

Immediate Impact of Terminating DACA

Request

NAFSA: Association of International Educators supports the Dream Act and urges Members of Congress to call for a vote on a permanent legislative solution for Dreamers. A permanent legislative solution is the best way to ensure DACA recipients are protected and can continue to help America grow and prosper.

Understanding DACA

The DACA program has had a monumental impact on its recipients:

- Approximately 800,000 individuals have received permission to live and work legally in the United States since the program began in August 2012. Each DACA grant remained valid for two years and could be renewed in two-year increments.
- Deferred action is not a new policy. Available to immigrants other than those DACA eligible, it allows immigrants on a case-by-cases basis to request that the U.S. Citizenship and Immigration Services (USCIS) exercise discretion to delay action on removal. Eligibility for work authorization and advance parole is tied to the existing regulatory authority governing the exercise of discretion to defer removal.
- DACA allowed many young people to attend college, obtain driver's licenses, work, buy homes, and start businesses. For some college students, DACA meant they could study abroad. It is important to note that DACA recipients are ineligible for federal benefits like student loans.
- Included in the end of DACA was the end of grants of advance parole that made study abroad an option for some DACA students. Individual DACA students who leave the country should be advised that Customs and Border Protection (CBP) officers have discretion to deny reentry to the country even with a grant of advance parole.
- Generally, DACA recipients do not have other options to maintain their immigration status unless Congress acts to pass legislation that protects them, such as the Dream Act of 2017 (S. 1615, H.R. 3440).

Process for Ending DACA

The process for ending DACA was abrupt:

- On September 5, 2017, DHS Acting Secretary Elaine C. Duke officially rescinded the June 15, 2012 memorandum that created the DACA program and set forth the following procedures for consideration of applications during the 6-month phase-out of the program.
- DHS will no longer accept new DACA applications filed on or after September 6, 2017.
- DHS will continue to process on a case-by-case basis any new DACA applications properly filed and received by USCIS on and before September 5, 2017.
- Filing for DACA renewal was severely restricted to a limited number of DACA recipients and only for a one-month timeframe:
 - Those whose DACA permits expired on or before March 5, 2018, were eligible to apply for two-year DACA extensions if they applied for the extension on or before October 5, 2017.
 - Those whose DACA permits expired on and after March 6, 2018 were not eligible to file DACA extension applications.

- DHS announced it would continue to adjudicate DACA extension applications properly filed and received by USCIS on and before September 5, 2017, even if the current DACA approval of the applicant expired after March 5, 2018.

Court Cases

- On January 9, 2018, a judge in the U.S. District Court for the Northern District of California issued a preliminary injunction requiring USCIS to again begin accepting DACA renewal applications. The injunction remains in place as the case challenging the termination of DACA, Regents of the University of California, et al. v. Department of Homeland Security, et al., continues to move through the court process.
- On February 13, 2018, a New York judge issued a similar injunction in a separate case ordering DHS to continue to accept DACA renewals.
- On February 26, 2018, the U.S. Supreme Court declined to hear DHS v. UC Regents, sending it back to the lower courts for a decision. In the meantime, DACA recipients can continue to apply to renew their DACA protections. On March 3, 2018, a Maryland district judge rejected a challenge to the termination of DACA, saying the administration did in fact have a "reasonable" justification for ending the program.

DACA Students and Study Abroad

Losing DACA threatens not only the opportunity for these young adults to attend college but also their chance to participate in the full curriculum on campuses that provide study abroad, international research, internship, or other international travel opportunities for their students. Prior to the September 5, 2017 rescission of DACA, DHS approved applications for travel authorization called advance parole, which DACAmented students could use to travel abroad for "education, humanitarian and work purposes," including participating in study abroad programs. Although the DACA rescission memo states DHS will "generally honor" previously approved DACA advance parole for the stated validity period, USCIS will no longer approve new applications for advance parole after September 5, 2017. The memo makes clear that CBP officers at ports of entry retain the authority to determine the admissibility of anyone presenting themselves at a U.S. port of entry. A grant of advance parole, whether related to DACA or not, does not guarantee that CBP will allow the immigrant back into the country.

DACAmented students should seek the advice of an immigration attorney to weigh this risk before departing the United States to participate in a study abroad program. DACA students with an approved grant of advance parole who are currently studying abroad should also consult with their immigration lawyer about returning to the United States.

Solution

Pass a permanent legislative solution for Dreamers with a path to citizenship to ensure DACA recipients can continue to live, work, and study and help America grow and prosper.

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More Information

NAFSA immigration priorities and resources: www.nafsa.org/immigration