



Issue Brief: Deferred Action for Childhood Arrivals

Issue at a Glance

The Deferred Action for Childhood Arrivals (DACA) is an immigration policy established in June 2012 by the Obama Administration. DACA allows certain illegal immigrants who entered the country as minors to receive a renewable two-year period of deferred action from deportation and eligibility for a work permit. More than 800,000 people – about 40,000 in Florida – are participating in the DACA Program. In September 2017, the program was formally rescinded by the Trump Administration, but implementation of the rescission is delayed by six months to give Congress time to enact legislation to replace DACA should Congress wish to do so.

Background

In 1975, revisions to education laws in Texas withheld state funds for educating children who had not been legally admitted to the United States and authorized local school districts to deny enrollment to such students. In a 5-4 decision in [Plyler vs. Doe](#), the U.S. Supreme Court found that this policy denied unauthorized immigrant children protection from discrimination and was an unconstitutional violation of the Equal Protection Clause of the [Fourteenth Amendment](#). This decision certified that all students have a constitutional right of equal access to public education regardless of their immigration status. The majority opinion stated, in part:

“These children can neither affect their parents’ conduct nor their own undocumented status. The deprivation of public education is not like the deprivation of some other governmental benefit. Public education has a pivotal role in maintaining the fabric of our society and in sustaining our political and cultural heritage . . . [and] provides the basic tools by which individuals might lead economically productive lives to the benefit of us all.”

In 2001, the [Development, Relief, and Education for Alien Minors \(DREAM\) Act](#) was first introduced in the U.S. Senate. The DREAM Act proposed a multi-phase process for illegal immigrants that would grant conditional residency and a pathway to obtain permanent residency status for those that met certain qualifications, including good moral character, enrollment in a secondary or post-secondary education program, and having lived in the United States at least 5 years. Although introduced and reintroduced several times, the DREAM Act has not been enacted into federal law.

In 2012, a number of the DREAM Act provisions were implemented by a memorandum issued by the Department of Homeland Security. This administrative action created the [Deferred Action for Childhood Arrivals \(DACA\)](#) immigration policy that deferred deportation of certain individuals. Individuals must apply to be covered under the DACA deferred deportation action policy. To be eligible for DACA, applicants must show that they:

- Are under 31 years of age as of June 15, 2012;
- Came to the United States before their 16th birthday;
- Have continuously resided in the U.S. from June 15, 2007 to the present;
- Entered the U.S. without inspection or fell out of lawful visa status before June 15, 2012;
- Were physically present in the U.S. on June 15, 2012, and at the time they apply for DACA;
- Are currently in school, have graduated from high school, have obtained a GED, or are an honorably discharged veteran of the Coast Guard or Armed Forces; and
- Have not been convicted of a felony, certain misdemeanor(s), and do not otherwise pose a threat to national security or public safety.

DACA defers deportation action and allows qualified participants to obtain an Employment Authorization Document (EAD) that allows them to be lawfully employed. The EAD is valid for two years and may be renewed. However, DACA does not grant legal status to an applicant, does not directly confer lawful permanent residence or citizenship, and does not cure an applicant's previous periods of unlawful presence. Further, DACA benefits may be revoked at any time.

Current Situation

DACA was formally rescinded by the Trump Administration in September 2017, but implementation of the rescission is delayed by six months to provide time for Congress, if it so wishes, to replace the administratively created DACA program with a program enacted through federal legislation. Several bills have been filed and are pending consideration in Congress including:

- [H.R. 1468](#) – Recognizing America's Children Act (RAC Act) - by Rep. Carlos Curbelo (R-FL)
- [H.R. 496](#) – Bar Removal of Individuals who Dream and Grow our Economy (BRIDGE) Act by Rep. Mike Coffman (R-CO)
- [S. 128](#) – Bar Removal of Individuals who Dream and Grow our Economy (BRIDGE) Act by Sen. Lindsey Graham (R-SC)
- [S. 127](#) – Securing Active and Fair Enforcement (SAFE) Act by Sen. Jeff Flake (R-AZ)

Unless and until Congress chooses to act on one of these bills or similar legislation, the U.S. Citizenship and Immigration Services (USCIS) will no longer accept initial requests for DACA. However, USCIS will consider renewal requests received by October 5, 2017 that are submitted by current DACA beneficiaries whose benefits will expire between Sept. 5, 2017 and March 5, 2018. In addition, since all DACA benefits are provided on a two-year basis, individuals who currently have DACA will be allowed to retain both the deferral of deportation action and their work authorizations (EADs) until they expire.

Sources:

American Immigration Council
Congress.Gov
Kids Laws
Legal Information Institute – Cornell Law School
U.S. Citizenship and Immigration Services
Wikipedia