



Deferred Action for Childhood Arrivals (DACA)

Why is it Before the Supreme Court?

By Jennifer G. Hickey | May 2020

The Decision

In the coming weeks, the Supreme Court will issue a ruling in a long-running legal battle over the constitutionality of the decision by the Department of Homeland Security (DHS) to end Deferred Action for Childhood Arrivals (DACA), a program created by President Barack Obama to grant temporary amnesty to children of illegal immigrants.

The End of DACA?

On September 5, 2017, President Trump [announced](#) that DHS would begin “an orderly transition and wind-down of DACA.” That decision set off a [battle in the lower courts](#) which saw the program stopped and restarted numerous times. There were [several lawsuits](#) filed challenging the administration’s decision to terminate DACA and, as a result, three nationwide injunctions issued by U.S. district courts — in California, New York, and the District of Columbia — have allowed people who have previously had DACA to renew their deferred action.

In [June 2019](#), the Court announced that DACA would officially be on the 2019 docket and oral arguments were heard last October.

The Case Before The Supreme Court

Ultimately, at [issue](#) for the justices are two overlapping questions: Whether the courts have the right to question the executive action, and if a DACA repeal was lawful. Should the court side

with the government, their reasoning will be equally important. If the court refuses to override the DHS's decision, a future administration could simply renew the program; but if the court determines that the DACA program is unlawful, Congress would have to step in to authorize it.

Before oral arguments were heard, President Trump appeared to show a willingness to make a DACA deal [tweeting](#), "If Supreme Court remedies with overturn, a deal will be made with Dems for them to stay!"

DACA – An Executive, Not A Congressional Action

In his first term, President Obama was under intense pressure from mass immigration special interests to act independently on immigration "reform," but he initially resisted.

On several occasions, Obama asserted he lacked authority to act through executive action.

- In 2010, Obama said, "I am not king. I can't do these things just by myself."
- In March 2011, he said with "respect to the notion that I can just suspend deportations through executive order, that's just not the case."
- In May 2011, he acknowledged that he couldn't "just bypass Congress and change the (immigration) law myself... That's not how a democracy works."

In 2012, Obama blamed Congress for its failure to pass any reform to the immigration system and then [announced](#) that DHS would defer deportation for "eligible individuals who do not present a risk to national security or public safety," adding that it was "a temporary stopgap measure that lets us focus our resources wisely while giving a degree of relief and hope to talented, driven, patriotic young people."

What Is At Stake?

In broader terms, the Supreme Court is impactful because it could provide an answer to the question of what power the Constitution gives a president to act independently by issuing executive orders, without seeking approval from Congress - and the people who elected their representatives to office.

Why are DACA supporters fighting so hard to keep it alive? For advocates, DACA is part and parcel of a broader effort to legitimize illegal immigration and to do so by using the public's unfamiliarity about the issue to create sympathy for this group.

For those with DACA status, the benefits are the driving force as participation brings a range of benefits, including the ability to work (and get health insurance) in the U.S. and get an education.

The ability to work has also allowed them to pay for school and, in some states, receive in-state tuition or scholarships/and drive legally. And depending on where they live, recipients can also qualify for state-subsidized health care.

Quick Facts

- Between 2012 and June 2019, 909,700 people have received DACA status at least once.
- More than 80 percent of the 660,880 DACA recipients active as of June 2019 were born in Mexico. But USCIS [lists 149 countries of origin](#) for DACA applicants, including the United Kingdom, Canada, Australia, New Zealand and Ireland.
- California and Texas account for 45 percent of the DACA population.
- Applicants had to have entered the U.S. prior to age 16 and could not be older than 31 on June 15, 2012. However, they did not need to prove they came to the U.S. involuntarily.

Criminal Backgrounds

According to [USCIS data](#):

- Of the total 888,765 DACA requestors, 797,297 had no arrests or apprehensions, and 710,842 were approved.
- Of those individuals whose DACA requests were approved and had one or more arrests or apprehensions, 53,792 were arrested or apprehended prior to their most recent approval.
- Almost 8-percent of total DACA requestors (59,786 individuals) had arrest records as of the date the systems were queried, which included offenses such as assault and battery, rape, murder, and drunk driving, among others.
- Approximately 13-percent (7,814) of approved DACA requestors with an arrest had an arrest after their grant was approved and prior to renewal.