the Department had "entirely failed" to consider obvious alternatives to complete rescission of DACA and had refused to consider the important reliance interests that DACA had engendered)(quoting *Motor Vehicle Mfrs. Ass'n of US., Inc. v. State Farm Mut. Auto. Ins. Co.* 463 U.S. 29, 43 (1983)).

² USCIS STATEMENT ON SUPREME COURT'S DACA DECISION, USCIS, June 19, 2020, available at <https://www.uscis.gov/news/news-releases/uscis-statement-supreme-courts-daca-decision>

³ See U.S. CONST., art. VI, § 2 and *Marbury v. Madison*, 5 U.S. 137, 175–78 (1803).

We ask that you not only remove the statement, but also provide clear guidance to the public and USCIS employees that you will immediately begin accepting new DACA applications, and will resume accepting and adjudicating applications for advance parole for DACA recipients.

Sincerely,

Joaquin Castro
Member of Congress

Lucille Roybal-Allard
Member of Congress

Jerrold Nadler
Member of Congress

Zoe Lofgren
Member of Congress

Adam B. Schiff
Member of Congress

Adam Smith
Member of Congress

Adriano Espaillat
Member of Congress

Al Green
Member of Congress

Alan Lowenthal
Member of Congress

Albio Sires
Member of Congress

Alexandria Ocasio-Cortez
Member of Congress

Alma S. Adams, Ph.D.
Member of Congress

Ami Bera, M.D.
Member of Congress

André Carson
Member of Congress

Ann Kirkpatrick
Member of Congress

Anna G. Eshoo
Member of Congress

Anthony G. Brown
Member of Congress

Ayanna Pressley
Member of Congress

Barbara Lee
Member of Congress

Ben Ray Luján
Member of Congress

Bennie G. Thompson
Member of Congress

Bobby L. Rush
Member of Congress

Bonnie Watson Coleman
Member of Congress

Brenda L. Lawrence
Member of Congress

Carolyn B. Maloney
Member of Congress

Cedric L. Richmond
Member of Congress

Danny K. Davis
Member of Congress

Darren Soto
Member of Congress

David N. Cicilline
Member of Congress

David Scott
Member of Congress

David Trone
Member of Congress

Deb Haaland
Member of Congress

Debbie Mucarsel-Powell
Member of Congress

Diana DeGette
Member of Congress

Dina Titus
Member of Congress

Donald M. Payne, Jr.
Member of Congress

Doris Matsui
Member of Congress

Dwight Evans
Member of Congress

Earl Blumenauer
Member of Congress

Eleanor Holmes Norton
Member of Congress

Eliot L. Engel
Member of Congress

Emanuel Cleaver, II
Member of Congress

Filemon Vela
Member of Congress

Frank Pallone, Jr.
Member of Congress

Gerald E. Connolly
Member of Congress

Gilbert R. Cisneros, Jr.
Member of Congress

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Gregory W. Meeks Member of Congress	Gwen Moore Member of Congress	Hakeem Jeffries Member of Congress
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