



November 29, 2021

U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140
Submitted via www.regulations.gov

Re: Comments in Response to the DHS/USCIS Notice of Proposed Rulemaking (NPRM or “Proposed Rule”) titled Deferred Action for Childhood Arrivals; CIS No. 2691-21; DHS Docket No. USCIS-2021-0006; RIN 1615-AC64

We are writing on behalf of the Coalition for Immigrant Mental Health of Illinois (CIMH-IL), 23 state and local organizations and 38 individuals of Illinois in response to the above referenced Notice of Proposed Rulemaking published on September 28, 2021. Note that some of the organizations are also providing their own detailed comments and specific responses.

We, the Coalition for Immigrant Mental Health, represent a diverse alliance of health practitioners, community organizers, researchers, and allies. Our collective mission is to foster collaborative community-based and research-informed partnerships centered on promoting the mental health and well-being of all immigrants through education, resource sharing, and advocacy. The CIMH Policy and Advocacy Workgroup and CIMH leadership team prepared this letter based on our collective knowledge, experience, and commitment to serving the needs of immigrant communities across Illinois (and nationally). We are well-positioned to review policies, analyze their impact on mental health, and mobilize action steps on behalf of the CIMH mission.

Since 2012, DACA has significantly impacted the lives of over 820,000 individuals, their children and families, and communities across the U.S.^{1,2} Illinois has ranked among the top five states of residence for DACA recipients. In June 2021, Illinois was home to 30,880 DACA recipients, with an estimated 68,000 who would immediately be eligible based on the 2012 eligibility criteria.³ Similar to national trends, there has been a decline in the number of DACA recipients in Illinois over the past couple years, while the number of those who would be eligible continues to rise.² The uncertainty of DACA and ongoing litigation battles have negatively impacted the mental health and well-being of individuals, families, and communities.^{4,5,6}

We are concerned about the perpetuation of temporary protections without consideration for the research that has shown the detrimental effects of DACA precarity, exclusivity and its temporal

¹ Alulema, D. (2019). DACA and the Supreme Court: How we got to this point, a statistical profile of who is affected, and what the future may hold for DACA beneficiaries. *Journal on Migration and Human Security*, 7(4), 123-130.

² https://www.americanimmigrationcouncil.org/sites/default/files/research/deferred_action_for_childhood_arrivals_daca_an_overview_0.pdf

³ <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>

⁴ Venkataramani, A. S., & Tsai, A. C. (2017). Dreams deferred—the public health consequences of rescinding DACA. *N Engl J Med*, 377(18), 1707-1709.

⁵ Uwemedimo, O. T., Monterrey, A. C., & Linton, J. M. (2017). A dream deferred: Ending DACA threatens children, families, and communities. *Pediatrics*, 140(6).

⁶ Patler, C., Hamilton, E., Meagher, K., & Savinar, R. (2019). Uncertainty about DACA may undermine its positive impact on health for recipients and their children. *Health Affairs*, 38(5), 738-745.

nature on the mental health and wellness of immigrants, their families, and our communities.^{7,8} The DACA regulation as currently proposed is not sufficient to mitigate the negative mental health impact of current U.S. immigration policies. Without permanent and inclusive policy solutions these disparities will continue and widen. Although we are encouraged by the Department of Homeland Security's commitment to preserve and fortify the DACA program by promulgating this proposed rule, we remain cognizant that DACA recipients will always live in a state of uncertainty without permanent protections and without the full rights and opportunities they deserve. For this reason, our members and allies firmly implore Congress to pass legislation providing a pathway to citizenship, not only to DACA recipients and DACA-eligible individuals, but to all 11 million undocumented people in the United States.⁹

We understand the Department of Homeland Security is not tasked with the creation of legislation, but with the implementation of policy. In putting forth a proposed rule to safeguard DACA, however, we urge DHS to implement a program that protects as many undocumented individuals as possible by expanding eligibility and decreasing barriers. Accordingly, we recommend that DHS take the following steps to properly ensure a strengthened DACA rule:

Expand Eligibility Requirements and Eliminate Prejudiced Categorization Based on Interactions with Criminal System

We urge the expansion of eligibility criteria, including but not limited to: (1) youth who arrived after age 16; (2) individuals who were over the age of 30 when DACA was created in 2012; (3) those who have not had the opportunity to graduate from high school or earn their GED; (4) those who were not present in the U.S. in 2007; or (5) those who, for many reasons, had disruptions in time residing in the U.S.

Currently DACA leaves out many childhood arrivals based on arbitrary, biased, and exclusionary criteria. As a result, some of the most vulnerable youth are denied DACA's protections. DACA's eligibility cut-off age of 15 years-old arbitrarily excludes minors arriving between the ages of 16 and 17. The age cut-off neither aligns with the age of majority in the U.S. nor USCIS's definition of a child as an unmarried person under the age of 21. The educational enrollment and attainment requirement in DACA and present in policy proposals such as the DREAM Act, result in the potential exclusion of 62% of undocumented youth.¹⁰ DACA excludes youth who are shut out of education because of poverty, lack of support and misinformation to enroll in school, and because their survival and that of their families require them to prioritize work over schooling.¹¹ In other words, the educational requirement is biased towards youth with some supports that allow them to pursue an education and against the most vulnerable childhood arrivals.

