

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA
VIDAL, *et al.*,

Plaintiffs,

v.

No. 16-cv-4756 (NGG) (VMS)

DAVID PEKOSKE, *et al.*,

Defendants.¹

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

No. 17-cv-5228 (NGG) (VMS)

JOSEPH R. BIDEN, JR., *et al.*,

Defendants.

NOTICE

Defendants respectfully notify the Court and the Plaintiffs that, on January 20, 2021, President Joseph R. Biden, Jr. signed a Memorandum on the subject of “Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA).” The Memorandum orders that “[t]he Secretary of Homeland Security, in consultation with the Attorney General, shall take all actions he deems appropriate, consistent with applicable law, to preserve and fortify DACA.” Although the

¹ In both of the above-captioned matters, pursuant to Federal Rule of Civil Procedure 25(d), President Joseph R. Biden, Jr. is automatically substituted as a Defendant in his official capacity for former President Donald J. Trump, and Acting Secretary of Homeland Security David Pekoske is automatically substituted as a Defendant in his official capacity for former Acting Secretary of Homeland Security Peter T. Gaynor. In addition, in the *Batalla Vidal* matter, as of this filing, the position formerly occupied by official-capacity Defendant Joseph Edlow—Deputy Director for Policy, U.S. Citizenship and Immigration Services—is vacant.

Memorandum has not yet been published in the Federal Register, the full text is available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/preserving-and-fortifying-deferred-action-for-childhood-arrivals-daca/>, and is also attached to this notice as Exhibit 1.

Dated: January 21, 2021

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

SETH D. DUCHARME
Acting United States Attorney

BRAD P. ROSENBERG
Assistant Branch Director

/s/ Stephen M. Pezzi
GALEN N. THORP
Senior Trial Counsel
STEPHEN M. PEZZI
RACHAEL L. WESTMORELAND
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: (202) 305-8576
Fax: (202) 616-8470
Email: stephen.pezzi@usdoj.gov

JOSEPH A. MARUTOLLO
Assistant U.S. Attorney
United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th Floor
Brooklyn, NY 11201
Phone: (718) 254-6288
Fax: (718) 254-7489
Email: joseph.marutollo@usdoj.gov

Attorneys for Defendants



BRIEFING ROOM

Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)

JANUARY 20, 2021 • PRESIDENTIAL ACTIONS

MEMORANDUM FOR THE ATTORNEY GENERAL THE SECRETARY OF HOMELAND SECURITY

SUBJECT: Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)

By the authority vested in me as President by the Constitution and the laws of the United States, it is hereby ordered as follows:

Section 1. Policy. In 2012, during the Obama-Biden Administration, the Secretary of Homeland Security issued a memorandum outlining how, in the exercise of prosecutorial discretion, the Department of Homeland Security should enforce the Nation's immigration laws against certain young people. This memorandum, known as the Deferred Action for Childhood Arrivals (DACA) guidance, deferred the removal of certain undocumented immigrants who were brought to the United States as children, have obeyed the law, and stayed in school or enlisted in the military. DACA and associated regulations permit eligible individuals who pass a background check to request temporary relief from removal and to apply for temporary work permits. DACA reflects a judgment that these immigrants should not be a priority for removal based on humanitarian concerns and other considerations, and that work authorization will enable them to support themselves and their families, and to contribute to our economy, while they remain.

Sec. 2. Preserving and Fortifying DACA. The Secretary of Homeland Security, in consultation with the Attorney General, shall take all actions he deems appropriate, consistent with applicable law, to preserve and fortify DACA.

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Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department, agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Homeland Security is authorized and directed to publish this memorandum in the *Federal Register*.

JOSEPH R. BIDEN JR.

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