



## **U.S. Supreme Court Allows DACA to Survive**

On June 18, in a 5-4 [decision](#) authored by Chief Justice John Roberts, the U.S. Supreme Court [held that the Trump administration](#) did not provide an adequate justification for ending [Deferred Action for Childhood Arrivals \(DACA\)](#), allowing the program to remain in place.

The ruling in *Department of Homeland Security v. Regents of the University of California* comes after the Trump administration [attempted to rescind](#) DACA in September 2017, beginning a legal battle that has left about 650,000 DACA recipients uncertain of their futures.

### **What was the Supreme Court's reasoning?**

Chief Justice Roberts, joined by Justices Ginsberg, Breyer, Sotomayor, and Kagan, ruled that the Trump administration failed to provide a well-reasoned explanation for ending DACA, in violation of the Administrative Procedure Act (APA). The court held that the September 2017 [Department of Homeland Security \(DHS\) memorandum](#) that attempted to end the program did not consider potential alternatives in ending DACA in its entirety or the harms to DACA recipients. In finding the DHS memorandum ending DACA to be “arbitrary and capricious,” the Supreme Court held that DHS should have at least considered whether it could preserve DACA’s protections against deportation while terminating work authorization and related benefits. Because DHS failed to examine this alternative, the memorandum was lacking. The court also faulted DHS for failing to address Dreamers’ “legitimate reliance” on DACA.

The court declined to consider a [subsequent 2018 memorandum from DHS](#) that provided additional policy rationales for the termination decision, noting that accepting belated, distinct explanations of the earlier agency actions risked upholding the termination based on an impermissible after-the-fact rationalization.

Finally, the court rejected the argument that the Trump administration was driven by racial animus in attempting to terminate DACA, in violation of the equal protection guarantee in the Fifth Amendment. Justice Sotomayor declined to join this section of the majority opinion.

Writing in dissent, Justice Clarence Thomas, joined by Justices Alito and Gorsuch, argued that DACA itself was “unlawful from its inception” and that the Trump administration had broad authority to end it. Justice Kavanaugh dissented separately, agreeing with the majority opinion’s analysis, but argued that even if the 2017 DHS memorandum was insufficient, the 2018 DHS memorandum was a sufficient explanation for the decision.

### **What does the decision mean for Dreamers?**

In the short term, the decision allows DACA to continue. Current DACA holders retain their protections and can continue to seek renewals with U.S. Citizenship and Immigration Services (USCIS), allowing them to work legally and without fear of deportation.

In addition, the decision paves the way for USCIS to resume taking new applications for DACA from qualified Dreamers who currently are not protected under the policy, although that issue is not explicitly addressed in the Supreme Court opinion. However, [given USCIS's potential](#)

[budgetary shortfall](#), it is unclear whether USCIS will be able to process new applications and renewals in a timely manner.

However, the Supreme Court made clear that the Trump administration has the authority to end DACA – it just failed to properly justify its decision to do so. The decision permits the Trump administration to make another attempt to end the protections for Dreamers if it uses proper procedures and is able to provide a well-reasoned explanation for its actions.

In addition, a [lawsuit by a number of Republican state attorneys general](#) challenging the constitutionality of DACA has resumed. That decision could lead to a termination of the program by the same federal court judge in Texas who found the [Obama administration's 2014 policy providing deferred action](#) to the undocumented parents of U.S. citizen or lawful permanent resident children to be unlawful.

### **What are the costs of congressional inaction?**

Dreamers continue to live in limbo. DACA's protections are limited and temporary, only protecting Dreamers from removal and providing work authorization for two years at a time. DACA does not afford permanent protections to Dreamers nor does it even afford a formal legal status to them. Absent a legislative solution from Congress, Dreamers' lives will remain unsettled.

Without a legislative solution from Congress, DACA recipients – who are estimated to contribute [\\$433 billion to GDP](#), [\\$60 billion in fiscal impact](#), and [\\$12.3 billion in taxes to Social Security and Medicare](#) – will continue to face an uncertain future in the U.S.

Additionally, with an [estimated 29,000 DACA recipients](#) working as front-line medical professionals during the COVID-19 pandemic, a permanent solution is critical to the stability of health care systems responding to the pandemic nationwide.

### **Take Action**

You can find additional resources [here](#) on how to support a permanent legislative solution for Dreamers.