

The Future of DACA

What is DACA and Who are the Dreamers?

Deferred Action for Childhood Arrivals, or DACA, was created by President Obama in 2012 to allow certain people brought into the country without documentation as children to stay on a temporary basis. These people are often referred to as “Dreamers.” As of March 2021, there were more than 600,000 active DACA beneficiaries in the United States, and over one million more Dreamers who were eligible for the program.¹ Approximately 80% of Dreamers were born in Mexico, and although Dreamers come from all over the world, most of them have grown up in the United States and know no other home.²

To be eligible for DACA, a Dreamer must:

- 1) Have entered the United States before age 16,
- 2) Have continuously resided in the United States for at least 5 years before June 2012,
- 3) Have pursued or be pursuing certain educational requirements,
- 4) Not have been convicted of any major offenses or otherwise pose a public safety threat, and
- 5) Be 30 years of age or younger.³

DACA recipients must renew their applications every two years. DACA does not give its recipients legal status; rather, it prevents them from being placed in deportation proceedings while they maintain their DACA designation. DACA allows beneficiaries to stay in the United States, and it also allows them to apply for work authorization and some public benefits, such as Social Security and Medicare.

What is the Current State of DACA?

The DACA program has been challenged several times since its creation. The most recent challenge came when Texas and eight other states sued the federal government over the legality of DACA in *Texas v. United States*.⁴ On July 16, 2021, Judge Andrew Hanen, a District Court Judge of the Southern District of Texas, ruled that DACA is not legal. The Judge issued a permanent injunction preventing the Department of Homeland Security (DHS) from accepting new DACA applications, but he is allowing current DACA recipients to continue to renew their DACA designation while appeals on the case are pending.

U.S. Citizenship and Immigration Services (USCIS), the agency within DHS that processes DACA applications, released a statement on July 19, 2021, clarifying that it will “continue to implement the components of DACA that remain in place, and work on [a proposed rule] to strengthen and fortify DACA.”⁵ President Biden has called the Court’s ruling “deeply disappointing” and stated that the Department of Justice (DOJ) will appeal the decision to preserve DACA.⁶

What is the Path Forward for Dreamers?

The next step is for DOJ to appeal the decision to the U.S. Fifth Circuit Court of Appeals, although the fate of DACA is not likely to be resolved through the courts for quite some time, given the length of the appeals process. There is another path forward: Congress can pass legislation protecting the Dreamers, and it can do so in a more permanent way than DACA has.

Members of Congress have attempted to pass protections for Dreamers several times in the past, but so far all these attempts have failed. The Dream Act was first proposed in 2001, and many different versions of the bill have been introduced throughout the years, but none have gained the traction needed to make the bill law. This year, the American Dream and Promise Act was passed in the House of Representatives on March 18, 2021. However, the Senate has not yet taken up the bill for a vote. Given the Senate's even party split, the bill would need significant bipartisan support to pass.

USCRI advocates for the passage of the American Dream and Promise Act to give Dreamers stability and permanence in the only home many of them have ever known: the United States.

References

¹ "Deferred Action for Childhood Arrivals (DACA) Data Tools." Migration Policy Institute (Mar. 31, 2021), <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>.

² Benenson, Laurence. "Fact Sheet: Deferred Action for Childhood Arrivals (DACA)." National Immigration Forum (Oct. 16, 2020), <https://immigrationforum.org/article/fact-sheet-on-deferred-action-for-childhood-arrivals-daca/>.

³ "Secretary Napolitano Announces Deferred Action Process for Young People who are Low Enforcement Priorities." U.S. Department of Homeland Security (June 15, 2012), <https://www.dhs.gov/news/2012/06/15/secretary-napolitano-announces-deferred-action-process-young-people-who-are-low>.

⁴ *State of Texas, et al., v. United States of America, et al.*, 1:18-CV-00068, (S.D. Texas July 16, 2021).

⁵ "Statement from USCIS Acting Director Tracy Renaud on Deferred Action for Childhood Arrivals (DACA) Court Decision." U.S. Citizenship and Immigration Services (July 19, 2021), <https://www.uscis.gov/news/news-releases/statement-from-uscis-acting-director-tracy-renaud-on-deferred-action-for-childhood-arrivals-daca>.

⁶ "Statement by President Joe Biden on DACA and Legislation for Dreamers." White House (July 17, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/17/statement-by-president-joe-biden-on-daca-and-legislation-for-dreamers/>.