⁷ Raymond-Flesch, M., Siemons, R., Pourat, N., Jacobs, K., & Brindis, C. D. (2014). "There is no help out there and if there is, it's really hard to find": A qualitative study of the health concerns and health care access of Latino "DREAMers". *Journal of Adolescent Health*, 55(3), 323-328.

⁸ Siemons, R., Raymond-flesh, M., Auerswald, C. L., & Brindis, C. D. (2017). Coming of age on the margins: Mental health and wellbeing among Latino immigrant young adults eligible for Deferred Action for Childhood Arrivals (DACA). *Journal of Immigrant and Minority Health*, 19(3), 543-551.

⁹ <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>

¹⁰ Batalova, J., & McHugh, M. (2010). "DREAM vs. Reality: An analysis of Potential DREAM Act Beneficiaries." Migration Policy Institute. <https://www.migrationpolicy.org/research/dream-vs-reality-analysis-potential-dream-act-beneficiaries>

¹¹ Canizales, S.L. & Diaz-Strong, D. (2020). Undocumented childhood arrivals in the U.S.: Widening the frame for research and policy. <https://immigrationinitiative.harvard.edu/undocumented-childhood-arrivals-us-widening-frame-research-and-policy>

In addition, we ask that categorical exclusions based on criminal convictions be removed from the policy. This raises significant concerns about how bias in the criminal justice system negatively impacts some racial/ethnic groups and is then reinforced via DACA. Many factors contribute to the likelihood of being arrested or prosecuted in the United States, including race/ethnicity.¹²⁻¹³ As a result, determinations based on criminal convictions may reflect bias in the systems with which immigrants interact. Categorizing immigrants based on their previous criminal records loses sight of the challenges they face and disregards their rights as human beings seeking safety and wellness.

We urge DHS to expand DACA's eligibility and remove the existing arbitrary, exclusive, and biased categorical criteria.

Maintain Deferred Action and Employment Authorization Together and Extend Reciprocity to Five Years

Research shows that DACA provides important public health benefits,^{14,15,16} and work authorization is an important factor for increasing access to services and socioeconomic growth.¹⁷

We are concerned that this regulation proposes to have individuals apply for deferred action and work authorization separately. This division would create new DACA-specific work authorization regulations for recipients, potentially leaving vulnerable access to employment. Although some advocacy groups support the separation of these aspects of the program because it would allow for protections from deportation for those who are not interested or in need of work authorization, it would place additional burdens on individuals who must apply for work authorization in order to support themselves and their families. These are individuals who positively contribute to the workforce and economy. In 2019, DACA-eligible households in Illinois paid \$182.2M in state and local taxes and \$187.5M in federal taxes¹⁸ Placing additional burdens to access work permits for DACA applicants could significantly disrupt Illinois' local economies and communities.

Financial barriers, among other barriers, limit immigrants' access to educational pathways. Immigrants make up 31.6% of the total number of people between the ages of 16-34 without post-secondary education in Illinois (the majority of whom are ethnic and racial minorities).¹⁹ Work authorization allows many DACA recipients to pursue educational goals and support their families, which creates intergenerational growth and opportunities for community development.

¹² Wu, J. (2016). Racial/ethnic discrimination and prosecution: A meta-analysis. *Criminal Justice and Behavior*, 43(4), 437-458.

¹³ Kochel, T. R., Wilson, D. B., & Mastrofski, S. D. (2011). Effect of suspect race on officers' arrest decisions. *Criminology*, 49(2), 473-512.

¹⁴ Venkataramani, A. S., Shah, S. J., O'Brien, R., Kawachi, I., & Tsai, A. C. (2017). Health consequences of the US Deferred Action for Childhood Arrivals (DACA) immigration programme: A quasi-experimental study. *The Lancet Public Health*, 2(4), e175-e181.

¹⁵ Sudhinaraset, M., To, T. M., Ling, I., Melo, J., & Chavarin, J. (2017). The influence of Deferred Action for Childhood Arrivals on undocumented Asian and Pacific Islander young adults: Through a social determinants of health lens. *Journal of Adolescent Health*, 60(6), 741-746.

¹⁶ Hainmueller, J., Lawrence, D., Martén, L., Black, B., Figueroa, L., Hotard, M., ... Laitin, D. D. (2017). Protecting unauthorized immigrant mothers improves their children's mental health. *Science*, 357(6355), 1041-1044.

¹⁷ Giuntella, O., & Lonsky, J. (2020). The effects of DACA on health insurance, access to care, and health outcomes. *Journal of Health Economics*, 72, 102320.

¹⁸ <https://www.newamericaneconomy.org/locations/illinois/>

¹⁹ <https://www.migrationpolicy.org/programs/data-hub/charts/immigrant-origin-adults-without-postsecondary-credentials>

Moreover, DACA recipients serve the public health of our communities as essential workers, health and mental health service providers, teachers, and future leaders, and we must do better to ensure more permanent and inclusive legal solutions.

