

Why it's important for California that DACA recipients be provided permanent resident status

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There has been a real sense of hope in the daily phone calls we have received at McGeorge School of Law's immigration clinic since President Joe Biden's election.

The majority of calls have been from undocumented individuals and families seeking legal assistance to apply for DACA – Deferred Action for Childhood Arrivals.

On Biden's first day in office, he signed an executive order to stress his support of DACA and to take all necessary and appropriate actions to preserve and fortify it. This is particularly significant in California where 27% of our residents are immigrants and 1 in 8 children in our K-12 schools has an undocumented parent.

Currently, DACA does not provide a pathway to permanent resident status, but it does provide approved applicants with work permits and the protection against the initiation of removal proceedings in two-year increments. Applicants must establish that they came to the United States before age 16; are currently in school or graduated from high school or honorably served in the military; have resided in the United States since 2007; and have passed a rigorous background check.

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DACA has been a successful program for the recipients and the United States. The National Bureau of Economic Research found that DACA recipients have lower teen birth rates, increased high school graduation rates and an increase in college enrollment rates compared to other undocumented youth. In California, and generally nationally, DACA recipients on average came to the United States at age 7 and only know the United States as their home. Showing their strong ties to the community, more than 72,000 U.S. born children in California have at least one parent who is a DACA recipient.

In California alone, DACA holders pay \$1 billion annually in state taxes and \$2.1 billion in federal taxes. At a time when we critically need our essential health care workers, 29,000 DACA recipients work in the health field nationally. Without DACA, all of these individuals would not be eligible to work legally and would be subject to removal from the United States.

Currently, approximately 650,000 people have DACA status in the United States, according to U.S. Citizenship and Immigration Services. The Migration Policy Institute reports that there are almost that same number of individuals who qualify for DACA but who do not have DACA status. In 2017, the Trump administration stopped allowing initial DACA applications and these initial applications were not reinstated until December 2020, under court order. The CATO Institute reports there are at least an estimated 100,000 individuals who were prevented from applying because they aged into the program during that time. Many of the people we have helped at our Immigration clinic since the election fall into this category.

Another significant obstacle preventing many of our clients from applying is the requirement to establish physical presence in the U.S. since 2007. This was difficult enough in 2012 when DACA was first initiated, but it is practically impossible for many in 2021. Applicants must cover each month with no gaps larger than three months. The youngest applicants currently eligible to apply, would have been only 3 years old in 2007.

To fully preserve and fortify DACA, the Biden administration needs to update the requirements and change the start date of required physical presence to a more recent date to make the application process more manageable, and allow for affidavits and other forms of evidence regarding presence – especially for periods when applicants were not in school and have a harder time documenting physical presence.

There is bipartisan support for DACA, and this is an area where a legislative solution is possible. DACA should be codified by Congress to provide lawful permanent resident status to DACA holders and put an end to the uncertainty of this program. While DACA is beneficial, it needs congressional action to provide a pathway to permanent resident status and citizenship.

The American Dream and Promise Act passed by the House of Representatives Thursday is a positive step in the right direction. The primary focus of the bill provides a multi-step pathway to permanent resident status for individuals who came to the United States as children before Jan. 1, 2021, who satisfy education requirements and employment requirements, and pass security checks. It protects current DACA holders and expands eligibility with strict restrictions. Nine Republicans voted for the legislation in the House, but it faces a difficult path in the Senate.

Without Congressional action, we risk creating a permanently disenfranchised underclass, with a precarious and uncertain right to remain in the United States. Even if there may not be enough support in Congress for comprehensive immigration reform, incremental steps such as codifying DACA would mean significant progress. Our community is depending on it.