



# **DACA & DREAM ACT UPDATES**

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# AGENDA

- **Welcome** – Shiu-Ming Cheer
- **Update on Dream Act Negotiations (10 min)** – Diana Pliego
- **Update on DACA Litigation (10 min)** –
- **What DACA Recipients Should Do Now (10 min)** - Vivek Mittal, University of California Immigrant Legal Services Center
- **Q&A (25 min)**

# **UPDATE ON THE DREAM ACT**

# WHERE HAPPENED TO DREAM IN DECEMBER?

## Budget expired on December 8<sup>th</sup>, then on 22<sup>nd</sup>

- Budget is a must pass legislation that could have included Dream
- We asked for Congress to work together to pass a spending package that addressed the most urgent needs of the nation, which includes the Dream Act
- 122 Dreamers lose their protections every day. Over 15,000 to date.

## On December 21<sup>st</sup>, a Continuing Resolution (CR) passed

- Extended current funding levels to January 19<sup>th</sup>
- Package did not include the Dream Act



# **WHERE IS DREAM NOW?**

**Yesterday (1/9), White House televised meeting with President Trump and bipartisan and bicameral group**

- White House wishlist: DACA solution, Wall, Family Ban, and end to Diversity Visa Program

**DACA court decision yesterday only heightens urgency for a permanent legislative solution**

**Key Date: January 19<sup>th</sup> – Continuing Resolution (CR) expires**

- Whatever spending package gets passed **MUST** include the Dream Act

# MESSAGE TO MEMBERS OF CONGRESS

**The message remains the same but with a new, important date.**

**Immigrant youth cannot wait any longer and cannot be used as bargaining chips for an anti-immigrant agenda.  
Pass the Dream Act by January 19<sup>th</sup>.**

**Continue calling your Members of Congress and tell them to pass the #DreamActNow.**

**1-888-778-6856**



# **LITIGATION TO DEFEND DACA**

# LEGAL CHALLENGES

- Arguments:
  - Administration's decision to terminate this long-standing program without a reasoned explanation violates a federal statute
  - Administration's decision is based on racial discrimination in violation of the Constitution's equal protection clause



We could not have filed our lawsuit to protect Dreamers without the bravery of our plaintiff Martín Batalla Vidal.

**LET HIM KNOW YOU'RE  
STANDING WITH HIM.**

[NILC.org/ThankMartin](https://NILC.org/ThankMartin)  
[#ThankMartin](https://twitter.com/ThankMartin)



# CALIFORNIA CASE

- *Regents of the University of California v. DHS*
  - Includes 5 consolidated cases brought by:
    - UC system
    - States of CA, ME, MD, and MN
    - City of San Jose
    - 6 individual DACA recipients
    - County of Santa Clara & SEIU Local 521



# YESTERDAY'S PRELIMINARY INJUNCTION

- **What did the court hold?**
  - DACA is legal.
  - “Substantial likelihood” that the termination of DACA was unlawful, in part because DHS didn’t think about the effect of ending DACA for DACA recipients & families, communities, employers
- **What did the court order the government to do?**
  - Accept DACA applications from individuals who have previously had DACA
    - But notes that the government may grant deferred action “to new individuals on an ad hoc basis.” (From prior experience, they probably won’t
    - Provide notice of opportunity to submit renewal applications & create process for accepting applications

# YESTERDAY'S ORDER

- **What didn't the court order the government to do?**
  - No requirement to provide advance parole, but government may consider advance parole in its discretion
  - The government may:
    - take administrative steps “to make sure fair discretion is exercised on an individual basis for each renewal application”
    - deport anyone, including a DACA recipient, “who it determines poses a risk to national security or public safety, or otherwise deserves, in its judgment, to be removed.”
  - BUT the government must keep records of its actions on all “DACA-related applications” and provide summary reports to the court and the attorneys in that case on the first business day of each quarter.
  - This monitoring will likely mitigate any concerns about the “administrative steps to ensure fair discretion” or ability to deport people above.

