



Deferred Action Childhood Arrivals- A Brief Overview



DACA History:

On June 15, 2012, the Obama administration announced the Deferred Action for Childhood Arrivals (DACA), and the secretary of the Department of Homeland Security released a memorandum with the guidelines for granting an individual deferred action. The memo stated that undocumented immigrants must have come to the U.S. before the age of sixteen, continuously reside in the U.S. for the past five years, be enrolled in school, or graduated from high school, not be convicted of a felony, and not be over the age of thirty. As a result, DACA recipients will be deferred from immigration enforcement action for two years, subject to renewal, and recipients are also eligible for work authorization.

On November 20, 2014, the secretary of Homeland Security released a memo that wished to amend the guideline for DACA. This included expanding DACA and issuing a new program called Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA). DAPA would grant parents of U.S. citizens and lawful permanent residents protection from deportation and work permits for a period of three years. To be eligible, applicants must have lived continuously in the U.S. since January 1, 2010, been present in the U.S. on November 20, 2014, and be present in the U.S. when they apply. Applicants must also have a son or daughter who is a U.S. citizen or lawful permanent resident as of November 20, 2014, they must not have had an immigration status and they must pass a background check. Twenty-six states, led by Texas, challenged this policy, and DAPA got sent to the Supreme Court where the program was ultimately halted.

On September 5, 2017, the Trump administration announced the rescission of DACA stating that the Obama administration bypassed Congress in its decision to create the program and that it is unconstitutional. During this time, initial requests for DACA were no longer accepted and renewal requests were only accepted until October 5, 2017. As a result, multiple lawsuits were filed in the U.S. challenging the Trump Administration's decision. On January 9, 2018, Judge William Alsup of the U.S. District Court for the Northern District of California, issued a national injunction that ordered the Trump Administration to continue the DACA program. Judges in the Eastern District of New York and the District of Columbia did the same and issued a national injunction. As a result, the United States Citizenship and Immigration Services announced that it would resume accepting requests to renew deferred action under DACA in response to the federal court orders and stated the "DACA policy will be operated on the terms in place before it was rescinded on Sept. 5, 2017."

On May 1, 2018, Texas and six other states filed a lawsuit that challenged the lawfulness of DACA and they asked for a preliminary injunction that would stop the DACA program. The judge rejected their injunction request but other injunctions remained in place which continued the renewal of DACA recipients but still, no new applicants were able to apply.

The Supreme Court agreed to hear the cases on the Trump Administration's revocation of DACA and they combined three lawsuits into one argument, *Department of Homeland Security v. Regents of the University of California*. On November 12, 2019, oral arguments in the case began. The case concluded on June 18, 2020, when the Supreme Court ruled that the Trump

Administration's decision to end DACA was "arbitrary and capricious" in a 5-4 vote. This ruling allowed the DACA program to continue; however, the court sent this case back to the Department of Homeland Security, therefore leaving it open for the Trump Administration to end the program in other ways, with accurate reasoning.

On December 4, 2020, Judge Nicholas Garaufis of the U.S District Court for the Eastern District of New York ordered the Department of Homeland Security to restore the DACA program fully which includes accepting first-time requests for DACA, renewal requests and advance parole requests by the terms of the 2012 DACA program. President Biden released a memo on January 20, 2021, ordering the Secretary of Homeland Security and the Attorney General to "preserve and fortify" the DACA program consistent with the law. However, on July 16, 2021, a federal court in Texas established that the 2012 DACA program is unlawful. In response, the federal government appealed this decision to the Fifth Circuit Court of Appeals where oral arguments are scheduled for July 6, 2022, in New Orleans.

For the time being, current or past DACA recipients can file for DACA and work permit renewals but the federal government is not currently processing applications from first-time DACA applicants or those whose DACA status expired more than a year ago. The DACA program has had no changes as of July 2021 except for USCIS's April 2022 announcement that DACA renewals can be filed electronically.

