

Statement for the Record of

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Citizenship**

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I. INTRODUCTION

The nonpartisan, nonprofit Presidents' Alliance on Higher Education and Immigration (Presidents' Alliance) brings together college and university leaders dedicated to increasing public understanding of how immigration policies and practices impact our students, campuses and communities, and supporting policies that create a welcoming environment for undocumented, immigrant, and international students. The Alliance is composed of approximately 500 presidents and chancellors of public and private colleges and universities, representing over five million students in 41 states, D.C. and Puerto Rico.

Due to our work at the intersection of higher education and immigration, a great deal of our advocacy at the Presidents' Alliance involves U.S. Citizenship and Immigration Services (USCIS), specifically USCIS' interactions with Deferred Action for Childhood Arrivals (DACA) recipients, international students, and Temporary Protected Status (TPS) holders. Below, we lay out our priorities and concerns related to USCIS oversight.

II. DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

We recently released a report in conjunction with New American Economy that found that DACA-eligible students make up approximately one percent of all students in U.S. institutions of higher education.¹ Additionally, the Center for American Progress estimates that approximately 202,500 DACAmented individuals are currently battling COVID-19 on the frontlines as essential workers.² These individuals found temporary protection from the Supreme Court following the Court's decision in *Department of Homeland Security v. Regents of the University of California* on June 18, 2020.³ This protection, however, is at risk of being rescinded, particularly in light of DHS's July 28, 2020 memorandum, *Reconsideration of the June 15, 2012 Memorandum Entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,"* which reduces DACA renewals to one-year moving forward, rejects new DACA applications, and sets forth a process to eventually rescind DACA.⁴ This potential rescission of DACA would cost the United States approximately 7,000 job losses and \$6.3 billion in turnover costs at a time when unemployment is already at an all-time high.⁵ Consequently, we urge Congress to pass immediate permanent protection

¹ Presidents' All. on Higher Educ. and Immigr. & New Am. Econ., *Undocumented Students in Higher Education: How Many Students are in U.S. Colleges and Universities, and Who Are They?* 1 (2020).

² Nicole Prchal Svajlenka, *A Demographic Profile of DACA Recipients on the Frontlines of the Coronavirus Response*, Ctr. for Am. Progress (Apr. 6, 2020, 9:01 AM), <https://www.americanprogress.org/issues/immigration/news/2020/04/06/482708/demographic-profile-daca-recipients-frontlines-coronavirus-response/>.

³ See 140 S. Ct. 1891 (2020).

⁴ Press Release, U.S. Department of Homeland Security, *Department of Homeland Security Will Reject Initial Requests for DACA As It Weighs Future of the Program* (July 28, 2020), <https://www.dhs.gov/news/2020/07/28/department-homeland-security-will-reject-initial-requests-daca-it-weighs-future>.

⁵ David J. Bier, *Ending DACA Will Impose Billions in Employer Compliance Costs*, Cato Inst. (Sept. 1, 2017, 10:51 AM), <https://www.cato.org/blog/ending-daca-will-impose-billions-employer-compliance-costs>.

to DACA recipients in light of this memorandum and constant threat to DACA recipients. Finally, USCIS should also, administratively, automatically extend employment authorization documents (EADs) for individuals with existing grants of DACA in light of COVID-19, as we recommended in a previous correspondence to House and Senate leadership.⁶

II. INTERNATIONAL STUDENTS

In May 2020, DHS and its subcomponents, the Student and Exchange Visitor Program (SEVP) and the U.S. Immigration and Customs Enforcement (ICE), updated their guidance regarding the implementation of Optional Practical Training (OPT) in light of COVID-19. The ICE SEVP guidance specifically allows students to complete OPT from outside the United States. However, one of the key outstanding issues affecting international students, particularly those whose travel to the United States is restricted due to country or regional quarantines, is the need to apply for OPT from abroad, which is currently not permitted under existing guidance.⁷ ICE stated that the decision regarding applying for OPT remotely falls squarely within USCIS's authority, stating that this issue "is primarily for consideration by USCIS, which adjudicates Forms I-765."⁸ Permitting applicants for OPT to submit their applications remotely and not requiring them to travel during a pandemic would reduce the risk to international students, their families, and campuses. Moreover, this would allow international students to continue to contribute economically—particularly in light of the ongoing economic downturn associated with the pandemic. A December 2018 report by the Business Roundtable illustrated significant negative effects on the U.S. economy if OPT were scaled back or curtailed.⁹ The report found scaling back OPT would result in a 0.15 percent increase in unemployment by 2028, leading to a total loss of 443,000 jobs, including 255,000 fewer jobs for native-born U.S. workers.¹⁰

