June 15, 2017

MEMORANDUM FOR: Kevin K. McAleenan
Acting Commissioner
U.S. Customs and Border Protection

James W. McCament
Acting Director
U.S. Citizenship and Immigration Services

Thomas D. Homan
Acting Director
U.S. Immigration and Customs Enforcement

Joseph B. Maher
Acting General Counsel

Michael T. Dougherty
Assistant Secretary for Border, Immigration, and Trade Policy

FROM: John F. Kelly

SUBJECT: Rescission of November 20, 2014 Memorandum Providing for Deferred Action for Parents of Americans and Lawful Permanent Residents ("DAPA")

On January 25, 2017, President Trump issued Executive Order No. 13768, "Enhancing Public Safety in the Interior of the United States." In that Order, the President directed federal agencies to "[e]nsure the faithful execution of the immigration laws . . . against all removable aliens," and established new immigration enforcement priorities. On February 20, 2017, I issued an implementing memorandum, stating that "the Department no longer will exempt classes or categories of removable aliens from potential enforcement," except as provided in the Department's June 15, 2012 memorandum establishing the Deferred Action for Childhood Arrivals ("DACA") policy and November 20, 2014 memorandum providing for Deferred Action for Parents of Americans and Lawful Permanent Residents ("DAPA") and for the

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1 Memorandum from Janet Napolitano, Sec'y, DHS to David Aguilar, Acting Comm'r, CBP, et al., "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children" (June 15, 2012).
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expansion of DACA. After consulting with the Attorney General, I have decided to rescind the
November 20, 2014 DAPA memorandum and the policies announced therein. The
June 15, 2012 DACA memorandum, however, will remain in effect.

Background

The November 20, 2014 memorandum directed U.S. Citizenship and Immigration
Services ("USCIS") "to establish a process, similar to DACA, for exercising prosecutorial
discretion through the use of deferred action, on a case-by-case basis," to certain aliens who have
"a son or daughter who is a U.S. citizen or lawful permanent resident." This process was to be
known as Deferred Action for Parents of Americans and Lawful Permanent Residents, or
"DAPA."

To request consideration for deferred action under DAPA, the alien must have satisfied
the following criteria: (1) as of November 20, 2014, be the parent of a U.S. citizen or lawful
permanent resident; (2) have continuously resided here since before January 1, 2010; (3) have
been physically present here on November 20, 2014, and when applying for relief; (4) have no
lawful immigration status on that date; (5) not fall within the Secretary's enforcement priorities;
and (6) "present no other factors that, in the exercise of discretion, make it the grant of deferred
action inappropriate." The Memorandum also directed USCIS to expand the coverage criteria
under the 2012 DACA policy to encompass aliens with a wider range of ages and arrival dates,
and to lengthen the period of deferred action and work authorization from two years to three
("Expanded DACA").

Prior to implementation of DAPA, twenty-six states—led by Texas—challenged the
policies announced in the November 20, 2014 memorandum in the U.S. District Court for the
Southern District of Texas. In an order issued on February 16, 2015, the district court
preliminarily enjoined the policies nationwide on the ground that the plaintiff states were likely
to succeed on their claim that DHS violated the Administrative Procedure Act ("APA") by
failing to comply with notice-and-comment rulemaking requirements. Texas v. United States,
86 F. Supp. 3d 591 (S.D. Tex. 2015). The Fifth Circuit Court of Appeals affirmed, holding that
Texas had standing, demonstrated a substantial likelihood of success on the merits of its APA
claims, and satisfied the other requirements for a preliminary injunction. Texas v. United States,
809 F.3d 134 (5th Cir. 2015). The Supreme Court affirmed the Fifth Circuit's ruling by equally
divided vote (4-4) and did not issue a substantive opinion. United States v. Texas, 136 S. Ct.
2271 (2016) (per curiam).

The litigation remains pending before the district court.

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2 Memorandum from Jeh Johnson, Sec'y, DHS, to Leon Rodriguez, Dir., USCIS, et al., "Exercising Prosecutorial
Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain
Individuals Whose Parents are U.S. Citizens or Permanent Residents" (Nov. 20, 2014).

3 This Memorandum does not alter the remaining periods of deferred action under the Expanded DACA policy
granted between issuance of the November 20, 2014 Memorandum and the February 16, 2015 preliminary
injunction order in the Texas litigation, nor does it affect the validity of related Employment Authorization
Documents (EADs) granted during the same span of time. I remind our officers that (1) deferred action, as an act of
prosecutorial discretion, may only be granted on a case-by-case basis, and (2) such a grant may be terminated at any
time at the agency's discretion.
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I have considered a number of factors, including the preliminary injunction in this matter, the ongoing litigation, the fact that DAPA never took effect, and our new immigration enforcement priorities. After consulting with the Attorney General, and in the exercise of my discretion in establishing national immigration enforcement policies and priorities, I hereby rescind the November 20, 2014 memorandum.