Establishment of DACA:

The DREAM Act - The Development, Relief, and Education for Alien Minors Act (DREAM) was first introduced in 2001 by Orrin Hatch and Dick Durbin. The DREAM act proposed to create a system for immigrants which would lead to permanent residency based on their age at the time of entry into the United States. The DREAM act would follow a three-step process that begins with Conditional Permanent Residence (CPR). Undocumented High School graduates and GED recipients would have to meet the requirements which include coming to the U.S. as a child, having been admitted to an institution of higher education, having graduated high school or obtained a GED, or being currently enrolled in a program to obtain a high school diploma or GED. Additionally, having not participated in the persecution of another person and having not been convicted of certain crimes. Once CPR is established, applicants can obtain Lawful Permanent Residence (LPR) which would grant them a green card by acquiring a degree from an institution of higher education or completing at least two years of their bachelor's program, or completing two years of military service with an honorary discharge, if discharged, or having demonstrated employment over three years and with 75% employment authorization. After maintaining LPR for five years, applicants would be eligible to apply to become U.S. citizens through the naturalization process.

Although there have been various attempts, the DREAM Act has failed to pass. In 2010, a revised version of the act was brought to the House and passed but did not pass the senate. In

2011, Dick Durbin sponsored the DREAM act but again, it was not passed due to a loss of support from congressional republicans. The DREAM act sparked discussion around minors being brought to the U.S. without the chance of establishing permanent residence and with the possibility of facing deportation to their country of origin where they may have never lived.

June 15, 2012 - The Obama administration announces the Deferred Action for Childhood Arrivals (DACA) and the secretary of the Department of Homeland Security releases a memo with the guidelines for granting an individual deferred action. The memo states that undocumented immigrants must have come to the US before they were 16, continuously reside in the US for the past five years, been enrolled in school or graduated from high school, and not have been convicted of a felony. DACA recipients will be deferred from immigration enforcement action for two years which is subject to renewal and they are given work authorization.

November 20, 2014- The secretary of Homeland Security releases a memo that amends the guidelines for DACA, expanding DACA and issuing a new program called Deferred Action for Parents of Americans (DAPA) that would grant temporary relief to undocumented immigrant parents of US citizens and legal permanent residents. DAPA gets sent to the Supreme Court where twenty-six states challenged the policy and the program is ultimately halted.

Rescission of DACA:

September 5, 2017 - The Trump Administration announces the revocation of the DACA program. They state the Obama administration bypassed Congress in its decision to create the program and that it is unconstitutional. Initial requests for DACA are no longer accepted and renewal requests will only be accepted until October 5, 2017. Multiple lawsuits are filed around the United States challenging the Trump Administration's decision.

January 9, 2018 - Judge William Alsup of the U.S. District Court for the Northern District of California, issues a national injunction that orders the Trump administration to continue the DACA program. Judges in New York and the District of Columbia do the same. Hopeful DACA applicants are still not allowed to apply but DACA renewals are allowed to continue.

January 13, 2018 - The United States Citizenship and Immigration Services announces that it will resume accepting requests to renew deferred action under DACA in response to the federal court order and states "DACA policy will be operated on the terms in place before it was rescinded on Sept. 5, 2017."

May 1, 2018 - Texas and six other states file a lawsuit that challenges the lawfulness of DACA and ask for a preliminary injunction that would stop the DACA program. The judge rejects their

injunction request but other injunctions remain in place which continues the renewal of current DACA recipients but no new applicants can apply. The case on the Trump Administration's termination of DACA has stayed pending a decision from the Supreme Court.

November 12, 2019 - The Supreme Court agrees to hear cases on the Trump Administration's rescinding of DACA and they combine three lawsuits in one argument, *Department of Homeland Security v. Regents of the University of California*. Oral arguments in the case begin.

June 18, 2020- The Supreme Court rules that the Trump Administration's decision to end DACA was "arbitrary and capricious" in a 5-4 vote. This ruling allows the DACA program to continue. However, the court sends this case back to the Department of Homeland Security, leaving it open for the Trump Administration to end the program in other ways, just with accurate reasoning.

December 4, 2020 - Judge Nicholas Garaufis of the U.S. District Court in Brooklyn orders the Department of Homeland Security to restore the DACA program fully.

January 20, 2021- President Biden releases a memo ordering the Secretary of Homeland Security and the Attorney General to preserve and protect the DACA program consistent with the law.

July 6, 2022 - On July 16, 2021, a federal court in Texas established that the 2012 DACA program is unlawful. In response, the federal government appealed this decision to the Fifth Circuit Court of Appeals where oral arguments began July 6, 2022, in New Orleans. The arguments are related to whether Texas and the other states challenging the legality of DACA have the ability to bring their lawsuit. For the time being, current or past DACA recipients can file for DACA and work permit renewals but the federal government is not currently processing applications from first-time DACA applicants or those whose DACA status expired more than a year ago. The DACA program has had no changes as of August 2022 except for USCIS's April 2022 announcement that DACA renewals can be filed electronically. Recently, oral arguments began in the *Texas v United States* court case and the next step is to wait for the decision from the Fifth Circuit, although the timing of the decision is uncertain. As of now, nothing has changed for DACA recipients or DACA-eligible youth.

