



## Judge blocks Trump administration from ending DACA

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A federal judge has blocked the Trump administration from ending Deferred Action for Childhood Arrivals, an Obama-era program that give work permits to about 788,000 young people and protected them from deportation.

In a 47-page ruling released Tuesday evening, U.S. District Court Judge William F. Alsup ordered the administration to resume accepting renewal applications for the program under the same terms and conditions that were in effect before Trump administration officials announced last September that they would wind down the program.

The decision is part of a lawsuit containing five consolidated cases, including one led by former Homeland Security Secretary Janet Napolitano, an ex-governor of Arizona who now serves as the president of the University of California.

Over the last five years, nearly 788,000 people have successfully applied for DACA, including nearly 36,000 people in 2017, according to statistics from U.S. Citizenship and Immigration Services. Of those, around 107,000 renewed their application from July to September 2017, according to statistics from USCIS. Nearly 83,000 applications are still pending.

In Arizona, nearly 31,000 people have applied and had their applications accepted by September 2017, according to the Migration Policy Institute.

An analysis by the Cato Institute estimated that only about 24.7 percent of all DACA recipients, or 195,510 people could renew their permits before March 5.

However, around 592,000 people would lose their protection from deportation, and after March 5, there would be "roughly 32,686 expirations per month" or nearly 1,000 per day.

### 'Flawed legal premise'

Alsup hammered at Trump administration officials, writing that plaintiffs have shown that they could successfully argue that the end of DACA was "arbitrary, capricious, an abuse of discretion, or not otherwise in accordance of the law."

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On September 4, Attorney General Jeff Sessions said that the federal government would stop accepting new applications as part of an "orderly wind down" of the program. Under plan outlined by Sessions, DACA permits that expired from September 5, 2017 through March 5,

2018 could be renewed for an additional two years, but only if the applications were submitted to officials before October 5, 2017.

During a press conference, Sessions called DACA "an open-ended circumvention of immigration laws" that was "implemented unilaterally, to great controversy and legal concern."

"The executive branch through DACA deliberately sought to achieve what the legislative branch specifically refused to authorized on multiple occasions," Sessions said.

However, Alsup said that plaintiffs "are likely to succeed on their claims" that Session's arguments supporting the end of DACA was "based on a flawed legal premise." Alsup also said that Sessions claim that DACA created a "litigation risk" was a "post hoc rationalization" that would be "in any event, arbitrary and capricious."

The administration is likely to challenge Alsup's decision with the 9th Circuit Court of Appeals, but until then the ruling will allow former DACA recipients who failed to renew by the October 5 deadline a chance to submit their renewal applications, and require officials to continue accepting paperwork as the case moves forward.

The decision does not allow people to submit new applications for DACA.

As Alsup noted, "delays in this case, however, have made it impossible to send a final judgement to our court of appeals by March 5."

He also appeared to bristle at government's lawyers success in obtaining an order from the U.S. Supreme Court allowing the federal government to withhold internal documents regarding the decision to terminate DACA.

While a three-judge panel from the 9th Circuit agreed that the documents should be made available, telling federal lawyers that they should be "ready to file" the complete record, the high court, in a 5-4 decision, stayed the lower court's order.

"As a result, we have yet to receive a complete administrative record," Alsup wrote, adding: "Although plaintiffs are likely to prevail on even the truncated administrative record, as set forth above, our appellate court might disagree with that conclusion or the agency might seek to cure the flaws in its process via a fresh agency action."

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"Plaintiffs are entitled to learn of all flaws, if any more there be, lurking in the whole record," Alsup said.

The documents were important because plaintiffs had argued that there was a possibility that the end of DACA was "contrived to give the administration a bargaining chip to demand funding for a border wall in exchange for reviving DACA."

A tweet sent out by President Donald Trump "gives credence to this claim," Alsup said.

On December 29, Trump wrote: "The Democrats have been told, and fully understand, that there can be no DACA without the desperately needed WALL at the Southern Border and an END to

the horrible Chain Migration & ridiculous Lottery System of Immigration etc. We must protect our Country at all cost!"

Alsop also noted Trump's apparent favor of DACA using a tweet from September where Trump said that Congress had six months to legalize DACA, but "if they can't, I will revisit the issue!"

DACA supporters praised the decision, and pushed for legislation that would enshrine the protections into U.S. immigration law.

Napolitano, along with former DHS chiefs Jeh Johnson and Michael Chertoff, submitted a letter pushing Congress to implement a DACA fix.

"Since President Trump rescinded DACA, we've been fighting on every front to ensure that immigrant youth have a secure future in this country, which is their home," said Karen Tumlin, legal director with the National Immigration Law Center.

"We know that the administration's decision to end the program and the way it was carried out was not only immoral, but unlawful," she said. "This victory should make it even more clear that Congress must act now. Dreamers—and our nation—deserve more than temporary relief from the courts; they deserve a bipartisan Dream Act. The American people, a majority of Congress, and the President all want to see it happen. It's time for Congress to get it done."

Homeland Security officials could still remove "any individual, including any DACA enrollee" who is determined to be a "risk to national security or public safety" and officials were not enjoined from "granting advanced parole in individual cases" even to new people on "an ad-hoc basis."

Alsop also wrote that the agency should "post reasonable public notice that it will resume receiving DACA renewal applications and prescribe a process consistent with this order," and "keep records of its actions" and submit summary reports to court officials on the first business day of each quarter.