

# Judge Orders DACA Program Restored

New applications must be accepted, court rules

By Roy Maurer  
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**A** federal judge ordered the full reinstatement of the 2012 Deferred Action for Childhood Arrivals (DACA) program for undocumented immigrants brought to the United States as children, requiring the Department of Homeland Security (DHS) to both accept new applications and grant work permits to all eligible beneficiaries.

Judge Nicholas Garaufis of the U.S. District Court for the Eastern District of New York ruled Dec. 4 that the DACA program must be restored to the way it was prior to September 2017 when the Trump administration attempted to end it.

DACA recipients, also called "Dreamers," were brought to the United States as children by their parents or other adults who were living in the U.S. illegally, and they have spent most of their lives in the U.S. DACA prevents recipients from being deported and allows them to obtain Social Security cards and work authorization documents.

DHS must post a public notice by today notifying the public that it is accepting both first-time applications and renewal requests, and that employment authorization documents granted for just one year (under a DHS memo issued in July) are extended to two years.

Those who wish to apply for DACA benefits should watch for the required public notice on the DHS website. The notice should provide instruction and guidance on applying for the previously unavailable DACA benefits.

Approximately 640,000 people are enrolled in the DACA program. The Center for American Progress, a Washington, D.C.-based think tank, estimates that at least another 300,000 people, including new high school graduates, have been shut out of the program since the Trump administration stopped accepting applications in September 2017. An additional 65,800 people had their work permits reduced to one year only.

## Roller Coaster Ride

DACA has been in limbo ever since President Donald Trump announced the decision to rescind it in 2017. It's been kept alive by the courts since then, but it has been closed to new applicants.

The U.S. Supreme Court ruled in June that DACA should not have been overturned ([www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/supreme-court-ruling-daca-means-for-employers.aspx](http://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/supreme-court-ruling-daca-means-for-employers.aspx)), but the Trump administration continued to restrict new applicants ([www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/uscis-new-daca-applications-will-not-be-accepted.aspx](http://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/uscis-new-daca-applications-will-not-be-accepted.aspx)). The Dec. 4 ruling states that DHS has assured the court that it will comply this time.

## DACA's Future

The long-term fate of DACA beneficiaries is still up in the air. There is currently an ongoing legal challenge to the program in Texas. President-elect Joe Biden has vowed not only to protect the program ([www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/biden-vows-to-roll-back-trump-immigration-policies.aspx](http://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/biden-vows-to-roll-back-trump-immigration-policies.aspx)) but also to push for a path to citizenship for DACA recipients and possibly their parents.

"Our country's global talent pipeline makes vital contributions to our workplaces every day. As we face an uncertain job market and a growing skills gap, it's imperative that workers educated and trained in the U.S. can contribute their unique talents to the American economy," said Emily M. Dickens, SHRM chief of staff, head of government affairs and corporate secretary. "The decision to reinstate the Deferred Action for Childhood Arrivals program is a positive, concrete step toward helping the country meet a crucial talent need, bolster the economy and spur job creation for years to come. Looking ahead to 2021, we urge Congress to pass bipartisan policy solutions that provide critical, work-authorized talent, protect American workers and modernize workplace immigration."

*[To dig deeper on this topic, attend SHRM's Global Hiring: Complying with U.S. Visa Requirements (<https://shrm.co/zg7qw2>) live online program.]*

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