

# What the Supreme Court ruling means for DACA and almost 700,000 undocumented immigrants



Alan Gomez, Feb. 26, 2018

<https://www.usatoday.com/story/news/politics/2018/02/26/what-supreme-court-ruling-means-daca-and-almost-700-000-undocumented-immigrants/372704002/>

The U.S. Supreme Court declined Monday to hear the Trump administration's appeal of a DACA ruling. The ruling requires the government to keep the Deferred Action for Childhood Arrivals program going.

With two brief sentences, the Supreme Court on Monday [dramatically changed the debate](#) over the Deferred Action for Childhood Arrivals (DACA) program and the fate of nearly 700,000 undocumented immigrants who are part of it.

The uncertainty hovering over the program had left DACA enrollees terrified over their future and left Congress so conflicted that DACA negotiations contributed to a [three-day government shutdown](#) last month.

By refusing to hear a California case, the high court ensured that DACA will survive at least through the fall, giving DACA enrollees a temporary reprieve from deportation and Congress more time to craft a permanent solution for them.

"This temporary decision is, nonetheless, a great legal victory on behalf of the DACA recipients, who have been hanging by a thread, wondering if their permits would expire in a week," said Ben Monterroso, executive director of Mi Familia Vota, a group that recruits Hispanics to register to vote.

Here's a look at what the ruling means for everyone involved.

## **DACA enrollees get reprieve**

President Trump started the controversy in September when he announced he would end the Obama-era program, which was protecting nearly 700,000 undocumented immigrants from deportation. He set the official termination date as March 5, giving Congress six months to find a legislative solution.

That left DREAMers in a state of panic, because they would be exposed to deportation if they lost their DACA protections, and would lose the work permits that came with DACA.

Employers were starting to prepare to lay off DACA enrollees. And many participants in the program were unsure whether they would be able to remain in colleges and universities, or continue receiving grants and loans that helped them afford those schools.

Now, those DREAMers can rest a little easier knowing that they will remain protected and can continue renewing their DACA protections as the case moves back to lower courts.

Andrew Pincus, a Supreme Court litigator at the Mayer Brown law firm, said appeals courts would likely rule on several DACA-related lawsuits sometime over the summer. That means the issue would not come back before the Supreme Court until its next term, which begins in October.

Under the court rulings, undocumented immigrants currently in the DACA program can file to renew their two-year terms in the program. No new applicants can apply for DACA during this period.

## **Congress also gets a reprieve**

Congressional leaders had been struggling to meet the March 5 deadline to pass a law to protect the DACA enrollees.

Negotiations between Congress and the White House have been heated in recent months. Democrats have been requesting a "clean" bill focused only on protecting DACA enrollees, and Republicans have been demanding enhancements to immigration enforcement and border security in exchange, including billions of dollars to expand the southern border wall.

The impasse led to a three-day government shut down in January, and congressional negotiators remained at a stalemate in recent weeks.

Now, Congress has far more time to find that compromise. Immigration advocacy groups warned, however, that Congress should not forget about the DACA issue as they focus on gun violence and the upcoming November elections.

Greisa Martinez, policy and advocacy director for United We Dream, a coalition of young undocumented immigrants, said they will follow through on a planned day of protests in Washington, on March 5 to urge Congress to continue negotiating a DACA deal.

"We've waited for too long on institutions of power to decide our fate," Martinez said. "Congress has yet to do its job. We will remind Congress about what is at stake."

### **What's next in legal battle**

The battle in the courts started last month when U.S. District Judge William Alsup in California [ruled that the Trump administration](#) wrongly ended DACA.

California, the University of California system, and several California cities requested that Alsup order the Trump administration to resume DACA. Alsup agreed, arguing that the decision was likely "arbitrary and capricious" and based on a flawed legal premise.

The Department of Justice appealed that ruling straight to the Supreme Court, a rare move that would bypass the regular order of appeals. The Supreme Court did not rule on Alsup's ruling, it merely said the case should proceed through regular channels.

That means the case now goes back to the 9th U.S. Circuit Court of Appeals in California. That court, which has ruled against other Trump administration programs targeting immigrants, including its attempts to institute a travel ban targeting majority-Muslim countries, could rule this summer.

Meanwhile, a separate judge in New York has [also ruled against](#) the Trump administration's decision to end DACA. That case will go through the 2nd U.S. Circuit Court of Appeals in New York.

Once those courts rule, the Department of Justice could appeal to the Supreme Court.

### **What is DACA?**

There are an [estimated 3.6 million](#) so-called DREAMers in the U.S. — undocumented immigrants brought to the country as children before their 18th birthday.

Former President Barack Obama [created DACA in 2012](#), after several failed attempts in Congress to protect them. The argument behind the program is that those immigrants were not adults and did not make the decision to become undocumented immigrants, either by illegally crossing the southern border or legally entering the country but overstaying their visa.

The Obama administration decided to focus on a select group of DREAMer — those who came before their 16th birthday, and were not older than 30. To qualify for the program, they had to register with the federal government and pass a criminal background check — they could not have a felony or serious misdemeanor on their record. They also had to prove that they were either working, serving in the military, or attending school.

The program provides work permits and two-year reprieves from deportation that could be renewed.

Nearly 800,000 people have been approved for the program since 2012. Nearly 700,000 remain active. About 2,100 have been removed from the program due to criminal activity or ties to gangs.