

Publications

Biden Administration Announces New Protections for Family Unity and High-Skilled DACA Recipients; Details to be Finalized Later This Summer

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On June 18, 2024, the Biden Administration announced two new actions to provide affirmative relief for certain noncitizens married to U.S. citizens and college-educated DACA recipients who have job offers in high-skilled sectors. Details of both actions are still being finalized, and the family unity program is expected to launch later this summer when the U.S. Citizenship and Immigration Services (USCIS) publishes the final eligibility criteria and application process.

Family Unity Program

The first program announced by the administration will provide relief from deportation and a path to a green card to noncitizens who are married to U.S. citizens as of June 17, 2024 and have lived in the U.S. for ten (10) years or more. The relief will be provided for a specified period of time through a “parole in place” program.

Under this new family unity program, parole is available to noncitizens who would otherwise be eligible for lawful permanent residence status (a “green card”) with the sponsorship of their U.S. citizen spouses, but do not qualify for the adjustment of status process because they entered the U.S. without permission. Absent the family unity program, such individuals would instead be required to complete processing of their green card applications in their home countries abroad, which could result in long-term separation or even a ten-year penalty before being permitted to return to the U.S. with lawful permanent resident status. In addition to eligible noncitizen spouses, the family unity program will grant relief to minor children and stepchildren of the U.S. citizen spouse.

Applicants will be required to pass background checks and demonstrate they do not pose a threat to national security or public safety, and eligibility will be determined on a case-by-case basis. Relief can be granted only for a one-time period of up to three years, and recipients may be eligible for employment authorization during this period. If granted relief, the recipients will be required to apply for a

green card through the adjustment of status process within three years of approval.

Action to Facilitate Nonimmigrant Work Visas for DACA Recipients

President Biden also announced actions to facilitate waivers of inadmissibility (ineligibility to enter the U.S.) for certain college-educated DACA recipients who apply for temporary visas for “high skilled” jobs. The administration will direct the U.S. Department of State to update its guidance for the issuance of certain waivers so that qualifying DACA recipients can travel abroad to obtain temporary work visas without facing a ten-year penalty they would otherwise face when they depart the U.S. for processing. This new guidance will remove obstacles for certain DACA recipients, who currently do not have an independent pathway to lawful permanent resident status, to obtain a temporary work visa status that can more readily lead to a path to employment-based sponsorship of their green cards. To qualify, DACA recipients must have a degree from an accredited U.S. institution of higher education and a job offer from a U.S. employer in a related field.

If you have any questions regarding these latest programs, or any other visa or immigration matter, we encourage you to contact your Vorys attorney.