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## DACA Changes Likely to Wreak Havoc for 'Dreamers' and Employers

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Gaps in work authorization, longer wait times, and doubled costs are likely to come with recent Trump administration changes to the Deferred Action for Childhood Arrivals program.

The Department of Homeland Security released a memo Tuesday amending the program so that existing DACA recipients—young, undocumented individuals who came to the U.S. as children—will have to apply to renew for the program every year, instead of the current two years.

Though the change seems small, it could disrupt more than 600,000 DACA holders' ability to continue to work in the U.S., over a third of whom are employed in essential jobs on the front lines of the coronavirus pandemic.

The Obama-era program was created in 2012, and in 2017 President Donald Trump moved to terminate DACA, contending the prior administration lacked the authority to implement it.

After a lengthy court battle, the U.S. Supreme Court ultimately deemed the Trump administration's efforts to kill his predecessor's initiative "arbitrary and capricious," and ordered the program returned to its pre-September 2017 status.

On July 17, a Maryland federal judge told DHS it must begin accepting new DACA applications in light of the June 18 high court ruling, but instead the Trump administration chose to rescind parts of the 2012 memo, limiting the scope of who can participate while it performs a "comprehensive review of the DACA program and the justifications offered to wind down" the initiative, a senior White House official told reporters Tuesday.

### More Uncertainty Ahead

Reducing the work authorization period to one year means DACA recipients, often called "Dreamers," will face additional uncertainty, because they will have to renew their work card almost every six months to ensure that they receive the renewals in a timely manner, said attorney Nandini Nair, immigration partner at Greenspoon Marder LLP in Edison, N.J.

"God forbid that there is an error on the application or it gets rejected for some reason, they will literally lose months of the ability to work," she said.

Currently, it takes U.S. Citizenship and Immigration Services officers between three and 5.5 months to process a request for renewal and work authorization. Applying annually for those benefits, however, is likely to cause a backlog of applications, which will increase wait times and essentially double the biennial \$495 processing fee.

“It’s a major change,” said Jorge Loweree, director of policy at the American Immigration Council. “It’s something that is clearly intended to drive down the number of people who are able to access the DACA initiative.”

USCIS is also facing funding and staffing uncertainty during the pandemic, and is asking for emergency funding so that it doesn’t have to furlough two-thirds of its staff.

“At a time when USCIS is saying they don’t have enough money to do the adjudications of the programs that already exist, now the workload will be doubled,” said David Bier, immigration policy analyst at the Cato Institute’s Center for Global Liberty and Prosperity. “It doesn’t make sense from that standpoint.”

There also will be “significant impact” for companies that employ or are contemplating hiring DACA recipients, Nair said. “They have to stay compliant with immigration laws, which means that they will have to constantly monitor expiration dates for work authorization, which will add an additional burden to HR and onboarding staff.”

The added compliance burden could discourage some employers from hiring dreamers, Nair added. DACA recipients say they already face hiring bias based on their immigration status, and at least one company defending those allegations has cited the temporary work authorization intervals.

“It could become too much for some employers, especially with all the uncertainty that surrounds businesses at this time,” Nair said.

### **Questions from Congress**

House Democrats questioned the agency’s acting head, Joseph Edlow, about the government’s motivations behind the changes to the program during a hearing Wednesday.

Democratic members of the Judiciary Subcommittee on Immigration and Citizenship took issue with the agency’s decision to hold applications it received until the DHS memo was released this week.

Edlow said that in the wake of the Supreme Court ruling, DHS officials and counsel were “determining what the next steps would be.” He added that more guidance would be released in the coming days on how USCIS will process DACA applications.

“This is definitely a change in strategy than what they originally tried to go with in September 2017,” Cato’s Bier said. “They’re not saying this is a rescission of DACA, rather a suspension while they consider whether to extend the program.”

Whether the amended program resolves what the Supreme Court asked of the administration in its approach to DACA is still unknown, however, Bier said. “Only the Supreme Court can answer that question, but it will be some time before they get to weigh in.”

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