

A BRIEF HISTORY OF THE DACA PROGRAM

For almost ten years, the Deferred Action for Childhood Arrivals or DACA program has provided temporary protection from deportation, a work permit, and a social security number to people who entered the United States as children, without the proper documents to migrate, are currently living in the U.S., and have - or are working towards - a high school diploma or GED.

These protections were the result of young undocumented people who were tired of hitting a ceiling when trying to enter college. Young undocumented people all over the United States organized for years to have their right to live and work in this country acknowledged. When the DREAM Act failed to pass in the Senate in 2010, protests all over the country increased. Young people walked miles across the country from San Francisco to Washington, DC and in 2012 some occupied campaign offices of President Obama, asking for a simple thing, "President Obama, sign an executive order to immediately stop the deportation of all DREAM-eligible youth." Their tireless advocacy and organizing efforts mobilized the majority of Americans to support them.

President Obama first announced DACA as an executive order on June 15, 2012, a little over eight years ago, after continued pressure from young undocumented people and the faith community. Under DACA, almost 700,000 people who migrated to the U.S. as children and met other requirements were able to apply for and receive work permits and protection from deportation.

On September 5, 2017, the Trump administration terminated DACA. Their decision was challenged in the courts. This past November, the Supreme Court heard arguments on DACA and announced their decision on June 18, 2020.

Supreme Court Decision on DACA

On June 18, 2020, the Supreme Court ruled that the Trump administration's decision to rescind Deferred Action for Childhood Arrivals (DACA) in 2017 was "arbitrary and capricious." That means the way the Trump administration went about ending DACA was not right because they failed to give enough reasons and explanations for why they ended it. That Supreme Court victory was a testament to the efforts of the more than 700,000 people in the DACAmented community and their families and friends.

New York Court Ruling on DACA

On December 4, 2020, a judge in New York ordered the Trump administration to return DACA to its original state. In question this time was a Department of Homeland Security memo from July 28, 2020, where the Trump and DHS tried to circumvent the Supreme Court decision on DACA and tried to dismantle the program as we know it by announcing that DHS would reject all initial, first-time DACA applications and limit all pending DACA renewal applications for protection from deportation and work permits from two-year renewals to one-year renewals.

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Thanks to this new ruling, for the first time since 2017, USCIS began accepting DACA applications from first time applicants. The judge also ordered that all the one-year permits given to DACA recipients under Wolf's order be immediately extended to two years instead, and that the Department of Homeland Security must post a public notice within three days stating that DACA applications would once more be accepted and processed for people not currently enrolled in DACA.

Texas Court Ruling on DACA

In July 2021, a judge in Texas ordered the DACA program to be partially ended. The ruling meant that new DACA applications could not be approved, meaning that if a person was eligible for DACA but had never applied for DACA before, the Department of Homeland Security could still accept their application but would not be able to process it. If a person currently had DACA, they were still protected and were able to continue renewing.

To respond to that ruling, in September of 2021, the Department of Homeland Security proposed a rule for the DACA program that would keep and strengthen the program. That rule meant that the individuals who currently have DACA could continue renewing and their work permits remain valid, however, the program remained closed for new applicants.

Newest DACA Rule from the Department of Homeland Security

In August of 2022, the Department of Homeland Security put out a new final rule that formally sets up the DACA program. The goal of the Biden administration is to strengthen the DACA program. Thanks to our advocacy efforts, the new rule ensured that both protections from deportation and work authorization remain connected and protected in the program.

This newest final rule means that people who currently have DACA are still protected and can continue to renew.

People who are eligible for DACA but have never applied for the program can still submit an application, but the Department of Homeland Security will not process the application and will not grant DACA permits to first-time applicants.

While these new rules around DACA are important, they do not go far enough to strengthen the DACA program. The new rule did not change who can apply for DACA and the program remains closed for new applicants.

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This newest rule keeps an outdated cutoff dates that limit who qualifies for DACA and prevents most immigrant youth from benefiting from DACA. In the spring of 2022, around 100,000 undocumented high school students graduated without being able to apply for DACA. They arrived after June 2017, the latest date a person could have entered the U.S. and be eligible for DACA. In 28 states where data is available, up to 43% of undocumented high school graduates will not have access to tuition resources for higher education.

The newest rule also does not protect DACA from ongoing court cases challenging the program.

Current Supreme Court Cases on DACA

DACA is still being challenged in the courts and the Supreme Court will soon rule on whether the program is legal.

Dream and Promise Act/Dream Act

The Dream and Promise Act (H.R. 6)/Dream Act (S. 264) creates a pathway to citizenship for 2.5 million Dreamers, TPS holders, and Deferred Enforced Departure (DED) recipients. In March 2021, the House passed the Dream and Promise Act (H.R. 6). But the bill needs to pass the Senate to become law.

The Dream Act is a first step towards the goal of creating a pathway to citizenship for all 11 million undocumented and under-documented immigrant people who are home in the United States. Our immigrant communities need you to advocate for every opportunity to provide a pathway to citizenship. While this bill is a step in the right direction, it still excludes many of our immigrant neighbors.

One thing we can do is call our Senators to ask them to pass the Dream Act (S. 264) and commit to working on more inclusive legislation that creates a pathway to citizenship for all 11 million of our neighbors.