

# DACA Ruled Unlawful, New Applicants Blocked from Program

Current DACA recipients remain unaffected, renewals allowed

By Roy Maurer

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**A** federal judge in Texas has ruled the Deferred Action for Childhood Arrivals program (DACA) is illegal, but the program's current beneficiaries still have employment authorization and are protected from deportation as the issue moves through the courts.

The DACA program protects young undocumented immigrants brought to the country as children from deportation and grants them work authorization.

The ruling barred the Biden administration from approving new DACA applications, but the judge stayed the immediate effect on current DACA recipients, citing their longtime reliance on the program. Current recipients will also be allowed to renew their status under the program.

We've rounded up resources and articles from *SHRM Online* and other news outlets to provide context.

## Exceeded Authority

U.S. District Judge Andrew Hanen ruled in favor of a group of states, led by Texas, that sued to end DACA, concluding that former President Barack Obama exceeded his powers when he created the program in 2012 by executive action and bypassing Congress.

Hanen and other legal experts believe that the executive branch does not have the power to grant mass reprieves to immigrants who are in the U.S. without authorization.

The judge also found that DACA violated the federal Administrative Procedure Act, as the Obama administration did not solicit public comment on DACA before adopting it.

(*Politico* (<https://www.politico.com/news/2021/07/16/texas-federal-judge-daca-applicants-499896>))

## Biden to Appeal

President Joe Biden vowed to preserve the program, promising to appeal the judge's "deeply disappointing" ruling, and urged Congress to provide DACA recipients a path to citizenship.

(*Reuters* (<https://www.reuters.com/world/us/biden-promises-appeal-immigration-ruling-urges-congress-act-2021-07-17/>))

**Next Steps**

In addition to likely legal proceedings at higher-level courts, the Department of Homeland Security has announced that it is working on a formal regulation to codify a DACA-like program in the coming months, which potentially could firm up some of DACA's legal vulnerabilities.

(*The Wall Street Journal* (<https://www.wsj.com/articles/federal-judge-rules-obama-era-daca-immigration-program-is-illegal-11626471046>))

**Roller Coaster Ride**

The DACA program has been in a precarious limbo ever since former President Donald Trump announced the decision to rescind it in 2017. It's been kept alive by the courts since then and had most recently been fully reinstated in December 2020.

(*SHRM Online* ([www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/judge-orders-daca-program-restored.aspx](http://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/judge-orders-daca-program-restored.aspx)))

**Legislative Solution**

Democrats are planning to include immigration measures, such as a pathway to citizenship for DACA beneficiaries, recipients of Temporary Protected Status and farmworkers, in the upcoming spending bill. It is unclear if the measures will survive the Senate's budget rules that would not allow immigration measures to be part of the final package.

(*SHRM Online* ([www.shrm.org/ResourcesAndTools/hr-topics/talent-acquisition/Pages/Dreamers-Farmworkers-Get-Path-to-Citizenship-Legal-Status-Under-House-Bill.aspx](http://www.shrm.org/ResourcesAndTools/hr-topics/talent-acquisition/Pages/Dreamers-Farmworkers-Get-Path-to-Citizenship-Legal-Status-Under-House-Bill.aspx)))

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