

TEXAS V. UNITED STATES

The Federal District Court Decision Regarding the DACA and DAPA Initiatives

FEBRUARY 17, 2015

On February 16, 2015, a federal district court in the Southern District of Texas temporarily blocked the implementation of the immigration actions announced by President Obama on November 20, 2014, which would allow millions of immigrants to come forward and apply for deportation relief and work authorization.

In a narrow ruling that did not address the constitutionality of these initiatives, the district court temporarily blocked the implementation of the DAPA initiative for parents of U.S. citizens and lawful permanent residents and the expanded DACA initiative. The court based the decision on an argument that the federal government did not comply with rulemaking procedures under federal law.

What Happens Next?

The federal government has already indicated that it will appeal the decision, most likely to the Fifth Circuit. The regular appeals process typically takes many months. The National Immigration Law Center believes that the U.S. Department of Justice should make an emergency request to stay the district court's decision pending consideration of a full appeal. This kind of emergency request could be decided much more quickly, potentially in a matter of days or weeks. But until a further ruling from the district court, appellate court, or the U.S. Supreme Court, the new initiatives will temporarily be blocked.

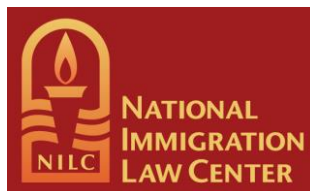
Advocates and the federal government feel confident that higher courts such as the Fifth Circuit and the U.S. Supreme Court will allow these initiatives to take full effect. Community members should continue to prepare to apply for these initiatives by gathering the necessary paperwork they will need to submit and by getting money together for application fees so that they can apply once the initiatives are fully implemented.

Scores of state and local officials have filed amici briefs in the district court highlighting these initiatives' potential strong benefits to our communities and our economy. Twelve states plus the District of Columbia, 33 cities, 27 police chiefs, and nonprofit organizations all filed briefs with the court emphasizing the benefits of the initiatives.

What This Decision Means

The court's decision temporarily halts implementation of the DAPA and expanded DACA initiatives, which means these initiatives will not go into effect unless this decision is overturned by a higher court, or by the district court itself.

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The U.S. Department of Homeland Security has stated that in light of this initial court decision, individuals should not yet file any applications for these new initiatives. And eligible individuals should be on the lookout for any updates from the Department of Homeland Security about what to do while the federal government appeals this decision.

IMPORTANT: The original 2012 DACA program is not affected by the decision, nor are the federal government's new "enforcement priorities," which were announced on November 20, 2014. Also, people may still request deferred action under longstanding procedures that require the person to send a deferred action request to his or her local U.S. Citizenship and Immigration Services office.

Background: The Court's Decision

To address the legal arguments raised by Texas and the other states, the court must first determine whether the plaintiffs have "standing" to bring the lawsuit. The court found that at least one plaintiff, the state of Texas, meets the legal requirements to be able to file the suit. The court indicated that the strongest argument that the states filing the suit have standing relates to the costs that Texas would incur to provide driver's licenses to recipients of expanded DACA and DAPA. Missing from the court's analysis are the significant overall benefits to the state economy that providing DACA and DAPA to currently undocumented people could provide, including through increased state income tax and property tax revenues.

Having found that at least Texas had standing to file the lawsuit, the court then evaluated the merits of the states' legal arguments, as is required in order to temporarily block the initiative. The court found that the federal government had not used the rulemaking procedures required by the Administrative Procedure Act (APA). The federal government had argued that it did not use APA rulemaking procedures because the initiatives are discretionary, so formal rulemaking is not required. The federal government has not granted DACA to some people who applied for it under the current DACA program, even though they met the program's requirements. This, the government argued, demonstrates that the program is discretionary.

Yesterday's decision is a disappointing bump in the road, but the immigrants' rights movement is strong. We will continue to fight to ensure that all aspiring Americans who qualify for these important initiatives will one day soon be able to contribute more fully to the communities and country they call home.