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 <u>August 7, 2019 policy shift</u> 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 <u>re-opening denied deferred action requests</u> 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-terms 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 <u>initially stated</u> that it will "instead focus agency resources on faithfully administering our nation's lawful immigration system"—yet deferred action requests are fully lawful. USCIS <u>subsequently stated</u> 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 <u>2003 DHS delegation of authority</u> expressly assigns USCIS authority to grant deferred action, and indeed, for many years USCIS has adjudicated these requests. More recently, <u>USCIS asserted</u> 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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Stacy Shore, Acting Deputy Ombudsman, Office of the Citizenship and Immigration Services Ombudsman

Elissa McGovern, Chief of Policy, Office of the Citizenship and Immigration Services Ombudsman