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Dear Ms. Dawkins et al.:

We would like to thank USCIS for hosting an informative Stakeholder teleconference last month and for providing some very important details regarding the procedures for processing U visas now that the cap has been met. While we have been informed that specific guidance should be coming out shortly, we wanted to follow up on a few questions advocates raised on the Stakeholder teleconference on December 11, 2013 regarding the processing of cases after the cap has been met. In particular:

1. Using Parole: 8 CFR 214.14(d)(2) contemplates the use of parole once the cap has been met, and we urge that this option be put in place to address two distinct problems.

- In some jurisdictions, like Arizona and Nebraska, individuals with work authorization under deferred action status are currently ineligible for state driver's licenses. Allowing these individuals on the waitlist to receive an EAD based on parole would enable them to access the services and documentation they need to help gain self-sufficiency.
- Derivatives of principal applicants with a conditional approval will be unable to join the principal applicant until U visa applications are available in the following fiscal year. Also, principal applicants who are living abroad at the time of their conditional approval will be unable to enter the U.S. until the cap is lifted, which at the current rate, might eventually be a wait of several years for some applicants. We hope that USCIS would consider creating a parole policy in which the Vermont Service Center would process parole applications for U applicants abroad to allow for family unification to continue and applicants abroad to return to the U.S. even though the cap has been met.

2. One-Step Work Permits: It would be extremely advantageous if U visa applicants could concurrently file the underlying U visa applications together with I-765 applications for the principal and derivatives (on the basis of deferred action or parole status). Currently, VSC is

receipting some of these one-step permits and rejecting others by RFE'ing applicants for "proof of deferred action status" at the time of filing. This one-step filing will enable those applicants on the waitlist to receive work authorization based on deferred action or parole incident to the conditional approval. The one-step filing will conserve resources for both USCIS and applicants.

3. Requirement of Photos for Derivatives Abroad: Practitioners have been reporting that USCIS has been issuing Requests for Further Evidence (RFEs) for two passport sized pictures and passport copies for I-918 Supplement A applications for derivatives abroad, regardless of age. Given that this requirement is not listed on the I-918 Supplement A instructions and normally the US consulate abroad requests these documents to process the U visa abroad, we wonder why USCIS also needs the photos for derivatives abroad. Asking for these documents before they are needed creates challenges in both time and money for applicants and their advocates. We therefore request that VSC revert to the previous practice of allowing consulates to implement this procedural requirement, when applicants and their derivatives are better-equipped to respond.

We look forward to working with you on these issues and would be happy to provide you any additional information you may need. Please do not hesitate to contact Cecelia Friedman Levin (Cecelia@asistahelp.org) or Jessica Farb (jessicafarb@icwclaw.org) with any questions or concerns.

Sincerely

ASISTA Immigration Assistance
American Immigration Lawyers Association VAWA Committee