



Homeland Security

February 11, 2026

Senator Richard J. Durbin
United States Senate
Washington, DC 20510

Dear Senator Durbin:

Thank you for your September 3, 2025, letter to the Department of Homeland Security (DHS) regarding Deferred Action for Childhood Arrivals (DACA) recipients.

On August 30, 2022, DHS, under the Biden administration, published the DACA Final Rule. On September 13, 2023, the U.S. District Court for the Southern District of Texas found the DACA Final Rule substantively unlawful. On January 17, 2025, the U.S. Court of Appeals for the Fifth Circuit affirmed the District Court's decision in part, limited injunctive relief to Texas and required such relief to heed DACA's severability provision, and remanded the case for further proceedings in the District Court.

Please note DACA is a form of prosecutorial discretion that does not confer lawful status, but rather a deferral of removal from the United States for a period of time. DACA, like all forms of deferred action, is a temporary forbearance from removal within the authority of the Secretary of Homeland Security. It comes with no right or entitlement to remain in the United States indefinitely. Aliens with certain criminal histories will not be considered for DACA. Further, those who violate the terms are also subject to termination and removal.

Please note U.S. Citizenship and Immigration Services (USCIS) makes the determinations as to who is or is not considered eligible for DACA on a case-by-case basis, consistent with law and court orders. DACA can be terminated at any time at the discretion of USCIS pursuant to 8 C.F.R. § 236.23(d).

U.S. Immigration and Customs Enforcement (ICE) is unable to provide specific, personally identifiable information for DACA recipients without a privacy waiver. In determining whether to release information about individuals, ICE balances the legitimate public interest in releasing the requested information with the individual's right to privacy. ICE has determined that disclosure would constitute a clearly unwarranted invasion of personal privacy of the DACA recipients which outweighs any public interest of releasing this information without their consent. Individual consent must be in writing and must identify the records or information the individual agrees to have released and the persons to whom they would like the records or information released. This consent must be signed by the individual to whom the

information requested pertains. While no particular form is required, as a convenience ICE provides a written consent and waiver form in multiple languages, available online.¹

Nevertheless, ICE can share that between January 1, 2025, and November 19, 2025, 261 DACA recipients were arrested, and 86 have been removed from the country. Of those arrested, 241 recipients also had criminal histories.

ICE Enforcement and Removal Operations conducts routine record checks on all encounters. Systems databases will reflect any status or deferred action grant already adjudicated by USCIS and any pending applications, petitions, or requests. Thank you again for your letter. The cosigners of your letter will receive a separate, identical response. Should you wish to discuss this matter further, please contact the DHS Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kristi Noem", is written over a horizontal line.

Kristi Noem
Secretary of Homeland Security

¹ www.ice.gov/forms