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The Future of DACA: What Lies Ahead

**Penn State Law at
University Park**

September 20, 2017



UNIVERSITY PARK, PA



PennState Law

Center for Immigrants' Rights Clinic



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Goals



Photo by REUTERS/Kevin Lamarque

Photo: Jacquelyn Martin, Associated Press

THE FUTURE OF DACA: WHAT LIES AHEAD

Penn State Law's Center for Immigrants' Rights Clinic will host an information session as part of Welcoming America's Welcoming Week.

6:30 p.m. | Wednesday, September 20 | Room 116 | Lewis Katz Building

Refreshments will be provided.

Questions about the event? <https://pennstatelaw.psu.edu/events/future-daca-what-lies-ahead>



WELCOMING WEEK

- NOT a substitute for legal advice from an attorney



Roadmap

- Opening Speech
- History and meaning of DACA
- DACA vs. DREAM Act
- AG's announcement on DACA
- Other Forms of relief
- Individual Stories
- How to advocate



EtsyStudio, <https://www.etsystudio.com/listing/486017258/usa-fabric-american-fabric-patriotic-usa>



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PennState Law Center for Immigrants' Rights Clinic



Penn State Law APALSA

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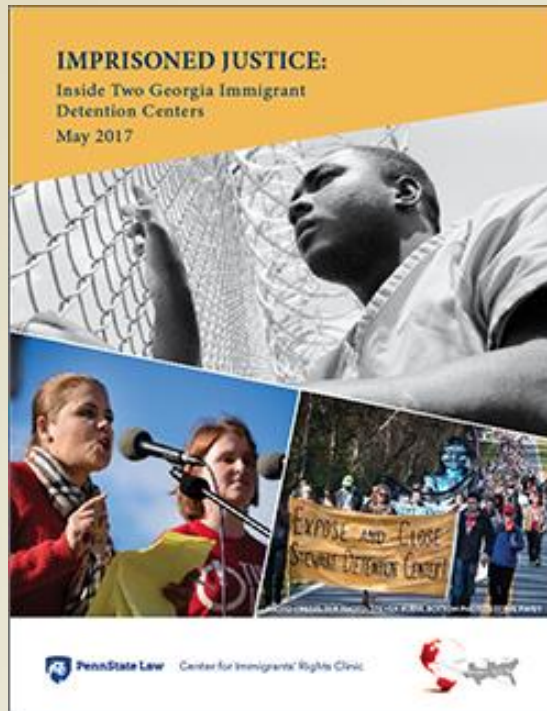
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About the Center for Immigrants' Rights



Rethinking Reentry: Prosecution, Defense and Human Rights Perspectives

Center for Immigrants' Rights Clinic
April 21, 2016



PennState Law Center for Immigrants' Rights Clinic



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Welcoming America Week



WELCOMING
AMERICA



<https://www.welcomingamerica.org>

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Lorella Praeli



LA Times,
<http://www.latimes.com/nation/la-na-clinton-dreamer-20151015-story.html>



Terms

- **DHS:** Created by Congress after September 11, 2001, DHS manages immigration enforcement and services functions.
- **Immigrant:** Immigrants are people who come to the U.S. on a permanent basis.
- **Nonimmigrants:** Nonimmigrants are foreign born individuals who enter the U.S. on a temporary basis.
- **Prosecutorial Discretion:** Prosecutorial discretion refers to a decision DHS makes about whether to enforce an immigration law against a person or a group of persons. Deferred action is one type of prosecutorial discretion.



History of DACA



NY Daily News

- June 15, 2012 – Announcement by former President Obama.
- Form of prosecutorial discretion to provide temporary protection to people who came to the U.S. as children.
- Focus our immigration enforcement resources **“in the rights places”** so we prioritize border security. . .
- “It is the **right** thing to do.”



<http://www.naturalnews.com/wp-content/uploads/sites/91/2017/02/Janet-Napolitano.jpg>

Memorandum by Secretary Janet Napolitano:

- "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children."





Requirements for DACA

- Were under the age of 31 as of June 15, 2012;
- Came to the U.S. before reaching your 16th birthday;
- Continuously resided in the U.S. since June 15, 2007;
- Physically present in the U.S. on June 15, 2012, and at the time of making your request;
- No lawful status on June 15, 2012;
- Currently in school, graduated or obtained certificate of completion from high school, general education development (GED), or an honorary discharged veteran of the Coast Guard of Armed Forces of the U.S.
- Not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security of public safety.



