



ALERTS

U.S. Supreme Court Dictates That DACA Survives....For Now

June 18, 2020

Highlights

U.S. Supreme Court blocks the Trump Administration's attempt to end DACA

The Court's ruling emphasized that the Administration failed to provide an adequate reason to justify ending DACA, in violation of the Administrative Procedure Act

This preservation of the DACA program ensures that employers may continue to legally employ DACA recipients

The U.S. Supreme Court, on June 18, 2020, blocked an attempt by the Trump Administration to rescind the Deferred Action for Childhood Arrivals program, commonly known as DACA, in [*Department of Homeland Security v. Regents of the University of California*](#). In a 5 to 4 decision, the Court ruled that the Administration failed to provide an adequate reason to justify ending the program.

The Court did not provide a ruling on the legality of DACA, instead it ruled that the Administration's decision to end DACA was subject to judicial review. The Court also determined that the Administration's failure to provide a reasoned analysis in reaching its decision to rescind DACA was

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arbitrary and capricious, violating the Administrative Procedure Act.

The Obama Administration created the DACA program on June 15, 2012, to protect eligible persons who came to the United States as children from deportation. To qualify for DACA, a person must have entered the U.S. under the age of 16; continuously resided in the U.S. since June 15, 2007; were under 31 years of age on June 15, 2012; were physically present in the U.S. on June 15, 2012; and not hold legal status. The person must also be currently enrolled in school, be a high school graduate, have obtained a GED, or have been honorably discharged from the military. DACA does not cover persons who have committed a felony or serious misdemeanor. The program requires applicants to apply to renew their grant of DACA status every two years, appear at a local immigration office, undergo a criminal background check, and pay immigration processing fees, which are currently \$495. At present, nearly 700,000 people are enrolled in the DACA program.

The Trump Administration attempted to rescind the DACA program, however several legal challenges ensued. While all parties agreed that the Trump Administration possessed the authority to rescind DACA, the dispute primarily concerned the procedure the Administration was required to follow in rescinding DACA. Several lower courts blocked the effort and their cases ended up at the U.S. Supreme Court for review.

The net effect of the Supreme Court's decision is that existing DACA recipients remain eligible for deferral from removal from the U.S. and employment authorization, provided that they continue to satisfy DACA requirements.

The preservation of the DACA program, at least for now, ensures that employers may continue to legally employ DACA recipients, so long as these individuals timely file applications to renew their existing DACA protection and corresponding work authorization, and continue to possess valid employment authorization documents.

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