**What does this mean for the Dream Act?**

**The Dream Act is just as urgent and important!**



# NEW YORK CASES

- *Batalla-Vidal v. Duke*
  - Brought on behalf of 6 DACA recipients (Martin, Eliana, Antonio, Carolina, Mariano, and Carlos) and Make the Road NY
- *New York et al. v. Trump*
  - Brought on behalf of NY, MA, WA, CO, CT, DE, D.C., HI, IL, IO, NM, NC, OR, PA, RI, VT, and VA



# NEXT STEPS

- **CA Litigation:**

- Appeal expected as early as today – uncertain whether at district court, 9th Cir. Court of Appeals, or Supreme Court
- Preliminary Injunction may not go into effect during appeal

- **NY Litigation:**

- Hearing on Jan. 18<sup>th</sup> for preliminary relief
- Could provide a second injunction reinstating DACA
- If successful, could also expand scope of injunction to include new DACA applications

# OTHER CASES

- *CASA of Maryland v. DHS* (Maryland)
  - Brought on behalf of grassroots orgs around the country
- *NAACP v. Trump* (DC)
  - Brought on behalf of black DACA recipient members of NAACP
- *Trustees of Princeton v. USA* (DC)
  - Brought on behalf of Princeton, Microsoft, and a DACA-mented Princeton student
- *Park v. Sessions* (VA)
  - Brought on behalf of two formerly DACA recipients who were out of DACA on September 5 and blocked from renewing

# **WHAT DACA RECIPIENTS SHOULD DO NOW**

# WHAT EXISTING DACA RECIPIENTS SHOULD DO NOW

- **The Court Ordered USCIS to accept DACA renewal applications but USCIS has not yet posted a procedure for renewal.**
- **Therefore, it is important to wait until USCIS issues a procedure to apply for DACA renewal.**
- **Until then, prepare your renewal materials:**
  - Obtain 2 passport-sized photographs
  - Make a copy of your Employment Authorization Document (EAD) card
  - Write down all addresses you have lived at since you last applied for DACA
  - Obtain any documents for any criminal or immigration-related issues that you have experienced.
    - If you fall in this category – please see an immigration attorney or BIA-accredited representative prior to applying!
- **If you apply for DACA renewal before USCIS posts guidance on how to renew, you risk losing your filing fee**

# WHAT THOSE WHO HAVE NEVER APPLIED FOR DACA SHOULD DO NOW

- **The Court left the door open for new applicants who have never had DACA to apply for deferred action on an “ad hoc” basis.**
- **Below are the eligibility requirements for DACA, as they existed prior to DACA’s rescission:**
  - Were under the age of 31 as of June 15, 2012;
  - Came to the United States before reaching your 16th birthday;
  - Have continuously resided in the United States since June 15, 2007, up to the present time;
  - Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
  - Had no lawful status on June 15, 2012;
  - Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are 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 otherwise pose a threat to national security or public safety.
    - If you have been convicted of any crimes, please talk to an attorney!
- **If you meet these eligibility requirements and are interested in applying, please consult an immigration attorney or a BIA-accredited representative.**

# WHAT SHOULD DACA RECIPIENTS WHO WANT TO TRAVEL DO NOW

- **The Court also left the door open for DACA recipients who would like to apply for Advance Parole, which would allow them to travel internationally for humanitarian, business, or education-related reasons.**
- **The Court stated that the agency is not prevented “from granting advance parole in individual cases it finds deserving.”**
- **If you want to travel internationally and you are an existing DACA recipient, please consult an immigration attorney or BIA-accredited representative.**

# RESOURCES

- **Court Orders DHS to Allow Individuals with DACA to Apply to Renew It:** <https://www.nilc.org/issues/daca/daca-preliminary-injunction-regents-v-dhs/>
- **Top 5 Reasons Why the Dream Act Can't Wait Until 2018:** [www.nilc.org/5-reasons-dream-act-cant-wait-til-2018/](http://www.nilc.org/5-reasons-dream-act-cant-wait-til-2018/)
- **Dream Act 2017: Summary and Answers to Frequently Asked Questions:** [www.nilc.org/dream-act-2017-summary-and-faq/](http://www.nilc.org/dream-act-2017-summary-and-faq/)
- **Support Clean Dream Act webpage (with link to video and one-pager):** [www.nilc.org/support-clean-dream-act/](http://www.nilc.org/support-clean-dream-act/)
- **2017 Legislation to Protect DACA Recipients/Immigrant Youth:** <https://www.nilc.org/issues/immigration-reform-and-executive-actions/dreamact/daca-related-2017-legislation/>

# QUESTIONS?

**National  
Immigration Law  
Center**

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