U.S. Chamber of Commerce

1615 H Street, NW
Washington, DC 20062-2000
uschamber.com

August 4, 2026

Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: Comment on Proposed Rule, Clarification of Discretionary Employment Authorization for Certain Aliens, DHS Docket No. USCIS-2026-0067

Dear Officer:

The U.S. Chamber of Commerce ("Chamber") submits this comment in response to the Department of Homeland Security's *Notice of Proposed Rulemaking, Clarification of Discretionary Employment Authorization for Certain Aliens*, 91 Fed. Reg. 34,352 (June 5, 2026) (DHS Docket No. USCIS-2026-0067) (the "Proposed Rule"). The Chamber limits its comments to the provisions of the Proposed Rule that affect Deferred Action for Childhood Arrivals ("DACA") recipients—specifically, the new criminal-history bars, automatic-termination provisions, and biometrics requirements that apply to category (c)(33) employment authorization document ("EAD"). These provisions raise serious concerns that DHS has not adequately addressed.

Discussion

I. The Chamber supports public safety, but the standard must be objective and articulable.

The Chamber fully supports DHS's mission to protect American communities and its authority to deny immigration benefits to foreign nationals who threaten our public safety and does not question its prerogative to exercise that authority. DACA recipients, however, occupy a unique position as they have already undergone extensive vetting as a condition of receiving deferred action, have no disqualifying criminal record, and came to the United States as children. They are, in every meaningful sense, members of our communities.

DHS retains full discretionary authority to deny work authorization where the facts warrant it, but those decisions must rest on objective, articulable standards grounded in reliable evidence, not suspicion, association, or unverified information. DHS characterizes these determinations as matters of "sole and unreviewable discretion," *see* Proposed 8 C.F.R. § 274a.12(c), 91 Fed. Reg. at 34,477, with no mechanism for an applicant to see the evidence against them, correct errors, or seek review. That is not a standard but it is an unchecked grant of authority with no process to guard against error or abuse.

II. The criminal history and immigration bars must be calibrated to DACA's existing standards.

The Proposed Rule sets no standard of proof, burden of persuasion, or minimum reliability requirement for the evidence USCIS may consider, authorizing denials based on arrests, sealed records, expunged convictions, or broadly construed gang "evidence," including tattoos, clothing, neighborhood, and social media activity, with no meaningful guidance on how factors are weighed. *See* Proposed 8 C.F.R. § 274a.13(a)(1)(iv), 91 Fed. Reg. at 34,478; *see also* 8 C.F.R. § 236.22(b)(6) (DACA criminal-history eligibility criteria); 91 Fed. Reg. at 34,384–85. The eventual final rule must account for the fact that DACA recipients have already cleared the criminal-history hurdle that DHS established as a condition of the program itself. DACA beneficiaries who cleared the hurdle for DACA eligibility should not be subject to a less precise adjudicative standard.

The Chamber further urges DHS to clarify that grounds related to related childhood entry should be excluded from these bars. Many DACA recipients entered the United States as children with no control over how they arrived, and those circumstances were already disclosed through the DACA application process. Using them now to deny work authorization is inconsistent with the design of the program and with basic principles of fairness.

III. The regulation must presume economic justification for DACA work authorization.

In exercising its discretion over DACA-based EADs, DHS must also account for a fundamental economic reality: DACA recipients are deeply integrated into the U.S. workforce and economy, and their continued ability to work is not merely a personal benefit, it is an economic necessity for the businesses and communities that depend on them.

DACA recipients have built careers, obtained professional licenses, started businesses, and created an estimated 188,000 jobs. (LULAC, The Economic Impact of DACA Recipients in the United States and the Cost of Ending Protections.) They contribute billions of dollars in federal, state, and local tax revenue. They fill critical roles in construction, health care, manufacturing, education, and other sectors already facing persistent labor shortages. The U.S. Chamber's member businesses rely on this workforce. Disrupting it—through denials based on unproven allegations or vague criteria—imposes real and measurable costs on American employers and the broader economy.

Because DACA recipients came to the United States as children and have been educated and employed here, DHS should accept as a premise in its discretionary analysis both the economic justification for allowing them to work and the economic detriment to U.S. businesses and the U.S. economy if they are not. Work authorization is not a replaceable privilege for this population, but a foundation of their economic lives and a critical input for the employers who depend on them.

IV. The automatic-termination mechanism must include meaningful opportunity to submit rebuttal evidence.

The Proposed Rule's automatic-termination provisions would end a DACA recipient's EAD without contemporaneous notice, potentially leaving both the recipient and their employer unaware that valid-appearing work authorization has lapsed. *See* Proposed 8 C.F.R. § 274a.14(a)(1)(iv)-(v), 91 Fed. Reg. at 34,478. For employers, this creates serious compliance exposure. For DACA recipients, it means sudden, unannounced job loss. DHS must require written notice of any termination and provide a meaningful opportunity to rebut the allegations supporting termination of work authorization. *See* 8 C.F.R. § 103.2(b)(9); USCIS Form I-821D Instructions.

Conclusion

The Chamber respectfully urges DHS to revise the Proposed Rule to ensure that bars to DACA beneficiaries' work authorization rest on clear, evidence-based standards; that automatic terminations must include advance written notice and a meaningful opportunity to respond; and that the economic contributions of DACA recipients are treated as a material factor in discretionary analysis. These are not requests for special treatment. Rather, they are the basic requirements of fair and lawful adjudication. A final rule that falls short of these benchmarks will expose American employers to compliance uncertainty, deprive the economy of a proven workforce, and undermine the integrity of a program that millions of families and businesses have relied upon for over a decade.

Respectfully submitted,

Patrick Shen
Vice President for Immigration Policy
U.S. Chamber of Commerce