

DACA Survives: SCOTUS Blocks Trump Administration Bid to End Deferred Action for Childhood Arrivals Program

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On June 18, 2020, the Supreme Court of the United States issued its decision in *DHS v. Regents of the University of California*, No. 18-587, effectively blocking the U.S. Department of Homeland Security's (DHS) attempt to end the Deferred Action for Childhood Arrivals (DACA) program.



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History of the DACA Program

The DACA program, which was implemented in 2012, provides work authorization, eligibility for federal benefits, and protection from deportation to approximately 700,000 qualifying individuals, known as DREAMers, who were brought to the United States as children.

In 2017, DHS issued a [memorandum](#) terminating the program. DACA recipients challenged the decision in multiple federal courts, which issued nationwide injunctions blocking DHS from putting an end to the program. Three federal appellate courts, including the [U.S. Court of Appeals for the Ninth Circuit](#), prevented the rescission of DACA on the grounds that DHS had not adequately explained its reasoning for rescinding the program and, thus, that the rescission likely violated the Administrative Procedure Act (APA). DHS appealed to the Supreme Court for a final decision on the issue.

Supreme Court Holds DACA Rescission Was Arbitrary and Capricious

The issue before the Supreme Court was not whether DHS had the authority to rescind DACA, but whether DHS had followed the appropriate procedures for doing so. The Supreme Court held that DHS's decision to rescind DACA was "arbitrary and capricious," and thus a violation of the APA due to the agency's failure to perform a sufficiently reasoned analysis in making its decision. As a result, DHS's decision to rescind DACA was set aside pursuant to 5 U.S.C. § 706(2) (A), the section of the APA that governs judicial review of agency actions.

Immediate Impact of the Ruling

As a result of the Supreme Court's decision, the DACA program remains intact for the time being and DACA recipients may continue renewing their benefits under the program. At this stage, however, it remains unclear whether DHS will resume accepting new applications from prospective DREAMers.

The Future of DACA

The Supreme Court decision is narrow in its holding and the future of DACA is far from secure. The ruling leaves open the possibility that DHS will still rescind DACA after following required procedures; however, whether rescission will be attempted or can be accomplished during an election year is questionable.

Ogletree Deakins' [Immigration Practice Group](#) will continue to monitor developments with respect to the DACA program and will post updates as additional information becomes available.

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