November 16, 2021

Dear Coordinators & Directors,

Below you will find updates and information on the following topics: I. UCImm news - Fall Webinar; Advance parole case processing; II. DACA updates - litigation; NPRM; III. Update on the Federal Reconciliation Bill; IV. NLRB outreach; V. DHS Issues New Memo Restricting Enforcement Activities in ‘Protected Areas’; VI. State policy updates; and VII. Reminders/ICYMI - Holiday travel; MAF DACA fee support; USCIS contact center tip sheet.

I. UCImm News

- **Fall UC-Wide Webinar - Immigration Updates**

  This Wednesday, November 17, we will host our first UC-wide webinar of the academic year. We will discuss the DACA Notice of Proposed Rulemaking (“NPRM”) and the Budget Reconciliation Bill, and will provide a very brief update on advance parole case processing. See flyer attached. Join by Zoom or live streaming on Facebook.

- **Advance parole case processing**

  You may recall that our Center has generally been limited to handling emergency advance parole cases only. Currently, we may be able to handle non-emergency advance parole cases as well; as with all other casework our center handles, the ability to take on non-emergency cases will depend on individual attorney/fellow capacity.

  *Note on study abroad advance parole*: Students applying for study abroad programs should speak with a qualified attorney as early as possible. In addition, they should speak with their study abroad office as early as possible to determine what if any visa requirements they must meet.

II. DACA updates

- **DACA litigation**

  On September 10, 2021, MALDEF and the Biden administration filed notices of appeal to indicate that they will challenge Judge Hanen’s ruling before the Fifth Circuit Court of Appeals. On October 4, the Biden administration asked the Fifth Circuit to stay (i.e., pause) the proceedings...
while DHS moves through the NPRM process. On October 15, the Fifth Circuit denied the federal government’s request to delay briefing. The appeal will move forward with briefing (i.e., written legal arguments), to be followed by oral argument. See MALDEF’s litigation timeline for updates.

- **DACA - Notice of Proposed Rulemaking (NPRM)**
  The DACA NPRM "to preserve and fortify DACA" is open for public comment through November 29, 2021.

  As Cyntia Dávalos informed everyone earlier this month, UCOP has drafted a systemwide comment letter in response to the NPRM, and we were pleased that UCOP sought UCImm’s insight. In addition to UCOP, UCImm discussed our ideas with other immigration organizations; although orgs are taking different approaches to specific policy recommendations, everyone seems to agree that the DACA program, in its original form, is problematic due to:

  a. The 2007 and 2012 date requirements (physical presence, age cap, etc.)
  b. The high filing fee of $495, paid every 2 years
  c. Criminal bars

  Regarding the decoupling of deferred action from employment authorization, both sides have been argued. Some organizations believe this will have negative consequences—for example, people who cannot afford the employment authorization will be tempted to sacrifice the important benefit of work authorization. Others recognize positive aspects, for example younger individuals in high school may not need to seek employment and could save over $400 while still having deferred action.

  ILRC and UWD have created comment templates to guide individuals who wish to submit their own comments. ILRC’s template is detailed and largely covers the criminal provisions in the proposed DACA rule. UWD’s template is much more general.

**III. Update on the Federal Reconciliation Bill**

In their latest attempt to include immigration provisions within the Budget Reconciliation Bill, Democrats have drafted new language that they hope will be able to move past the Senate Parliamentarian, who has twice ruled that the previously proposed pathways to legal immigration status were incompatible with the rules of budget reconciliation. The newest proposal includes the following:

- Undocumented immigrants who arrived in the U.S. prior to January 1, 2011 (an estimated 7.1 million individuals) would be eligible for temporary protection from deportation along with employment authorization through “parole” for a period of five years plus an additional five year extension.
- Recapture of unused immigrant visas.
- DACA and TPS recipients would qualify for federal financial aid.
- Increased fees for international students, to be paid for by institutions. These fee increases exist in order to pay for the proposed parole program.
The proposal does not provide a pathway to citizenship. Democrats believe this plan is their best option for Parliamentarian approval.

See also the Presidents' Alliance on Higher Education and Immigration letter to the House of Representatives.

Note: for more information and previous UCImm updates on budget reconciliation, you may refer to our previous newsletters.

IV. National Labor Relations Board ("NLRB") outreach

In effort to ensure that immigrants feel safe coming forward and filing labor complaints with the Federal Government, the Office of General Counsel at NLRB has released a memo that "lay[s] out the policies and procedures related to effectively serving the particularized needs of immigrant communities and to ensuring that the NLRB is not only accessible to all workers who seek our assistance, but is also a safe place where they are treated with dignity, without regard to immigration status or work authorization." See memo attached.

V. DHS Issues New Memo Restricting Enforcement Activities in ‘Protected Areas’

"While the memo does not contain an exhaustive list of such areas, it does give several examples, such as:

- Schools and other places where children congregate.
- Medical and mental health facilities (including places for vaccines and testing).
- Places of worship or religious study (regardless of whether it is a structure dedicated to those activities or temporarily in use for them).
- Community centers.
- Place where funerals, weddings, rosaries, or other religious or civil ceremony occur.
- Places where there is an ongoing parade, demonstration, or rally.

While all these general categories of locations were included in some form in the prior memos, the new policy provides more examples of what kind of locations should fall within those categories. For example, the new memo greatly expands the category of 'community centers' to include sites like domestic violence shelters, food pantries, community-based organizations, and homeless shelters."

In addition, the Biden administration has halted mass worksite raids by ICE.

VI. State policy updates

Last month, Governor Newsom signed the following bills that aim to increase student success:

- AB 928 and AB 1111 - transfer reform legislation
- AB 469 - California Student Aid Commission and California Department of Education required to facilitate FAFSA and CADA application completion activities
• SB416 & AB417 - expand college access for formerly and currently incarcerated students

VII. Reminders/ICYMI

• **Holiday travel:** With the holidays approaching, individuals traveling may want to review Immigrants Rising's [Guide for Undocumented Individuals Traveling in the U.S.](#). Your campus attorneys can also take questions regarding travel.

• **DACA fee support:** Mission Asset Fund's [DACA Fee Assistance Program](#) is still offering a $247.50 loan with a matching $247.50 grant that covers the $495 filing fee to renew DACA.

• The USCIS Ombudsman has published a [Tip Sheet](#) on how to communicate effectively with the USCIS Contact Center.

As always, please do not hesitate to reach out with any questions.

Thank you,
The UC Immigrant Legal Services Center team