



505 Fifth Avenue, Suite 901  
Des Moines, Iowa 50309  
[www.aclu-ia.org](http://www.aclu-ia.org)

To: Administrative Rules Review Committee Members

CC: Joe Royce, Legal Counsel, Administrative Rules Review Committee  
Larry Johnson, Administrative Rules Coordinator, Office of the Governor

January 8, 2013

**Re: Joint Written Comments to ARCC Agenda Item “SPECIAL REVIEW: Deferred Status Drivers License” for Wednesday, January 9**

Honorable Senators and Representatives:

These joint comments are submitted on behalf of the ACLU of Iowa, League of United Latin American Citizens (LULAC) of Iowa, American Friends Service Committee (AFSC) Immigrants’ Voice Program, Iowa Catholic Conference, Las Americas – Trinity United Methodist Church, Iowa, the Iowa Annual Conference of the United Methodist Church, Interfaith Alliance of Iowa, Iowa Justice For Our Neighbors, National Association of Social Workers, Iowa Chapter, A Mid-Iowa Organizing Strategy (AMOS), Latino Law Students Association (LLSA) of the University of Iowa College of Law, and Iowa Citizens for Community Improvement (ICCI). We are deeply concerned about the Department of Transportation’s determination that DACA recipients (DREAMers) are ineligible for driver’s licenses in Iowa.

We will be asking the Department to reconsider its interpretation in light of information that DACA recipients are “authorized to be present” as required under Iowa law.

**Background on Deferred Action for Childhood Arrivals (DACA)**

Deferred Action for Childhood Arrivals (DACA) is a federal program within the U.S. Department of Homeland Security that authorizes certain exceptional young people to be present for renewable 2-year periods. “Deferred action” is a mechanism the federal government uses to prevent the removal of a noncitizen who would otherwise be subject to deportation, and to allow the noncitizen to remain in the United States for a specified period of time.

To qualify for the DACA program, young people must have come to the United States under the age of 16; have resided continuously in the country for five years; must currently attend school, have graduated high school, obtained a GED certificate, or be an honorably discharged veteran of the U.S.

military; they must not have been convicted of a felony or significant misdemeanor, multiple misdemeanors, or otherwise pose any kind of threat; and they must have been under 31 years only on June 15, 2012. Young people granted deferred action under DACA are provided with documentation, including both a social security number and employment authorization.

**DACA recipients are eligible for licenses under the current law in Iowa, because they are “authorized to be present.”**

Under Iowa Code sections 321.182, 321.190, and 321.196, a foreign national is temporarily present in the state may be issued a drivers license, only for the amount of time the foreign national is “authorized to be present” as verified by the department, not to exceed two years. Iowa Code 321.196(1). Every applicant must fill out a form including their name, signature, current mailing address, current residential address, date of birth, social security number, and physical description, as well as other information the department requires by rule. Iowa Code 321.182(1)(a). Nonoperator’s identification cards are issued through the same application process as driver’s licenses. Iowa Code 321.190(1)(a).

DREAMers granted deferred action are eligible under the law, because they are “authorized to be present.” The DACA program not only provides assurance to recipients that they are allowed to remain in the country and will not face removal proceedings for two years, but also provides social security numbers, and authorization to seek and obtain employment. They are specifically authorized to remain for the two-year period for which they are granted deferred action and shielded from removal proceedings. When they are granted deferred action, they are provided with the requisite documentation to satisfy licensing requirements under Iowa law—a social security card<sup>1</sup> and an official work authorization document.

**Under the current DOT regulations, and the new REAL ID regulations to take effect on January 15, 2013, DACA recipients are eligible for driver’s licenses.**

Under Iowa Admin. r. 601.5(1), verification of identity and date of birth may be made by presenting “[a]n unexpired employment authorization document issued by the U.S. Department of Homeland Security” or “Such other documents as the U.S. Department of Homeland Security may designate as acceptable proof of identity and date of birth for REAL ID purposes by notice published in the Federal Register.” Iowa Admin. r. 601.5(1)(e) and (j). Social security numbers may of course be verified by the applicant’s Social Security Administration’s account number card. Iowa Admin. r. 601.5(2).

