



All Eyes on Congress in Battle Over 'Dreamers'

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Despite legislation already on the runway in Congress, it's unclear whether lawmakers will approve permanent legal protections for undocumented immigrants brought to the United States illegally when they were minors—even as **President Donald Trump sends strong signals he wants such a deal** for the so-called “Dreamers.” Also unclear: what if any role education policy will play in those arguments in Washington.

Attorney General Jeff Sessions said on Sept. 5 that the **Trump administration would begin winding down Deferred Action for Childhood Arrivals**, or DACA, begun under President Barack Obama five years ago through executive order, and would end the program at the beginning of March. However, President Donald Trump simultaneously urged Congress to “do your job” and provide legal protections for DACA recipients.

On Wednesday, Democratic leaders in Congress announced they had a deal with Trump to enshrine DACA through legislative action. Trump indicated that his administration is making progress on such an agreement, according to news reports. But the suggestion of such a deal prompted furious pushback from immigration hardliners—including some Republicans in Congress—further adding to uncertainty about the likelihood of a resolution that would please DACA supporters.

Even before that, immigration advocates were cautious about the prospects.

“It’s a little early to read the tea leaves too closely,” said Carlos A. Guevara, a senior policy adviser at UnidosUS, formerly known as the National Council of La Raza, which is working to protect DACA recipients and opposes Trump’s decision. “For some lawmakers, the fact that these are youth who are the first in their families in many instances who are attaining a high school education, or even a college education, is appealing. So we make that case.”

The president’s decision to wind down DACA threw into question the fate of 250,000 school-age children who have become eligible for the policy’s protections since Obama began the program in 2012. An estimated 20,000 teachers are also eligible for those measures. The Trump administration plan would honor all DACA recipients for up to two years, and those already covered under DACA whose eligibility expires by the start of March have until Oct. 5 to apply for DACA protections. Existing DACA applications would still be processed.

But those who haven't yet applied for DACA would be left out in the cold without action in Congress. And although lawmakers put forward bills to protect the Dreamers even before the Trump administration's decision earlier this month, advocates and observers aren't at all sure which way lawmakers will go on the issue, even with some bipartisan support for enshrining DACA protections into law.

Proposals in Congress

Perhaps the most prominent bill in Congress to protect those currently shielded by DACA is the Dream Act, sponsored by Sens. Dick Durbin, D-Ill., and Lindsey Graham, R-S.C., and introduced earlier this year. Their legislation would provide Dreamers with DACA protections a path to conditional legal status if they earn a high school degree, a General Educational Development credential, or take part in military service.

It would also provide legal permanent residence if they earn at least an associate degree or have two years toward a bachelor's degree, among other options. (DACA does not offer a path to legalization.)

The Durbin-Graham bill would provide special considerations to those in secondary school and could apply to those brought to the United States before age 18. And it would allow those brought to the United States illegally before the age of 16 to apply for conditional permanent residency at any time.

Similar legislation sponsored by Rep. Carlos Curbelo, R-Fla., is in the House, although some key differences exist between his legislation and the Durbin-Graham plan, according to an analysis by the Migration Policy Institute.

For example, Curbelo's bill would require an individual to arrive in the United States before age 16 in order to qualify for protections and for applicants to be at least 18 before applying. And to qualify for legal permanent residence through educational attainment under Curbelo's legislation, an individual would have to be enrolled in higher education during the first year of conditional legal status and obtain at least an associate degree during that phase, or take part in military service. However, both bills were written before Trump's announcement that the program would wind down and may not be the best paths forward in the current political environment, said Mary Kusler, the senior director of the National Education Association's Center for Advocacy.

"Unfortunately in the modern-day Congress, it is less and less likely that individual legislation moves in a vacuum," said Kusler, whose group supports legislation to support the Dreamers. "I don't think the vehicle for how we move forward is set. But the most important thing is to keep pressure on members of Congress."

UnidosUS's Guevara noted that his group is particularly focused on Republican lawmakers representing burgeoning Hispanic populations in states like Arizona, Colorado, and Nevada. But he said it's too difficult to discern at this point whether the House or the Senate will be the tougher nut to crack when it comes to getting legislation passed. The Senate passed immigration reform in 2013, when Democrats controlled the chamber, but the push stalled in the House.

Others make a different argument about DACA, one which doesn't involve being particularly upset at Trump.

The issue of whether Obama's executive order was proper is "separate from whether or not this is good education policy or good immigration policy," said Neal McCluskey, the director of the Center for Educational Freedom at the Cato Institute, a libertarian Washington think tank.

"The evidence is pretty clear that the Obama-DACA order was unconstitutional," McCluskey said. "Congress makes laws about who can stay and who can't stay. The executive doesn't get to make those decisions."

McCluskey said Congress should act to prevent children currently protected under DACA from being deported. But it's a mistake, he argued, to tie their legal protections to achieving certain levels of education because "how far along in education they are should be irrelevant."

Renewed Advocacy Push

U.S. Secretary of Education Betsy DeVos said in a statement earlier this month that her "heart" is with the Dreamers but that it's up to Congress to give them legal protections.

Two days after Trump's DACA announcement, the American Federation of Teachers, the NAACP Legal Defense and Educational Fund, the NEA, and other education-focused groups signed on to a letter urging Congress to pass legislation.

The letter, backed by 186 groups in all, said Trump's move was a "grave injustice" to hundreds of thousands of young immigrants and the president had "manufactured a crisis" for Congress to fix.

Guevara said he hopes lawmakers will realize the danger that DACA recipients could be deported is no longer "theoretical" for members of Congress.

Whether this kind of advocacy and the Trump-imposed timeline will change prevailing political conditions is up in the air.

McCluskey said that a year ago, he would have predicted the Dream Act or something like it probably passing in Congress, but in the current political environment, "I have no idea."