Community wellness is only possible when immigrants can navigate their daily life without fear of family separation, detention or deportation, and provide for their families without employment precarity or exploitation. Employment precarity has been associated with poorer general health, poorer mental health, greater job dissatisfaction, and less ability to remain employed.²⁰ As a social determinant of health, employment precarity not only impacts the individual but also the well-being of families, communities, and society more broadly.²¹ Thus, when immigrants are unable to obtain work authorization or can only obtain temporary work authorization, this threatens both their well-being and that of the broader community. Furthermore, the legally vulnerable status of immigrants without work authorization increases the likelihood of exploitation by employers who prefer a workforce to whom they can pay lower wages and provide fewer protections and benefits. Not only does this present a significant human rights issue but also may increase the likelihood that some employers will select immigrants with undocumented status for jobs over immigrants with work authorization and United States citizens. As such, a DACA rule should maintain deferred action and work authorization together to facilitate, as much as possible, access to legal and sustainable work opportunities for DACA recipients.

Although DACA takes an important step in reducing employment precarity and exploitation by providing work authorizations, the temporary nature of these authorizations perpetuates these problems. The specifications for codifying DACA should aim to reduce barriers, not place additional burdens on applicants/recipients. For example, renewing deferred action and work authorizations every 2 years is costly human resource time for DACA recipients, employers, and the organizations that serve them. This short timeframe also affects the well-being of DACA recipients who must renew and face uncertainty every year and a half. We need more efficient and sustainable solutions. We urge DHS to extend reciprocity to 5 years to facilitate longer-term socioeconomic stability and mobility, which will be critical for the successful implementation of state-level initiatives funded through the American Rescue Plan Act of 2021.

Conclusion

The positive impact of DACA is well-documented and has served as an impetus towards social mobility through forging educational and career pathways. Nevertheless, there are substantial barriers that ultimately stifle true progress in long-term economic, social, and health trajectories.²² As a coalition, we raise concerns about the lack of attention to the public health and mental health impact of the decade-long fight for DACA and draw attention to the research

²⁰ Julià, M., et al. (2017). Precarious employment and quality of employment in relation to health and well-being in Europe. *International Journal of Health Services*, 47(3), 389-409.

²¹ Benach, J., et al. (2014). Precarious employment: Understanding an emerging social determinant of health. *Annual Review of Public Health*, 35, 229-253.

²² https://immigrationinitiative.harvard.edu/files/hii/files/final_daca_report.pdf

evidence throughout this letter. Without expanded protections for all immigrants, health inequity will be perpetuated. This regulation follows an individualized solution that does not acknowledge the lived experiences and needs of mixed-status families and undocumented communities. We call on DHS to closely inspect the implementation of policies and regulations based on the research that has identified immigration and immigration status as social and structural determinants of health.²³

We expect that once this rule is finalized that any applications that have been submitted will be expedited for USCIS processing. This final rule is sufficient in providing temporary protection and work authorization for the 30,880 active DACA holders in Illinois as of June 2021 (per U.S. Citizenship and Immigration Services data), and for the approximately 63,000 immigrants in Illinois who would be eligible for DACA.³ In addition, DACA status prevents immigrants from accruing unlawful presence and therefore allows for eligibility to adjust for status in the future. When regulations and policies aim to facilitate a sense of belonging and empowerment across community contexts, this will yield innumerable positive long-term implications for community health and societal well-being.²⁴

Sincerely,

The Coalition for Immigrant Mental Health (CIMH) Leadership
CIMH Policy and Advocacy Workgroup Co-Chairs (Sarah Cartagena and Dana Rusch, PhD)

Endorsing Organizations

Latino Policy Forum
Mano a Mano Family Resource Center
Centro de Información
Farmworker and Landscaper Advocacy Project (FLAP)
UNION Impact Center
Federación de Clubes Unidos Zacatecanos en Illinois
El Valor Corporation
FEDECFMI/Casa Michoacán
Chicago Commons Association
Instituto del Progreso Latino
Federación de la Ciudad de México en Chicago
DREAM Action NIU
Illinois Association for College Admissions Counseling (IACAC)
Latino Union of Chicago
El Hogar del Niño
Center for Changing Lives
Enlace Chicago
Illinois Dream Fund
Center for Immigrant Progress

²³ Castañeda, H., et al. (2015). Immigration as a social determinant of public health. *Annual Review of Public Health*, 36, 375-392.

²⁴ Fairchild, A. L. (2018). US immigration: A shrinking vision of belonging and deserving. *American Journal of Public Health*, 108(5), 604.

Southwest Organizing Project
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Logan Square Neighborhood Association (LSNA)

Endorsing Individuals

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Viviana Uribe
Ramiro Angelino
Bonnie Richardson
Virginia Quiñonez
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Paul Callejas
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Maria Ramos Cuaya
Sara Buckingham
Nancy Moreno
Jennifer Jimenez
David Seovia
Maria Vida de Haymes
Jesus Perez
Ariana Verdin
Craig Stevenson
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Yessica Arenas
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