

## **DACA: Update After Supreme Court Hearing**

On November 12 2019, the Supreme Court heard arguments over whether the Trump administration acted properly when it terminated Deferred Action for Childhood Arrivals (DACA), an Obama-era program that provided eligible undocumented individuals who entered the US as children with relief from deportation and work authorization in two-year intervals. The Supreme Court will likely release a decision regarding DACA's future by June 2020. This decision will directly impact 3,000 DACA-eligible individuals in Rhode Island, as well as their families, communities, and Rhode Island as a whole.

Below are brief summaries on the following: **1)** the litigation timeline of DACA, **2)** potential outcomes of the Supreme Court decision, **3)** information regarding DACA renewals, and **4)** local resources.

### **Litigation Timeline: How did DACA end up at the Supreme Court?**

In September 2017, the Trump administration announced its termination of the DACA program, thereby preventing first-time DACA applications from being submitted. The administration allowed current DACA recipients a short window to renew their DACA status if their status was set to expire before March 5, 2018.

Soon after this announcement, three lawsuits challenging the legality of the Trump administration's decision to terminate DACA were filed. These lawsuits resulted in three nationwide injunctions issued by US District Courts in California, New York, and DC. The injunctions allowed for all current DACA recipients to continue submitting renewal applications, regardless of when their DACA was set to expire, but did not stop the administration from refusing to accept new first-time applications. This means that **any individual who has, or who previously had, DACA can submit a renewal application. However, individuals cannot submit an application for DACA for the first time.**

In June 2019, the US Supreme Court agreed to review the legal challenges filed against DACA. On November 12, 2019, the Supreme Court heard arguments on the cases and will likely issue a decision by June 2020.

### **Potential Outcomes: What decisions could the Supreme Court make on DACA?**

It is not possible to predict the exact ruling the Court will issue; however, a favorable outcome for DACA recipients is not expected. There are two issues in play. First, whether courts have authority to review presidential policy changes to discretionary programs like DACA, and second, if courts do have such authority, whether the Trump administration's decision to end DACA was lawful.

While the Court could rule in several different ways on these two issues, it is likely that after the ruling is issued the Trump administration will be allowed to determine the process for ending DACA. If this is the case, then the Trump administration will decide how to deal with: **1)** first-time DACA applications, **2)** pending renewal applications, and **3)** currently issued 'DACA' work permits.

- **First-time DACA applications:** It is likely that the administration would decide to continue rejecting all first-time DACA applications.
- **Pending DACA renewal applications:** A 'pending DACA renewal application' refers to any DACA renewal application that is still being processed by United States Citizenship and Immigration Services (USCIS) at the time the Court makes its decision. For these renewal applications, the administration could decide to deny them all, outright. If the administration decided to deny pending renewal applications, it is possible that filing fees would not be returned.

- **Currently issued 'DACA' work permits:** For DACA recipients with current and valid work permits, the administration could decide to either allow work permits to remain valid until their expiration date, or immediately recall and invalidate all work permits.

In the event that the Court rules in favor of DACA, it is probable that the Trump administration would try to end DACA again on a different legal basis. As a result, DACA recipients, and those who work with DACA recipients, should be aware of the possibilities above.

USCIS has not changed its policy regarding sharing information provided in DACA requests with law enforcement agencies, such as Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). Under current policy, when an individual's DACA expires, **USCIS will not proactively provide law enforcement with information disclosed on the individual's DACA application.** However, USCIS can always share information on any immigrant's application, including DACA, who poses a risk to national security or public safety, and/or meets the criteria for issuance of a Notice to Appear. This means that, under current policy, unless a DACA recipient poses a national security threat or commits a serious crime, they **will not likely be detained and/or put into removal proceedings as soon as the DACA program is terminated.**

### **Renewal Information: What's next for DACA recipients?**

Currently, legal experts and advocates are suggesting that **eligible DACA recipients renew their status as soon as possible**, as there is serious potential that after the Court issues its ruling, no DACA renewals will be available. It is possible that pending DACA renewals will be denied, and current work permits will either be valid only until their stated expiration date or recalled immediately. Individuals whose DACA is set to expire in 2020 should consult with an attorney or accredited representative to determine the most optimal time to renew.

When determining whether to file a renewal application, please be aware of: **1)** the filing fee for DACA renewals is expected to increase from \$495 to \$765 in the near future, **2)** depending on the Supreme Court's decision, there could be a risk that renewal applications will be denied, and filing fees will not be returned, and **3)** individuals who apply for renewal early (before 120-150 days before their current DACA expires) risk shortening the length of time for which their DACA status and work permit are valid.

### **Local Resources: Support in Rhode Island?**

**Dorcas International Institute of Rhode Island** (645 Elmwood Ave., Providence): Walk-in consultations are available Monday-Friday, and either an attorney or accredited representative can assess eligibility for DACA renewals, as well as provide information regarding documents and fees. For more information, call: 401-461-5940, or go to <http://diiri.org/citizenship-immigration/>

**Progress Latino** (626 Broad Street, Central Falls): An immigration lawyer is available for free consultations and DACA renewal services on the last Thursday of every month at 5pm. No appointment needed. For more information, call 401-728-5920, or go to <https://progresolatino.org/immigration>

**Diocese of Providence** (1 Cathedral Square, Providence): The Diocese offers assistance with family petitions, religious visa petitions, adjustment of status, naturalization, work permit renewals, and consultations. For more information, call 401-421-7833, or go to <https://dioceseofprovidence.org/immigration-refugee-services>

**Drivers Licenses for current and past DACA recipients:** In 2018, Rhode Island passed legislation that protects DACA recipients' rights to obtain state drivers licenses. The DMV will issue drivers licenses to any current or past recipient of DACA. If the DACA program is rolled back in the future, RI DACA recipients will still be able to legally obtain drivers licenses.