

CDF-NY Summer Policy Series

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How does the uncertain future of DACA affect families in New York State?

Immigration policy remains at the center of American politics, dominating our political conversation. In 2012, the Obama administration instituted a program that allowed certain undocumented individuals to apply for deferred action, protecting them from deportation. On September 5, 2017, the Trump administration rescinded the program – effective in six months. This program, known as Deferred Action for Childhood Arrivals (“DACA”), provided immigration relief to over 880,000¹ young undocumented immigrants². During his presidential campaign, candidate Trump committed to repealing and replacing DACA. More recently President Trump had wavered on his campaign promise, at one point stating that he would work with Congress to protect DACA recipients,³ prompting ten states to threaten legal action if DACA is not rescinded by September 5, 2017.⁴ In July, the former Secretary of Homeland Security, John Kelly, told the Congressional Hispanic Caucus that he believed that “DACA [would] not hold up in court”⁵. The September 5th rescission leaves DACA, and those benefiting from it, with very uncertain futures.

What is DACA, and what are its benefits?

The DACA program grants young undocumented immigrants meeting certain criteria limited and discretionary relief from deportation that lasts two years. According to U.S. Citizenship and Immigration Services (“USCIS”), “an individual who has received deferred action is authorized by Department of Homeland Security (“DHS”) to be present in the United States, and is therefore considered by DHS to be lawfully present during the period deferred action is in effect”.⁶ The program also confers

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¹ USCIS Data Set: Form I-821D Deferred Action for Childhood Arrivals website retrieved at <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-821d-deferred-action-childhood-arrivals> March 31, 2017 data.

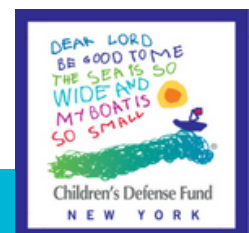
² Krogstad, Jens. "Unauthorized Immigrants Covered By DACA Face Uncertain Future." *Pew Research Center*, 2017, <http://www.pewresearch.org/fact-tank/2017/01/05/unauthorized-immigrants-covered-by-daca-face-uncertain-future/>.

³ McCaskill, Nolan. "Trump Says He Will Treat Dreamers 'With Heart'." *POLITICO*, 2017, <http://www.politico.com/story/2017/02/trump-press-conference-dreamers-heart-235103>.

⁴ Foley, Elise. "DHS Secretary Warns DACA Might Not Survive In Court, Lawmakers Say." *Huffpost*, 2017, http://www.huffingtonpost.com/entry/dhs-john-kelly-daca_us_59667bfce4b0a8d46d11af53.

⁵ Ibid

⁶ Ibid



eligibility for other benefits and services, including the ability to obtain a driver's license and a social security card. Both documents grant crucial access to jobs, providing more opportunities to work at higher paying jobs.

To be eligible for DACA, applicants must:

- have arrived in the US before their 16th birthday,
- have been under the age of 31 as of June 15, 2012,
- have resided continuously in the United States since June 15, 2007,
- have been physically present in the United States on June 15, 2012, and at the time of making the request for DACA with USCIS,
- have had no lawful status on June 15, 2012,
- be currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or be an honorably discharged veteran of the Coast Guard or Armed Forces of the United States, and
- have not been convicted of a felony, significant misdemeanor or three or more other misdemeanors and do not pose a threat to national security or public safety.⁷

If beneficiaries want to maintain their DACA status, they should reapply within 150 and 120 days before the expiration date on their DACA approval notice and employment authorization documents ("EAD").⁸

In New York State, DACA recipients are eligible for health insurance plans such as Medicaid or Family Health Plus, which can alleviate the rising cost of healthcare. These insurance plans provide the recipient with benefits such as inpatient and outpatient hospital services, prenatal care, and medicine.⁹ Undocumented immigrant or DACA students may be eligible for in-state tuition rates in New York State if they meet certain criteria:

- "have attended for at least two years and graduated from an approved New York State high school, or
- attended an approved New York State program for a GED, received a GED issued in New York State and
- applied for attendance at a SUNY, CUNY, state operated or community college within five years of graduating high school".¹⁰

Lower tuition costs can potentially make college more affordable for DACA students, opening the door to higher education and better job opportunities. In addition, social security cards enable students to apply for loans to finance their education. These benefits allow DACA recipients to integrate themselves better into society and become contributing members in different ways.

What are the potential implications of DACA revocation on families in New York?

