

September 4, 2019

Kenneth Cuccinelli
Acting Director
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, D.C. 20529

Re: Request that USCIS reverse in full its August 7, 2019 deferred action policy shift

Dear Acting Director Cuccinelli,

The undersigned organizations write to urge USCIS to reverse in full its [August 7, 2019 policy shift](#) under which the agency ended its acceptance and adjudication of non-military deferred action requests at field offices. This shift needlessly places severely ill children, as well as other vulnerable individuals throughout the nation, at risk of deportation and even death. The agency's commitment to [re-opening denied deferred action requests](#) that were pending as of August 7, 2019 marks an initial corrective step, but that action does not go nearly far enough to protect lives that remain at risk due to the underlying change in policy.

While USCIS has emphasized that persons impacted by this change may submit requests with ICE, ICE's deferred action adjudications do not represent a viable alternative. Until August 7, USCIS had accepted *affirmative* deferred action requests, allowing vulnerable children and families to proactively apply for this relief as a means of remaining in the United States lawfully and preventing their placement into deportation proceedings. ICE officials have indicated that ICE [will not accept affirmative requests](#). Instead, those officials have indicated that ICE will adjudicate deferred action requests only from individuals who have already undergone deportation proceedings. As such, it appears that USCIS is not transferring any adjudicatory responsibility to ICE. It is simply eliminating these affirmative deferred action adjudications outright without advance public notice.

This change forces sick children and other vulnerable individuals to make an impossible choice—either: (1) remain in the shadows and opt *not* to seek life-saving relief; or (2) risk deportation—the *very outcome they need relief from*—by voluntarily placing themselves in deportation proceedings and seeking the deferred action determination of an enforcement agency. Either option could amount to a death sentence. What is more, the end of affirmative deferred action ensures that many children and families may accrue periods of “unlawful presence” that could trigger long-term bans preventing their return to the United States.

Reopening the denied deferred action requests pending as of August 7, 2019 fails to resolve these fundamental problems. Individuals whose reopened requests ultimately get approved by USCIS will not be able to renew their deferred action in the future without undergoing deportation proceedings. Meanwhile, individuals who already submitted requests after August 7—many of whom were unaware of the change in policy due to USCIS's failure to provide any public notice—as well as individuals who will submit requests for initial or renewed deferred action after that

date—face the same predicament. Only by reversing the policy in its entirety—by wholly restoring USCIS’s acceptance and adjudication of deferred action requests—can the agency continue to ensure that vulnerable children and families are able to receive life-saving protection.

It bears emphasis that the varying rationales offered for this change in policy are unfounded. USCIS [initially stated](#) that it will “instead focus agency resources on faithfully administering our nation's lawful immigration system”—yet deferred action requests are fully lawful. USCIS [subsequently stated](#) that “it is not appropriate for the agency to adjudicate requests for suspended enforcement not clearly assigned to USCIS in law or policy”—yet a [2003 DHS delegation of authority](#) expressly assigns USCIS authority to grant deferred action, and indeed, for many years USCIS has adjudicated these requests. More recently, [USCIS asserted](#) that “[a]s USCIS’ deferred action caseload is reduced, the career employees who decide such cases will be more available to address other types of legal immigration applications on a more efficient basis.” The undersigned organizations reject any suggestion that children with severe medical conditions such as cancer, epilepsy, and cystic fibrosis, or other individuals whose survival could hinge on deferred action grants, are undeserving of USCIS’s resources.

There is no valid rationale for the agency’s August 7 shift in deferred action policy. And while the reopening of denied requests pending as of that date is necessary corrective action, it is wholly insufficient to prevent needless deportations and deaths. We therefore respectfully request that you immediately and fully restore USCIS’s deferred action adjudications.

Sincerely,

ADAPT

ADL (Anti-Defamation League)

African Services Committee, Inc.

Alliance to Mobilize Our Resistance - AMOR

Allies for Every Child

American Association of People with Disabilities

American Immigration Lawyers Association

Arcus Center for Social Justice Leadership

Asian & Pacific Islander American Health Forum

Asian American Legal Defense and Education Fund (AALDEF)

Asian Americans Advancing Justice - Los Angeles

Asian Americans United

Asian Pacific Institute on Gender-Based Violence

Asian Services In Action, Inc. (ASIA, Inc.)