DACA

- Deferred action/legal limbo
- No independent pathway to a green card or citizenship
- Basis for work authorization
- No independent means to petition family members

DREAM ACT

- Legal status
- Pathway to a green card and eventual citizenship
- Work authorization
- Eventual means to petition family members



DREAM Act

- **D**evelopment, **R**elief, and **E**ducation for **A**lien **M**inors Act
- Introduced to Congress in 2001 by both parties
- Failed to pass into law for 16 years
- Initial sponsors: Sen. Orrin Hatch, Sen. Richard Durbin, Rep. Howard Berman, and Rep. Chris Cannon.



<http://vote-usa.org/officials.aspx?report=u2>



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<http://vote-usa.org/officials.aspx?report=u2>

- Dream Act of 2017
 - Senators Lindsey Graham, Jeff Flake, Dick Durbin & Chuck Schumer
- President Trump's tweet



Donald J. Trump ✓

@realDonaldTrump

Following

Congress, get ready to do your job - DACA!

5:04 AM - 5 Sep 2017

9,986 Retweets 36,414 Likes



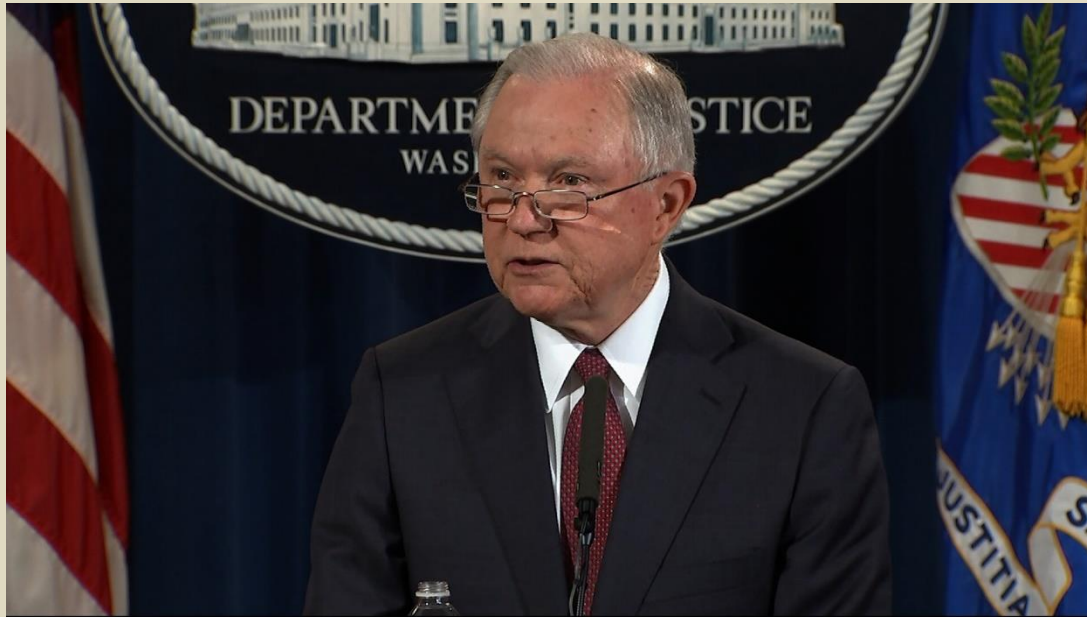
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DACA Rescission



CNN,
<http://www.cnn.com/videos/politics/2017/09/05/sessions-trump-daca-decision-full-remarks.cnn>

- AG Jeff Sessions announced the end of DACA
- Followed by: DHS memorandum, letter, press release, and FAQ
- AG Sessions: "executive action by former administration without proper statutory authority"
 - Threat letter by State AG Paxton and others: "DACA is unlawful"



Letter from 105 Law Professors

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

August 14, 2017

Dear President Trump:

As immigration law teachers and scholars, we write to express our position that the executive branch has legal authority to implement Deferred Action for Childhood Arrivals (DACA 2012). This letter provides legal analysis about DACA 2012. In our view, there is no question that DACA 2012 is a lawful exercise of prosecutorial discretion. Our conclusions are based on years of experience in the field and a close study of the U.S. Constitution, administrative law, immigration statutes, federal regulations and case law. As the administration determines the future of DACA 2012, understanding its legal foundation and history is critical.



Reaction to DACA Rescission



New York State Attorney General,
<https://ag.ny.gov/about-attorney-general>

- Lawsuit by NY AG and 15 other states (additional lawsuits by more states, DACA recipients and the University of California)
- DACA renewal clinics and information sessions
- Momentum to pass the DREAM Act

DACA HAS NEVER BEEN HELD UNCONSTITUTIONAL BY ANY COURT.



Future of DACA Recipients: Questions

Q1: What if I have DACA now?

A1: Current DACA recipients will be permitted to retain deferred action and work authorization until these expire.

Q2: What happens after my DACA expires?

A2: Information will not be proactively shared with ICE, CBP, and others.

