

# GMS Flash Alert

## Immigration

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## United States – President Biden Announces New Immigration Policies

On June 18, 2024, U.S. President Joe Biden announced two significant new immigration policies. The first will provide relief to undocumented spouses and minor stepchildren of United States (U.S.) citizens. The second new policy will streamline the employment visa application process for DREAMers, including those covered by Deferred Action on Childhood Arrivals (“DACA”), who hold a degree from an accredited U.S. educational institution and a U.S. employment offer in a field related to their degree.<sup>1</sup>

### WHY THIS MATTERS

Under 8 CFR 212.7(a), individuals who entered the U.S. without inspection, must first secure a provisional unlawful presence waiver from U.S. Citizenship and Immigration Services (“USCIS”), and then depart the U.S. to apply for legal residency in their home country through their local U.S. Consulate. Under the first new policy announced by President Biden, undocumented spouses of U.S. citizen and their minor children will now be able to adjust status within the United States, thus saving the time, money, and inconvenience of having to leave the country and removing the stress, anxiety, and disruption that comes with leaving one’s spouse and family behind while out of the country dealing with the immigrant visa process. This action will benefit approximately 500,000 undocumented spouses of U.S. citizens, and approximately 50,000 non-citizen stepchildren of U.S. citizens.<sup>2</sup>

The second policy for U.S. college graduates is anticipated to ease the employment visa process for DREAMers, including DACA recipients. DACA recipients who meet eligibility criteria for a U.S. employment visa, such as the H-1B, are currently unable to change status from within the U.S. under CFR 214.2(h); they must depart the U.S. and go to a U.S. Consulate abroad to acquire a visa stamp and then seek admission to the U.S. in their respective employment-based visa category. It is possible that this new policy may facilitate the change of status process for DACA recipients. The new policy will also provide a pathway to employment authorization for qualifying DREAMers who are not covered by DACA, which may be welcome news for these individuals and employers that may wish to hire them.

## Keeping American Families Together

The first new policy promotes family unity by helping U.S. citizens and their non-citizen family members stay together.<sup>3</sup> It creates temporary legal status through “Parole in Place,” which will allow certain undocumented spouses of U.S. citizens to apply for U.S. permanent residency through the Adjustment of Status application process instead of having to depart the U.S. and apply at a consular post abroad.

“Parole in Place” will be available on a discretionary basis to U.S. citizen spouses who are in the country without admission or parole, have been continuously present in the U.S. for at least 10 years as of June 17, 2024, and meet all other legal requirements to become a U.S. permanent resident. On average, those who are eligible for the “Parole in Place” program have resided in the U.S. for 23 years.<sup>4</sup>

Undocumented spouses of U.S. citizens who qualify for “Parole in Place” will have three years within which to apply for Adjustment of Status. During the three-year period, they will be able to remain with their family in the U.S. and they will be eligible for U.S. employment authorization. Non-citizen children under the age of 21 will also be able to apply to adjust status with their qualifying undocumented parent.

According to the Department of Homeland Security, applications for “Parole in Place” will be received starting this summer.

## Easing the Visa Process for U.S. College Graduates, Including DACA Recipients

The Biden Administration’s second new policy aims to facilitate quicker issuance of U.S. work visas for certain DREAMers, including DACA recipients, who have earned a U.S. degree and secured a U.S. employment offer in a field related to their degree.<sup>5</sup> The policy recognizes that it is the national interest to foster the use of the skills and education of individuals educated in the U.S. to benefit the country.

No further details regarding the second policy are currently available.

## Background Regarding DREAMers and DACA

In June 2012, the Obama Administration issued DACA, an executive order extending prosecutorial discretion to certain young unauthorized migrants who were brought to the U.S. as children.<sup>6</sup> These young unauthorized immigrants became known as DREAMers, named after the reform bill entitled the *Development, Relief, and Education for Alien Minors (DREAM) Act* that Congress failed to pass.<sup>7</sup> Individuals who meet the criteria for DACA must request consideration for deferred action for a period of two years, subject to renewal for a period of two years, and may be eligible for employment authorization.<sup>8</sup> As of December 31, 2023, USCIS confirmed the total number of active DACA recipients to be 530,110.<sup>9</sup>

The Department of Homeland Security (DHS) is currently prohibited from granting initial DACA requests and related employment authorization due to an injunction granted by the U.S. District Court for the Southern District of Texas on July 16, 2021, affirmed by the U.S. Court of Appeals for the Fifth Circuit, and extended by the District Court to the DACA final rule on October 14, 2022.<sup>10</sup>

## KPMG INSIGHTS

Additional public announcements by the Biden Administration and an official notice in the *Federal Register* which set out specific application criteria and the process for individuals seeking to benefit from the new policies announced on June 18, 2024, are expected to be published in the coming weeks. KPMG Law LLP is monitoring developments closely and will provide further updates regarding the new policies as they become available.

## FOOTNOTES:

- 1 The White House [Fact Sheet](#): President Biden Announces New Actions to Keep Families Together.
  - 2 The White House [Fact Sheet](#): President Biden Announces New Actions to Keep Families Together.
  - 3 The White House [Fact Sheet](#): President Biden Announces New Actions to Keep Families Together.
  - 4 The White House [Fact Sheet](#): President Biden Announces New Actions to Keep Families Together.
  - 5 The White House [Fact Sheet](#): President Biden Announces New Actions to Keep Families Together.
  - 6 The White House [Fact Sheet](#): Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA).
  - 7 See American Immigration Council, "[Fact Sheet: The Dream Act: An Overview](#)" (modified May 8, 2024). *Please note, by clicking on this link, you are leaving the KPMG website for an external site (non-KPMG, non-governmental), that KPMG is not affiliated with nor does KPMG endorse its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*
  - 8 USCIS, "[Frequently Asked Questions](#)."
  - 9 USCIS, [Count of Active DACA recipients](#) (in Excel format).
  - 10 USCIS, "Consideration of Deferred Action for Childhood Arrivals (DACA)" at: <https://www.uscis.gov/DACA>.
- For related coverage, see [GMS Flash Alert 2021-037](#), January 22, 2021.

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## Contact us

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