



Trump May End Up Killing DACA After All

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An Obama-era program that grants temporary legal status to nearly 800,000 people brought to the United States illegally as children may be abruptly cut off in a matter of months.

On June 29, 10 attorneys general from Republican states sent a letter to President Donald Trump threatening to sue the administration if the White House does not take steps to phase out Deferred Action for Childhood Arrivals, or DACA, by Sept. 5.

On Wednesday, Department of Homeland Secretary John Kelly told a meeting of Hispanic lawmakers that he doesn't expect DACA to survive a court challenge.

The admission was a significant change in tone for the administration. While Trump promised DACA's swift demise on the campaign trail, after the election he quickly backtracked. So-called dreamers should "rest easy," Trump told The Associated Press in April, indicating he would not target them for deportation.

The program continued to process applications and renewals since the election. Kelly had also repeatedly reassured lawmakers and journalists that the administration was not looking to end the program and that the DHS was not targeting DACA recipients. "I'm the best thing that happened to DACA," he reportedly told anxious members of the Congressional Hispanic Caucus in March, soon after his confirmation.

But supporters on the hard right of the immigration debate have not let the issue drop. They charge that DACA acts as a magnet to immigrants and railed against what they call Trump's "in-your-face betrayal."

"It sent a green light to people all over the world to bring your kids to the United States," said Ira Mehlman, a spokesman for the Federation for American Immigration Reform (FAIR), which advocates lowering immigration levels. He blames DACA with inspiring the 2014 surge of mothers and children to the U.S.-Mexico border, though DACA applies only to people who can prove they entered the country as children before 2007.

Now, groups like FAIR and the Center for Immigration Studies are seeking to hold Trump to his pledge — or use DACA as a bargaining chip in exchange for other high-profile immigration reforms, like border wall funding.

Former President Barack Obama initiated DACA in 2012 through executive action as a last resort after efforts failed in 2010 to adopt the DREAM Act, which would have provided a path to citizenship for young undocumented immigrants. The program now hangs on by a shoestring of presidential discretion. Ending DACA is one of the few campaign immigration promises Trump could make good on with the stroke of a pen. Anti-immigration groups, with allies like Stephen Bannon and Stephen Miller close to the president's ear, have been pressing him to do so.

But Trump has avoided pulling the trigger, and it's easy to see why. Even conservative immigration reformers who have their eyes on cutting the program realize that DACA recipients are uniquely sympathetic. Many have spent their formative years in the United States, have little or no memory of their home country, and have obtained college degrees and jobs over the past five years. Stepping up the pressure on an emotional issue may be a way to extract a concession from Democrats in Congress to move forward on bipartisan immigration legislation that has stalled for decades.

"The orgy of sob stories that would result from ending the [DACA] work permits of some three-quarters of a million people would be a wonder to behold," Mark Krikorian, the executive director of the Center for Immigration Studies, which has considerable influence within the administration, wrote in a blog post discussing strategy in June. "It might even make sense to try to trade a real, lawful amnesty for the DACAs in exchange for important immigration changes only Congress can pass — specifically, universal E-Verify and cuts in legal immigration."

"Without suspending the DACA program, what bargaining power does the administration have?" he wrote in an earlier article.

Indeed, Trump's supporters have a long immigration-related wish list the president is still working to enact. Currently, a showdown over funding for the border wall is brewing. On Tuesday, House Republicans unveiled a Homeland Security bill that would allocate \$1.6 billion for building the wall in fiscal year 2018. Trump has signaled he's willing to turn up the heat and shut down the government to get what he wants.

Randy Capps, a research director at the bipartisan Migration Policy Institute, questioned whether such a bargain would play well for moderate Republicans, who support or have tacitly accepted DACA. "That strategy, on the face of it, is using a group of vulnerable people as hostages in a political debate," he said.

Hard-liners may force their hand. If Trump doesn't end DACA unilaterally, Texas Attorney General Ken Paxton threatens to argue it's unconstitutional and add it to a successful case that blocked an expansion of DACA and a related program, Deferred Action for Parents of Americans. The case deadlocked the Supreme Court last year.

But a lawsuit fighting DACA might not even make it that far. "It's too popular for the president to cancel outright," said Alex Nowrasteh, an immigration policy analyst at the Cato Institute. "The biggest challenge seems to be the Department of Justice will not defend the program in court."

It's unlikely Attorney General Jeff Sessions would put up a fight if challenged on DACA. "The Department of Justice, I think, could have no objection to abandon that order, because it is very questionable, in my opinion, constitutionally," he told lawmakers at his confirmation hearing.

The Justice Department declined to comment and the White House did not respond a request for comment.

At the meeting with Hispanic lawmakers Wednesday, Kelly said he supported DACA in principle but didn't propose any changes in DHS priorities to address those who might suddenly lose status. "His message was: He feels that DACA will not survive in the courts and that he has not yet developed a plan of action to address that potential," said Rep. Adriano Espaillat (D-N.Y.), who attended the meeting. "That means, in essence, that anything can happen."

If DACA is abruptly rescinded, recipients would lose work authorization, driver's licenses and, in some cases, access to education. DHS would revert to treating former DACA recipients as any other illegal aliens, said David Lapan, Kelly's spokesperson. The agency wouldn't target them in raids, but they could be detained and deported if U.S. Immigration and Customs Enforcement agents come into contact with them through other operations.

DACA does have some powerful allies, including at major universities and in Silicon Valley. Facebook founder Mark Zuckerberg leads a lobbying group, FWD.US, to encourage bipartisan solutions for young undocumented immigrants and other issues

While DACA supporters may be vocal, it's unclear they can influence the administration to take a stand — a solution would likely require congressional action. While top Democrats like Chuck Schumer say they'll fight "tooth and nail to preserve the program" they are outnumbered in Congress and have yet to come forward with a clear strategy.

Legislative solutions with some bipartisan support have been floated in recent months, but many Republicans are still allergic to any whiff of granting "amnesty" to people who entered the country illegally, and most Democrats refuse to contemplate funding the wall or appropriating money towards increased deportations.

Capps, of the Migration Policy Institute, said any legislative compromise presumes "the mood exists on Capitol Hill to cooperate on this legalization and there hasn't been any indication the two parties are cooperating on anything."