



FAQ – Recent DACA Litigation Developments

What are the key DACA-related lawsuits I should know about?

The key DACA-related lawsuits are:

- 1) *Regents of the University of California, et al. v. Dept. of Homeland Security, et al.* in the U.S. District Court for the Northern District of California (on appeal to the Ninth Circuit);
- 2) *Batalla Vidal, et al. v. Nielsen, et al.* and *State of New York, et al. v. Trump, et al.* in the U.S. District Court for the Eastern District of New York (on appeal to the Second Circuit);
- 3) *CASA de Maryland, et al. v. Dept. of Homeland Security, et al.* in the U.S. District Court for the District of Maryland (on appeal to the Fourth Circuit);
- 4) *NAACP v. Trump, et al. and Trustees of Princeton, et al. v. United States of America, et al.* in the U.S. District Court for the District of Columbia; and
- 5) *Texas, et al. v. Nielsen, et al.* in the U.S. District Court for the Southern District of Texas.

What happened on August 3rd and August 17th with the DACA litigation in the DC court?

The U.S. District Court for the District of Columbia denied the Department of Justice (DOJ)'s request to reconsider its prior order to vacate (or cancel) the DACA-termination memo (this development was in the *NAACP v. Trump, et al. and Trustees of Princeton, et al. v. United States of America, et al.* cases (#4 above)). The court initially delayed implementation of the decision for 20 days (until August 23rd). On August 17, however, the court partially stayed (or paused) this order pending appeal by the DOJ.

What does this mean?

This means that the government will not have to fully restore the DACA program on August 23, 2018. While the government will not have to accept new DACA applications or requests for DACA-based advanced parole pending the appeal, it will have to continue to accept renewal applications.

What happened with the Texas case on August 8th and August 31st?

On August 8, the Southern District of Texas heard arguments to decide whether to issue a preliminary



injunction (essentially an order temporarily pausing an action) to halt the DACA program for all applicants during the pendency of the lawsuit. On August 31, the court [denied](#) this request for a preliminary injunction.

What does this mean?

In light of the August 31 order in Texas, and given that several of the other courts have issued orders requiring partial continuation of the program pending litigation, DACA renewal applications will continue to be accepted at this time.

Will Texas and the other states involved appeal this decision?

Yes, it is anticipated that the challenging states will appeal the denial of their request for a preliminary injunction.

Will the DACA cases eventually reach the Supreme Court?

Yes, it is likely that some of these lawsuits will eventually end up before the Supreme Court. While the court in Texas denied the request for a preliminary injunction, it did find that the challenging states are likely to succeed in their argument that the DACA program is unlawful. This foreshadows the decision the Texas court will reach when it eventually considers the merits of the lawsuit. And, given the other DACA-related litigation, such a decision will likely create a judicial impasse on whether the DACA program can continue.

What will be the estimated time frame for a Supreme Court decision?

Given the myriad of factors at play, an exact timeline for resolution is unclear at this time. Some have [suggested](#) that if the Supreme Court hears an appeal of one of the DACA cases, a decision is unlikely before spring 2019.

Considering this judicial uncertainty, what is the typical guidance given to DACA applicants at this time?

CLINIC has [noted](#) that, given the uncertainty, immigration service providers should consider counseling those who are eligible to renew DACA to file their requests as soon as possible. The National Immigration Law Center has [made a similar recommendation](#). USCIS has been accepting renewal requests that are filed more than 150 days before expiration. The potential downside of filing earlier is that the recipient would not benefit from a full two-year extension since DACA grants are issued from the date of approval.

What remains the same about the DACA situation?

What remains unchanged is the undeniable need for Congress to legislate on DACA. Legislation would reduce future possibilities of judicial contradiction and confusion regarding the DACA program and end current and ongoing uncertainty for DACA youth about their futures.