Under Section 202(c)(2)(B) and (C) of the federal REAL ID Act, which requires states to verify an applicant’s legal status in the United States before issuing a driver’s license or personal identification card, an alien who has approved deferred action status is a person with lawful status.

Furthermore, the Iowa regulations explicitly provide that presenting documents sufficient to verify identity, above, “is satisfactory evidence of lawful status.” Iowa Admin. r. 601.5(4).

Under the Iowa DOT’s new REAL ID rules, lawful status for purposes of licensing may be verified by presenting both an unexpired employment authorization document by the US Department of Homeland Security and another US Department of Homeland Security approved document.

---

<sup>1</sup> While the DOT is permitted to waive the requirement that applications include the applicant’s social security number for driver’s licenses under Iowa Code 321.182(1)(a), no such waiver is required in the case of DACA recipients/DREAMers, because they are issued social security numbers when granted deferred action.

We read Iowa law and DOT regulations to on their face already permit the licensure of DACA recipients—as “authorized to be present” and able to verify “lawful status” for purposes of REAL ID—upon presentation of the official letter from the Department of Homeland Security’s USCIS office indicating that the applicant has been granted approved deferred action status, employment authorization document, and social security card.

**Conclusion**

These bright young people are authorized by the federal government to be present in the United States for a renewable period of two years, and are federally authorized to work. Determining they are not “authorized to be present” as required by Iowa law not only contravenes common sense, but the law. Issuing drivers licenses to Iowa DREAMers is also good public policy. Driver’s licenses are essential for these bright young people to drive to school and work, not to mention the grocery store, church, or a doctor’s visit. It will also allow them to seek car insurance and promotes public safety.

DACA recipients are already entitled to driver’s licenses in Iowa, and we will be asking the DOT to reconsider its earlier determination.

Respectfully,

Ben Stone  
Executive Director  
ACLU of Iowa  
ben.stone@aclu-ia.org  
(515) 243-3988

Joe Enriquez Henry  
State Director  
LULAC of Iowa  
Joehenry@iowalatinos.org  
(515) 208-7312

Sandra Sanchez, Director  
AFSC Immigrants’ Voice Program  
4211 Grand Ave.  
Des Moines, IA. 50312  
ssanchez@afsc.org  
(515) 274-4851 ext. 11

Tom Chapman  
Executive Director  
Iowa Catholic Conference  
530 42nd St.  
Des Moines, IA 50312  
(515) 243-6256

Las Americas - Trinity United Methodist Church  
Des Moines, Iowa  
515-288-4056

Naomi Sea Young Wittstruck  
Leadership Development Minister for Social Justice & Mission  
Iowa Annual Conference of the United Methodist Church  
nsy.wittstruck@iaumc.org  
515.974.8908

Connie Ryan Terrell  
Executive Director  
Interfaith Alliance of Iowa  
PO Box 41086  
Des Moines, IA 50311  
(515) 279-8715  
connie@interfaithallianceiowa.org  
www.interfaithallianceiowa.org

Doris Knight  
Financial Secretary  
Iowa Justice For Our Neighbors  
PO Box 41006  
Des Moines IA 50311  
515-271-6698  
515-255-9809

Kelli Soyer  
Executive Director  
National Association of Social Workers, Iowa Chapter  
exec@iowanasw.org  
(515) 277-1117

Paul Turner  
Lead Organizer  
AMOS A Mid-Iowa Organizing Strategy  
amosipl@gmail.com  
(515) 554-3433

Mike Heilman  
Latino Law Students Association  
University of Iowa College of Law  
Iowa City, IA  
Michael-heilman@uiowa.edu

Vanessa C. Marcano  
Latino Community Organizer  
Iowa Citizens for Community Improvement  
2001 Forest Ave.  
Des Moines, IA 50311  
vanessa@iowacci.org  
office: (515)282-0484  
cell/linea en español: (319)572-9400