Q3: Can I file a new request for DACA now?

A3: No.

Q4: If I have DACA, can I travel outside the United States?

A4: From Sept. 5, 2017, no new applications for travel will be accepted. Those with permission to travel can.



Future of DACA Recipients: Questions

Q5: If I have DACA, can I work?

A5: Current DACA recipients retain their deferred action and work authorization until they expire.

Q6: What if I have DACA but my work permit is set to expire soon?

A6: If your DACA expires between Sept. 5, 2017 and Mar. 5, 2018, you can renew your permits.

Q7: What if I have DACA request or renewal pending at the USCIS?

A7: Requests and renewal will be considered on a case-by-case basis. Rejected if filed after Oct. 5, 2017.



Other Forms of Relief

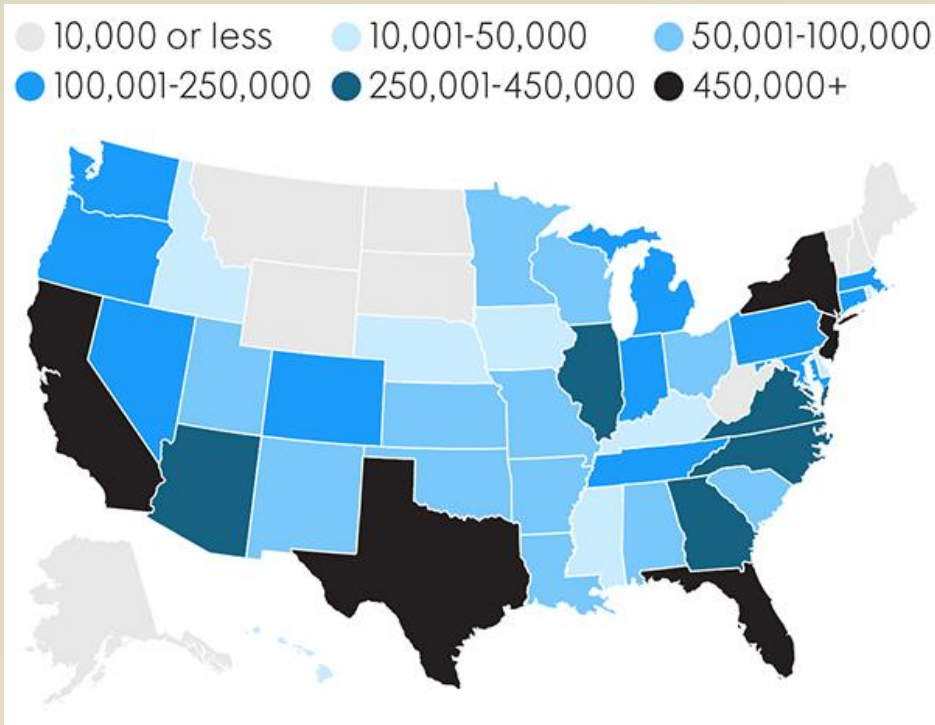
- (1) Lawful permanent resident status
- (2) Violence Against Women Act petition (VAWA)
- (3) Asylum
- (4) Special Immigration Juvenile Status (SIJS)
- (5) Temporary visa for certain victims of crimes such as U visa or T visa
- (6) Cancellation of Removal





Cancellation of Removal

Undocumented Immigrants, by state



USA Today,
<https://www.usatoday.com/pages/interactives/graphics/deportation-explainer/>

- 10 years “continuous physical presence” in the U.S.
- Removal would cause “exceptional and extremely unusual hardship” to qualifying relative
- Has “good moral character”
- Has not been convicted of certain crimes
- Leads to lawful permanent residence (“green card”)



Educational & Economic Gains of DACA

Based on a survey of 3,063 DACA respondents and report published in August 2017 by the Center for American Progress

- 97% are currently employed or enrolled in school
- 69% moved to a job with better pay
- 72% of the top 25 Fortune 500 companies—including Walmart, Apple, General Motors, Amazon, JPMorgan Chase, Home Depot, and Wells Fargo, among others—employ DACA recipients
- Among those currently in school, 72% are pursuing a bachelor's degree or higher.

<https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/>



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Angie Kim



Rachel Leah, Salon



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Resources

- Penn State Law's Center for Immigrants' Rights Clinic

<https://pennstatelaw.psu.edu/immigration-after-election#Executive>

- Department of Homeland Security

<https://www.dhs.gov/topic/deferred-action-childhood-arrivals-daca>

- Office of Global Programs

<https://global.psu.edu/article/us-decision-end-daca-deferred-action-childhood-arrivals-program>

- Penn State Student Legal Services

<http://studentaffairs.psu.edu/legalservices/>





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Questions?



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