August 3, 2022 - On August 3, 2022, the Eastern District of New York released its decision in *Batalla Vidal*. That decision was the denial of the plaintiff's request for limited relief for those with pending first-time DACA applications or DACA recipients whose status expired more than a year ago. This decision does not change the current status of DACA in any way. Current or

past (unless their DACA status expired more than a year ago) DACA recipients can still file for renewals of their DACA and work permits.

August 30, 2022 - The Biden administration published the final rule for the DACA program on August 30, 2022. This final rule replaces the 2012 DACA memo and establishes a regulation governing who may benefit from DACA and how they may apply. This rule will replace the 2012 memo that created the DACA program by Janet Napolitano. This final rule does not change the DACA program and DACA eligibility requirements will stay the same. This rule will go into effect on Monday, October 31, 2022.

Statistics:

“more than 1.3 million people live with a DACA recipient, including 300,000 U.S.-born children who have at least one parent with DACA.” (Svajlenka)

“343,000 DACA recipients employed in essential jobs” (Svajlenka).

- “This number includes 34,000 health care workers providing patient care and another 11,000 individuals working in health care settings keeping these facilities functioning. It includes 20,000 educators, ensuring millions of children can continue learning in classrooms, and 100,000 working in the food supply chain as food travels from farms to dinner tables”(Svajlenka).

“CAP analysis finds that DACA recipient households pay \$6.2 billion in federal taxes and \$3.3 billion in state and local taxes each year” (Svajlenka).

“After taxes, these households hold \$25.3 billion in spending power. They own 68,000 homes, making \$760 million in mortgage payments and \$2.5 billion in rental payments annually, money that could be in jeopardy if DACA goes away” (Svajlenka).

“Nearly 700,000 young people in the U.S. have applied and currently hold DACA. Across the country, more than 1.5 million people live with a DACA recipient” (fwd.us).

“1.3 million DACA-eligible Dreamers living in the United States” (fwd.us).

“DACA recipients contribute more than \$42 billion to the annual GDP in the U.S.” (fwd.us).

“Nearly \$2 billion contributed by Dreamers to Social Security annually” (fwd.us).

“Nearly \$470 million paid into Medicare by Dreamers every year” (fwd.us).

“Up to \$1 trillion added to the U.S. GDP over a decade if permanent protections for Dreamers are passed” (fwd.us).

“14% of Dreamers have purchased their own home, and they pay an estimated \$380 million in property taxes every year” (fwd.us).

“The U.S. will lose nearly \$93 billion in federal tax revenue over a 10-year period if DACA recipients are unable to remain in the country” (fwd.us).

“Most Americans support granting legal status to immigrants who were brought to the US illegally as children” (Krogstad).

- “74% of Americans favor a law that would provide permanent legal status to immigrants who came to the U.S. illegally as children, while 24% are opposed” (Krogstad).

Resources:

<https://www.americanimmigrationcouncil.org/research/deferred-action-childhood-arrivals-daca-overview>

<https://www.boundless.com/immigration-resources/what-is-daca/>

Sources:

<https://www.nilc.org/issues/immigration-reform-and-executive-actions/dapasummary/>

<https://www.nilc.org/issues/daca/>

<https://www.americanimmigrationcouncil.org/research/dream-act-overview>

<https://library.law.howard.edu/civilrightshistory/immigration/daca>

<https://www.fwd.us/news/daca-facts/>

<https://www.americanprogress.org/article/the-demographic-and-economic-impacts-of-daca-recipients-fall-2021-edition/>

<https://theworld.org/stories/2020-05-28/deferred-action-childhood-arrivals-timeline>

<https://libguides.law.asu.edu/DACA/history>

<https://www.nilc.org/issues/daca/daca-litigation-timeline/>

About the author:

Camila Rivero is an incoming junior and first-generation college student at the University of Wisconsin-Madison. She is studying journalism with a track in strategic communications and a certificate in digital studies with the hopes of working in the advertising and public relations field in the future. Camila was born and raised in Boulder, Colorado and is now an intern at the Center for DREAMers where she assists in serving undocumented and DACAmented students in Wisconsin.