ASISTA

Association of American Medical Colleges

Association of Asian Pacific Community Health Organizations

Association of Programs for Rural Independent Living

Autistic Self Advocacy Network

Bet Tzedek Legal Services

California Pan-Ethnic Health Network

California Partnership to End Domestic Violence

Campaign for New York Health

Casa San Jose
Catholic Legal Immigration Network, Inc.
Center for Health Policy and Law at Northeastern University School of Law
Center for Law and Social Policy (CLASP)
Center for Public Representation
Center for the Human Rights of Children, Loyola University School of Law
CenterLink: The Community of LGBT Centers
Children Now
Children's Defense Fund
Children's Defense Fund - CA
Children's Defense Fund - New York
Children's Defense Fund - Texas
Children's Defense Fund - Minnesota
Chinese-American Planning Council
Church World Service
City of Seattle
Clayton Early Learning
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Colorado Center on Law and Policy
Community Action Marin
Community Health Councils
Compass Family Services
Daughters of Charity
Disability Rights Education & Defense Fund (DREDF)
East Harlem Health Outreach Partnership
Emerald Isle Immigration Center
Entre Hermanos
Equality California
Fair Immigration Reform Movement (FIRM)
Families Belong Together
Family Voices
Farmworker's Self-Help
First Focus on Children
Florida Health Justice Project
Freedom Network USA
Gouverneur Health
Health & Medicine Policy Research Group
Health Law Advocates, Inc.
HIAS Pennsylvania
Hispanic Federation
Idaho Voices for Children
Illinois Coalition for Immigrant and Refugee Rights (ICIRR)
Immigrant and Refugee Rights Network
Immigrant Legal Advocacy Project
Immigrant Service Providers Group/Health

Inland Coalition for Immigrant Justice
Iowa Coalition Against Domestic Violence
JPAC- Justice and Peace Advocacy Center
Justice for Our Neighbors-Michigan
Justice in Aging
Kentucky Equal Justice Center
La Casa de Amistad
Latinos for a Secure Retirement
Lawyers For Children
Legal Aid Justice Center
Little Lobbyists
Los Angeles LGBT Center
Los Angeles Regional Food Bank
LostBoys Strength & Conditioning
Lutheran Immigration and Refugee Service
MALDEF
Mano a Mano Family Center
Mary's Center
Massachusetts Immigrant and Refugee Advocacy Coalition
Massachusetts Law Reform Institute
Maternity Care Coalition
Mobilization for Justice, Inc.
Mujeres Latinas en Accion
NASTAD
National Asian Pacific American Women's Forum (NAPAWF)
National Association of the Deaf
National Coalition for Mental Health Recovery
National Council of Jewish Women
National Council on Independent Living
National Health Law Program
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Latina Institute for Reproductive Health
National WIC Association
NETWORK Lobby for Catholic Social Justice
New Mexico Voices for Children
New York Immigration Coalition
NextGen California
Northwest Harvest
Oasis Legal Services
Ohio Immigrant Alliance
Operation Access
Parenting Journey
Positive Women's Network USA
Progressive Doctors

Project IRENE
RCHN Community Health Foundation
Redwood Empire Food Bank
Refugee and Immigrant Child Health Initiative
RESULTS DC
SEPA Mujer Inc.
Service Employees International Union (SEIU)
Services, Immigrant Rights & Education Network (SIREN)
Share Our Strength
Silver State Equality-Nevada
Sisters of Mercy of the Americas - Justice Team
South Carolina Appleseed Legal Justice Center
Southern Illinois Immigrant Rights Project
St . Paul Community Literacy Consortium
St. Paul's United Church of Christ, Laramie, WY
Student National Medical Association
Tahirih Justice Center
The Arc of the United States
The Black Alliance for Just Immigration (BAJI)
The Children's Partnership
The Coelho Center for Disability Law, Policy and Innovation
The Economic Progress Institute
The Learning Community
The LGBT Center OC
The Right to Immigration Institute
Transformations CDC
Treatment Action Group (TAG)
UNAVSA
Union for Reform Judaism
United Church of Christ, Justice and Witness Ministries
United We Dream
Unity Health Care
United Spinal Association
United Way of King County
University YMCA New American Welcome Center
Virginia Coalition for Immigrant Rights
Virginia Coalition of Latino Organizations
Welcome Project Inc
West Valley Neighborhoods Coalition
Western Center on Law & Poverty
World Relief
Wyoming Association of Family & Consumer Sciences

cc: Mark Koumans, Deputy Director, USCIS
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Ombudsman
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Services Ombudsman
Elissa McGovern, Chief of Policy, Office of the Citizenship and Immigration Services
Ombudsman