



DACA RESCISSION CASE SUMMARY

A Legal Summary of the U.S. District Court for the Northern District of California's decision in Regents of Univ. of Cal. v. Dep't of Homeland Security

Background

In September 2017, the Department of Homeland Security (DHS) rescinded Deferred Action for Childhood Arrivals (DACA)—an administrative program initiated by the Obama Administration that protected close to 700,000 undocumented youth from deportation.

That same month, numerous plaintiffs filed a lawsuit in the U.S. District Court for the Northern District of California. *Regents of Univ. of Cal. v. Dep't of Homeland Security*¹ became one several federal lawsuits that claimed that the recession of DACA was unlawful. The plaintiffs specifically claimed that the DHS' decision to rescind DACA is unlawful because:

- The rescission violates both the procedural and substantive requirements set forth by the **Administrative Procedure Act**
- The rescission violates the **Due Process clause of the Fifth Amendment**
- The rescission violates the **Equal Protection clause of the Fifth Amendment**
- The rescission violates **equitable estoppel**

What did the court decide?

On January 9, 2018, U.S. District Judge William Alsup granted the plaintiffs' request for a **preliminary injunction**, putting the rescission of the DACA program on hold until a final determination is made in the case. In essence, this means that although the court has not fully decided whether the DACA rescission is unlawful, the DACA program must remain open until a final legal decision is made.

Specifically, the court held that:

- Plaintiffs are **likely to succeed on their argument** that the recession of DACA is unlawful because the recession is based on the flawed legal premise that DACA was initially created without any legal authority. The court found that DACA was based in lawful authority granted by Congress and recognized by the Supreme Court.²
- Plaintiffs will **suffer irreparable harm** if a preliminary injunction is not granted because, in the case of individual DACA recipients, they will lose work authorization and other benefits, and in the case of organizational plaintiffs, because their students or employees will have to be terminated or will be unable to continue their programs, at a great social and economic cost to their schools and employers.³
- The preliminary injunction is in the **public interest** because thousands of workers will be stripped from the nation's economy, which will also lead to a decrease in tax support.⁴

What does the court require DHS to do?

The court ordered DHS to post a public notice that it will resume receiving DACA renewal applications.⁵ Importantly, the court also ruled that DHS is not required to accept any new applications from those who have never received deferred action or approve any advance parole requests from those who have deferred action.

What does this mean moving forward?

Although the court decision is a huge victory for the immigrant rights movement, this decision should be treated as a temporary fix. First, the courts will still have to decide whether the DACA rescission is unlawful. Second, the Trump Administration has already publicly confirmed that it plans to appeal the decision to the Ninth Circuit and possibly to the Supreme Court of the United States. Because of the long-term uncertainty, advocates should remain focus on a permanent fix: passing the Dream Act.

¹ *Regents of Univ. of Cal. v. United States Dep't of Homeland Sec.*, No. C 17-05211 WHA (N.D. Cal. Jan. 9, 2017).

² *Id.* at 30-33.

³ *Id.* at 43.

⁴ *Id.* at 45.

⁵ *Id.* at 46.