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U.S. Must Keep DACA and Accept New Applications, Federal Judge Rules

By [MIRIAM JORDAN](#) APRIL 24, 2018

Supporters of the Deferred Action for Childhood Arrivals program demonstrating outside the Capitol last month. Credit Tasos Katopodis/Getty Images for Moveon.org

In the biggest setback yet for the Trump administration in its attempt to end a program that shields some undocumented young adults from deportation, a federal judge ruled Tuesday that the protections must stay in place and that the government must resume accepting new applications.

Judge John D. Bates of Federal District Court for the District of Columbia said that the administration's decision to terminate the program, Deferred Action for Childhood Arrivals, or DACA, was based on the "virtually unexplained" grounds that the program was "unlawful."

The judge stayed his decision for 90 days and gave the Department of Homeland Security, which administers the program, the opportunity to better explain its reasoning for canceling it. If the department fails to do so, it "must accept and process new as well as renewal DACA applications," Judge Bates said [in the decision](#).

The ruling was the third in recent months against the Trump administration's rollback of DACA. Federal judges in Brooklyn and in San Francisco each issued injunctions ordering that the program remain in place. But neither of those decisions required the government to accept new applications.

Judge Bates, who was nominated by President George W. Bush in 2001, described the Trump administration's decision to phase out DACA as "arbitrary and capricious because the department failed adequately to explain its conclusion that the program was unlawful."

The Obama administration established the DACA program on the premise that children brought to the United States as children should be treated as low priorities for deportation.

About 700,000 of the young undocumented immigrants — who are known as Dreamers — have signed up but must renew their DACA status every two years. The program also gives them the opportunity to work legally in the United States. Immigrants must be 15 years old to apply.

About 800,000 young unauthorized immigrants are protected under the Deferred Action for Childhood Arrivals program. We spoke with a few of them in September, when President Trump announced his intention to end the Obama-era program.

The Trump administration officially rescinded DACA in March, but the previous court orders allowed the Dreamers to file their renewal applications as challenges to the Trump administration's move made it through the legal system.

The Supreme Court in late February declined an unusual White House request that it immediately decide whether the Trump administration can shut down the program.

In a statement released Tuesday night, the Justice Department said that it would “continue to vigorously defend” the legality of its decision to end the DACA program and that it looked “forward to vindicating its position in further litigation.”

The Department of Homeland Security “acted within its lawful authority in deciding to wind down DACA in an orderly manner,” the Justice Department statement said. “Promoting and enforcing the rule of law is vital to protecting a nation, its borders, and its citizens.”

Immigration advocates hailed Judge Bates's ruling, saying it highlighted the failure of the administration to justify the program's termination.

“Either President Trump finds another way to end the program, tossing hundreds of thousands of young people into deportation proceedings,” said Ali Noorani, executive director of the National Immigration Forum, an advocacy group in Washington, “or he works with Republicans and Democrats to find a legislative solution.”

In trying to close the program, the Trump administration argued that Mr. Obama had abused his authority and circumvented Congress to create DACA. President Trump urged Congress to find a legislative remedy to replace it and expressed support for giving the Dreamers a path to citizenship.

Despite broad bipartisan support for the beneficiaries of the program, Congress has failed to agree on a solution. Mr. Trump recently has wavered in his support of the young immigrants — at times [even saying he would not agree to any deal](#) to back them — as he called for a tough crackdown on illegal immigration and construction of a wall along the border with Mexico.

In January, however, Judge William Alsup of the Federal District Court in San Francisco ordered that Dreamers must be allowed to renew their status. That lawsuit was filed by the University of California, which is led by Janet Napolitano, who was the secretary of the Department of Homeland Security when the program began.

The next month, Judge Nicholas Garaufis of the Federal District Court in Brooklyn decided in favor of attorneys general from 15 states and several advocacy groups that sued to block the DACA rollback.

Under Judge Bates's ruling, unless the administration can justify its decision within 90 days, the cancellation of the program will be rescinded.

The latest lawsuit was brought by the N.A.A.C.P. as well as Princeton University and Microsoft.

"Princeton higher education and our country benefit from the talent and aspirations that Dreamers bring to our communities," Christopher L. Eisgruber, the university president, said in a statement. "We continue to urge Congress to enact a permanent solution."

Stephen Yale-Loehr, a professor of immigration law at Cornell Law School, said that Judge Bates's ruling, if upheld on appeal, would "benefit tens of thousands of Dreamers."

Hasan Shafiqullah, director of the immigration law unit of the Legal Aid Society of New York, said the ruling ushered in hope, especially for younger siblings of DACA recipients who, as of last September were ineligible to apply because they were too young.

In three months' time, they might be able to submit a new application, Mr. Shafiqullah said, "and at last be able to come out of the shadows, register for DACA, and — like their older siblings — more fully integrate into the fabric of our society."

Liz Robbins and Adam Liptak contributed reporting.