

Court declares DACA program illegal but leaves policy intact for nearly 600,000 immigrant "Dreamers"

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A federal appeals court on Wednesday said the Deferred Action for Childhood Arrivals (DACA) policy violates U.S. immigration law, dealing a blow to an Obama-era program that provides deportation protection and work permits to nearly 600,000 immigrant "Dreamers" who lack legal status.

A three-judge panel for the 5th Circuit Court of Appeals concluded the Obama administration did not have the legal authority to create DACA in 2012, affirming a July 2021 ruling from a federal judge in Texas who barred the Biden administration from enrolling new immigrants in the decade-old program.

Despite its conclusion, the appeals court did not order the Biden administration to shut down DACA completely or stop processing renewal applications, deciding instead to leave in place an order from U.S. Judge Andrew Hanen that left the policy intact for current beneficiaries. The government, however, will continue to be prohibited from approving first-time DACA applications.

The appeals court sent the case back to Hanen, tasking him with reviewing regulations that the Biden administration unveiled in August to address the legal challenges over the Obama administration's decision to create DACA through a memo, instead of a rule open to public comments. The regulations are currently slated to go into effect on October 31.

The Justice Department, which represents the federal government in lawsuits, said it disagreed with the ruling and vowed to "vigorously defend the lawfulness of DACA as this case proceeds." The Biden administration is likely to file a formal appeal, paving the way for the conservative-leaning high court to issue a final decision on DACA's legality next year.