

What is DACA?



Established by President Obama in 2012, DACA (Deferred Action for Childhood Arrivals) allowed hundreds of thousands of young undocumented immigrants to live and work legally in the US, subject to renewal every two years. To qualify, you had to be undocumented; have arrived in the U.S. prior to your 16th birthday; have lived continuously in the U.S. since June 15, 2007; be in school or have graduated, obtained a GED, or been honorably discharged from the military; and have no serious criminal record.

There are currently [578,680](#) active DACA holders throughout the country, including [4,840](#) in Massachusetts.

What does the latest court decision mean for the DACA program?

On September 13, 2023, a Texas federal court [ruled](#) that the DACA program is not lawful. However, the court stopped short of immediately eliminating the program. The same judge had also [ruled](#) in July 2021 that the DACA program was not lawful, finding that the Obama administration did not have authority to create the program. In this most recent decision, the judge was specifically looking at whether the 2021 analysis was changed by the fact that the Biden administration published federal regulations formalizing the DACA program in the fall of 2022. The judge concluded that because the new regulations essentially maintained the DACA program unchanged, the initial analysis had not changed.

As a result of this decision:

- Individuals who **currently have DACA or whose DACA expired in the past year** can still request and receive [renewal](#) of their DACA status. USCIS is continuing to process renewal applications for now.
 - At this time, USCIS is also continuing to process advance parole applications.
- Individuals who have **never had DACA** but meet the eligibility criteria cannot be granted DACA through an initial application. USCIS cannot process initial DACA applications (though it can still accept them if submitted).
 - Initial DACA applications that are currently pending will not be processed.

The latest information on DACA can be found on the [USCIS website](#).

What has been the Biden administration's response?

The Biden administration is expected to appeal this latest ruling and the case is likely to reach the US Supreme Court next year. In response to the decision, Department of Homeland Security Secretary Mayorkas issued a [statement](#) calling the ruling “deeply disappointing” and affirming that USCIS will continue to process DACA renewals and continue to advocate on behalf of DACA recipients. Secretary Mayorkas also called on Congress to act, stating the administration stands “ready to work with Congress on an enduring solution for our Dreamers.”

What can be done now to protect DACA holders and Dreamers?

In order for Dreamers to receive permanent protection, Congress must pass legislation providing a pathway to citizenship for Dreamers and other undocumented individuals. The U.S. House of Representatives passed the Dream and Promise Act in March 2021 with bipartisan support. The Dream and Promise Act would have provided a path to citizenship for Dreamers and Temporary Protected Status (TPS) holders. Similar bills have been filed to provide protection for Dreamers and other populations. It is more urgent than ever for Congress to act on permanent protection and a path to citizenship, not only for Dreamers, but for all 11 million living without status.