DACA revocation could be detrimental to the lives of many immigrants, including children. According to the Migration Policy Institute, there are over 107,000 individuals in New York State who qualify for DACA, including 10,000 who could be eligible in New York in the future.¹¹ This number includes children who will age into the program, as the minimum age to apply for DACA

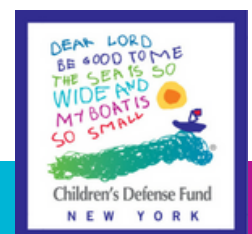
⁷ U.S. Citizenship and Immigration Services. *Consideration Of Deferred Action For Childhood Arrivals Process - Frequently Asked Questions*. U.S. Department Of Homeland Security, Washington, D.C., 2017. <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>

⁸ U.S. Citizenship and Immigration Services.

⁹ "Medicaid in New York State." *Health.Ny.Gov*, 2017, https://www.health.ny.gov/health_care/medicaid/.

¹⁰ "I Am An Undocumented Immigrant, Can I Apply For College? | New York Immigration Coalition." *Thenyc.Org*, <http://www.thenyc.org/node/3491>.

¹¹ "Deferred Action For Childhood Arrivals (DACA) Data Tools." *Migrationpolicy.Org*, 2017, <http://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>.



is 15 unless the child is currently in removal proceedings or has a final removal or voluntary departure order.¹² If not granted DACA status, a child under 15 years of age could be sent back to his home country where he might experience violence, persecution, poverty, and other detrimental circumstances. DACA revocation also places the information of the over 880,000 immigrants nationwide who have received DACA status, plus the additional 50,000 whose DACA requests were denied, at risk¹³, as application information could be used to target DACA applicants for removal. Legal groups have noted a decrease in the amount of initial and renewal applications being submitted, as applicants are fearful of being denied and having a denial on their record.¹⁴

The suspension of DACA could also take an emotional and physical toll on the individual who has achieved DACA status. Researchers have noted that undocumented youth usually experience a “transition to illegality”, which marks their rite of passage from “protected status to unprotected status, from inclusion to exclusion, from de facto legal to everyday lives increasingly framed by their legal status”.¹⁵ This affects the ways in which undocumented youth navigate through life, as they become subject to alienation and constriction of their social networks to prevent disclosure of their status. These feelings can manifest themselves physically and mentally - researchers have noted that undocumented youth are apt to suffer from chronic headaches, ulcers, sleeping issues, eating problems and suicidal ideation.¹⁶ If DACA is revoked, the forms of suffering that they experienced prior to receiving DACA may return, causing increased social and financial hardships for both undocumented youth and their parents.

Policy Recommendations

Twenty states had urged the administration to defend the DACA program, but those calls went unheeded.¹⁷ DACA has now been rescinded by the current administration, and if it is not replaced with legislative action, there is a possibility that immigrant parents would be separated from their children, potentially leading to their transfer into the child welfare system, sent to stay with friends or family or getting deported. This could expose children to dangers such as poverty, violence and persecution in their home country. The preservation of DACA could protect undocumented families from being separated and deported. The Institute on Taxation and Economic Policy notes that undocumented individuals in New York contribute over \$1,100 million dollars to taxes each year and the numbers would only rise if the DACA program continues and recipients are able to work and go to school. This would be beneficial for both the economy and the well-being of undocumented families. Congress should act immediately to ensure the protection of both current and future recipients.

Support the DREAM Act of 2017 (S. 1615/H.R. 3440) – Bipartisan bill introduced in July 2017 which would provide young people who were brought to the U.S. as children, the chance to apply for Legal Permanent Resident (LPR) status on a conditional basis, if they meet certain requirements. The bill also does not allow disclosure of information for immigration enforcement purposes with limited exceptions.

¹² U.S. Department of Homeland Security. *Consideration of Deferred Action for Childhood Arrivals (DACA) / USCIS*. U.S. Citizenship and Immigration Services, Washington, D.C., 2016.

¹³ USCIS Data Set: Form I-821D Deferred Action for Childhood Arrivals website retrieved at <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-821d-deferred-action-childhood-arrivals> March 31, 2017 data.

¹⁴ New York City Council Committee on Immigration. *Supporting New York City's DREAMers and "DACA-mented" Youth*. 19 June 2017.

¹⁵ Gonzales, R.G. (2011). Learning to be illegal undocumented youth and shifting legal contexts in the transition to adulthood. *American Sociological Review*, 76(4), 602-619.

¹⁶ American Psychological Association. *Understanding the Deferred Action for Childhood Arrivals (DACA) Impact on Young Adults' Well-Being*. American Psychological Association, Washington, D.C., 2017, <http://www.apa.org/pi/families/resources/newsletter/2016/11/deferred-action.aspx>.

¹⁷ “20 Attorneys General Write to Trump, Urging Him to Keep DACA” NPR July 21, 2017. Retrieved at <http://www.npr.org/sections/thetwo-way/2017/07/21/538583044/20-attorneys-general-write-to-trump-urging-him-to-keep-daca>

