

# PRESIDENTS' ALLIANCE | ON HIGHER EDUCATION AND IMMIGRATION

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**Where does DACA stand now? Supreme Court Decision, March 5<sup>th</sup> Date and Campus Contexts**  
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## **I. What does the February 26<sup>th</sup> Supreme Court decision mean? What happens next?**

On Monday, February 26<sup>th</sup>, the Supreme Court denied the request by the Department of Justice to immediately hear the University of California DACA case. A California federal district court had issued a national injunction in this case on January 9<sup>th</sup>, requiring USCIS to accept DACA renewals again. The Supreme Court's denial of the Justice Department's request means that review of the injunction will now proceed in the usual process through the Ninth Circuit Court of Appeals. That same process is currently proceeding in the Second Circuit Court of Appeals, reviewing a similar injunction put into place by a N.Y. district court.

Under the injunction, USCIS is now accepting DACA renewals, but is not accepting new DACA applications.

The appeals process in both the Ninth Circuit and the Second Circuit will probably take a minimum of several months. If either appeals court upholds the injunction from the lower court, the nationwide injunction will remain in place. Regardless of whether the appeals process results in upholding or reversing the injunctions, the case will then proceed to the Supreme Court.

For more detail on the legal background of these cases, see this [National Immigration Law Center summary](#).

## **II. What should students do?**

The fact that the injunctions remain in place means two things: 1) students who have DACA now and it is time to renew, or who had DACA in the past even if it is expired now, need to take advantage of the current system while it is working, and 2) students and schools need to understand that these court cases do not provide the long-term permanent security that is needed.

In terms of using the current system, immigrant legal advocates recommend that those who qualify for renewal should renew. See the [blog post](#) by United We Dream (UWD) and National Immigration Law Center, along with this [infographic](#) designed by both groups. The injunction re-opening the DACA system applies to those individuals who currently have DACA or have had DACA status in the past. Even if a student's DACA status has expired, she or he is eligible to apply for renewal. Advocates also

recommend that individuals may want to review their applications with a lawyer or a BIA (Board of Immigration Appeals)-accredited representative. For more information, you can check out the FAQs from [UWD](#), [NILC](#), or the [University of California Immigrant Legal Services Center](#).

DACA recipients applying for renewal under the “open window” created by the injunction, may nonetheless experience gaps in their DACA status and associated work authorization, especially if they have not yet submitted a renewal and their DACA authorization is set to expire in the next month or so. Although the USCIS started accepting renewals in mid-January (when the injunction went into effect), many DACA recipients whose authorizations were scheduled to expire in the coming months did not apply immediately for renewals, either because they did not have the resources to pay the fee of \$495 or because they were afraid about their long term prospects under the program. While it is anticipated that an increasing number of DACA recipients now will apply for renewals, the number of people in the backlog or how long the process will take is not known at this time. (Prior to the rescission of DACA, the USCIS goal for processing DACA renewal applications was 120 days, and DACA recipients were advised to apply for renewal within 150 days of the expiration of their status).

### III. What does the March 5<sup>th</sup> deadline mean?

March 5<sup>th</sup> is a symbolically important date and many actions and demonstrations in support of Dreamers are being planned for that day.

The date also has real consequences for many DACA recipients. Any DACA recipient whose status was due to expire after March 5<sup>th</sup> was not given the opportunity to apply for DACA renewal after DACA’s rescission on September 5, 2017. Therefore, if an individual’s DACA status **was due to expire after March 5**, there was nothing that person could do until USCIS started accepting DACA renewal applications in mid-January as a result of the injunction discussed above. That means that every day after March 5<sup>th</sup>, large numbers of DACA recipients whose status expires will no longer have protections against deportation and will lose their work authorizations unless or until their renewals are approved and they receive new documents.

Here is what that means in terms of numbers. Each day since October 5, an estimated 122 DACA recipients have lost their DACA status, totaling thousands of Dreamers thus far. After March 5, that number was estimated to rise dramatically to approximately 1,000 a day. Thus, without action by Congress, even as DACA renewals continue, the rate of Dreamer students and alumni losing their protections and eligibility to work likely will increase significantly after March 5<sup>th</sup>.

### IV. What should colleges and universities do?

Beyond providing ongoing support services for students, colleges and universities may want to consider three key student needs if they have not already done so:

1. finding financial resources for covering the \$495 DACA application fee;
2. identifying legal resources for undocumented students in the following areas: support in DACA renewals; in cases of detention, especially if they have already lost their DACA status; and other immigration issues that can affect them and their families; and
3. sharing information regarding what happens if their work authorization lapses, including reviewing both the rights of employees and the responsibilities of the institution, and

opportunities for non-employment based fellowship funding or other kinds of financial assistance on campus.

There are community-based, regional, and national organizations that are providing funding for DACA renewals, as well as organizations providing legal resources, which may be available to your students (for example, AILA is offering DACA clinics in select cities, [click here for link](#)). Please let us know if you need information regarding these resources or have questions regarding any of these issues.

In the coming weeks, we will provide a written legal briefing on work authorization and non-employment funding opportunities in the campus context. We will also share information on resources and webinars hosted by various partners, including University of California Immigrant Legal Services in partnership with the NextGen Foundation, which also has offered to provide individualized campus consultations for Presidents' Alliance members on how to set up legal resources on campuses for undocumented students and family members.

#### **V. Is it still urgent to advocate for an immediate, permanent legislative solution?**

Beyond the reasons outlined above, it is imperative to underscore that the court rulings do not cover those who never received DACA, and that higher education advocacy for a permanent bipartisan solution to protect Dreamers without harming their families remains critically important.

The population of Dreamers, defined as those who came to the US at a young age, is considerably larger than the population of current DACA recipients who meet the program's qualifications. That is why we support a more expansive definition of Dreamers in any new legislation. The [Migration Policy Institute](#) estimates that the population potentially eligible for DACA as currently structured - but not yet eligible due to their young age or because they don't meet the educational requirements - at 1.85 million. To put this figure in context, MPI also estimates that over 3.6 million undocumented immigrants came to the United States before the age of 18.

With all the anxiety facing Dreamer populations and students coming from mixed status families, knowing that their campus leadership is actively supporting them and advocating on their behalf is powerful and important.