
Practice Alert: President Trump Terminates DACA

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On September 5, 2017, Attorney General Jeff Sessions, speaking on behalf of President Donald J. Trump, announced the termination of the Deferred Action for Childhood Arrivals (DACA) program. In this Practice Alert, we explain how the Trump Administration will wind-down the program.

About DACA. DACA provides temporary but renewable relief from deportation (called deferred action) and work authorization to certain young undocumented immigrants who were brought to the United States as children. DACA does not bestow lawful permanent resident status or create a pathway to citizenship. Since its creation in 2012 by President Obama, DACA has allowed roughly 800,000 young people to pursue education and employment opportunities without the fear of deportation. DACA was administered primarily by U.S. Citizenship and Immigration Services (USCIS), the sub-agency within the Department of Homeland Security (DHS) that is responsible for adjudicating immigration benefits. Individuals who qualified for DACA were granted its benefits in two-year increments.

No New Initial Applications Will Be Adjudicated. According to a DHS [Memorandum](#), no new initial DACA applications will be accepted. Initial DACA applications filed on or before September 5, 2017, however, will be processed in the normal course. If those applications are granted, those individuals will have valid deferred action and work authorization for the duration of the grants issued by DHS: two years from the date of approval.

Rules Governing Renewal Applications. All DACA renewal applications pending as of September 5, 2017 will be adjudicated in the normal course. Individuals whose DACA status will expire before March 5, 2018 may apply to renew their DACA status but must do so before October 5, 2017. Individuals who have not already filed a DACA renewal application and whose current DACA grant expires after March 5, 2018 may not apply for renewal.

Advance Parole. Under the program as announced in 2012, DACA recipients were able to apply for permission to travel abroad, known as "advance parole," provided the person was seeking to travel abroad for a valid humanitarian, education, or employment purpose. Under the wind-down announced on September 5, 2017, DHS will not approve any new applications for advance parole "under the standards associated with the DACA program, although it will generally honor the stated validity period for previously approved applications[.]" Moreover, pending applications for advance parole filed by DACA recipients will not be adjudicated and DHS will refund associated fees.

What Will Happen to Individuals When Their DACA Grants Expire? The fate of the 800,000 young people granted DACA is unknown. Congress may pass legislation currently pending before the Senate and the House to protect DACA recipients by affording them a pathway to lawful permanent resident status. If Congress does not pass such legislation, DACA recipients whose status expires will become vulnerable to deportation.

Information for Employers. Employers should continue to employ DACA recipients with valid Employment Authorization Documents (EADs). In fact, employers may not terminate any work-authorized noncitizen on the basis of his or her immigration status. When the time comes to re-verify the I-9 of a person with an expiring EAD the employer should present the person with the list of acceptable employment authorizing documents from the I-9 form and record the appropriate work authorizing document presented by the employee, assuming one is available and valid.

If you have questions please contact Julie George, James Morrison, Michael Nowlan, Thomas Ragland, Patrick Taurel or another member of Clark Hill's Immigration practice group.