III. TEMPORARY PROTECTED STATUS (TPS)

We anticipate the release of a decision in *Ramos v. Nielsen* in the immediate future.¹¹ As we await the decision, approximately 131,300 TPS holders are currently working as essential workers during COVID-19 and their continued ability to work lawfully as

⁶ Letter from Miriam Feldblum, Exec. Dir., Presidents' All. on Higher Educ. and Immigr., to the Hon. Nancy Pelosi, Speaker of the House of Representatives, et al., (June 23, 2020), available at <https://www.presidentsimmigrationalliance.org/2020/06/23/letter-on-recommendations-for-the-fourth-covid-19-relief-package-to-support-international-daca-and-undocumented-students/>.

⁷ U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, Frequently Asked Questions for SEVP Stakeholders about COVID-19 (July 15, 2019), <https://www.ice.gov/doclib/coronavirus/covid19faq.pdf>.

⁸ *Id.*

⁹ Business Roundtable, *The Economic Impact of Curbing the Optional Practical Training Program*, Dec. 2018, <https://www.businessroundtable.org/policy-perspectives/immigration/economic-impact-curbing-option-al-practical-training-program>.

¹⁰ *Id.*

¹¹ See *Ramos v. Nielsen*, No. 18-16981, 2019 U.S. App. LEXIS 24948 (9th Cir. Aug. 21, 2019).

frontline workers is at risk.¹² Furthermore, the end of TPS would cost the United States almost \$1 billion in turnover costs.¹³

Already, administrative delays and backlogs erect barriers between TPS holders and EAD renewals, putting their positions in their essential occupations in jeopardy.¹⁴ Without measures in place to ensure that USCIS efficiently and effectively addresses the backlog, EAD renewals will languish, ultimately hurting not only essential workers with TPS themselves, but also their employers and the people they help. Thus, USCIS should automatically extend EADs for individuals with TPS so that they can continue fighting on the frontlines against COVID-19 without fear of interruption.¹⁵

III. CONCLUSION

Immigrant and international students and graduates enrich American academic life as well as the American economy, especially during COVID-19. Currently, DACA recipients and TPS holders represent a combined estimated 333,800 essential workers.¹⁶ During an unprecedented global pandemic, we need to ensure that we have as many people fighting COVID-19 as possible. To rescind DACA, end TPS, and prevent EAD renewals would not only harm the DACA recipients and TPS holders in question, but also the United States as a whole. Likewise, preventing international students outside the country due to COVID-19 and travel restrictions from applying for OPT reduces opportunities for innovation and harms our national economic interests. Thus, the Presidents' Alliance respectfully urges the USCIS to protect and preserve the interests and well being of DACA recipients and TPS holders, and support international students' ability to participate in training opportunities and contribute to our economy, and, by extension, higher education and businesses in the United States.

¹² Nicole Prchal Svajlenka & Tom Jawetz, *A Demographic Profile of TPS Holders Providing Essential Services During the Coronavirus Crisis*, Ctr. for Am. Progress (Apr. 14, 2020, 9:05 AM), <https://www.americanprogress.org/issues/immigration/news/2020/04/14/483167/demographic-profile-tps-holders-providing-essential-services-coronavirus-crisis/>.

¹³ Nicole Prchal Svajlenka et al., *TPS Holders Are Integral Members of the U.S. Economy and Society*, Ctr. for Am. Progress (Oct. 20, 2017, 9:01 AM), <https://www.americanprogress.org/issues/immigration/news/2017/10/20/440400/tps-holders-are-integral-members-of-the-u-s-economy-and-society/>.

¹⁴ USCIS Ombudsman, U.S. Department of Homeland Security, Ombudsman's Alert: Card Production Delays at USCIS, July 22, 2020, <https://www.aila.org/infonet/cis-ombudsman-provides-update-on-card-production>.

¹⁵ Letter from Miriam Feldblum to Nancy Pelosi, *supra* note 6.

¹⁶ Svajlenka, *supra* note 2; Svajlenka & Jawetz, *supra* note 13.