

ALERT

U.S. District Court in Texas Denies Texas Request to Stop DACA Renewals

USCIS CONTINUES TO ACCEPT DACA RENEWAL APPLICATIONS

AUGUST 31, 2018

On August 31, 2018, Judge Andrew Hanen of the U.S. District Court for the Southern District of Texas issued an [opinion and order](#) rejecting Texas and nine other states' request that the court temporarily halt Deferred Action for Childhood Arrivals (DACA) renewals.¹

In *Texas v. Nielsen*, Texas and the other states challenged the *lawfulness of the DACA program itself*. New Jersey and 22 DACA recipients represented by the Mexican American Legal Defense and Educational Fund (MALDEF) intervened to defend the DACA program. Judge Hanen is the same judge who previously halted the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) and expanded DACA programs in 2015.

Separately, cases that were brought in U.S. district courts in California, New York, Maryland, and DC have challenged the lawfulness of the *rescission* of the DACA program. These cases have resulted in three injunctions requiring the government to continue accepting DACA renewal applications.

What does the order issued on August 31 say?

In deciding not to halt the DACA program while the case winds its way through the court process, Judge Hanen addressed several issues. He found that Texas and other states were likely to succeed in their argument that DACA was created unlawfully. Nevertheless, he ultimately decided not to halt the DACA program now because he found that Texas and other states delayed challenging the DACA program for years — the program has been in place since 2012 — and he recognized that halting the program would immediately harm DACA recipients, who would lose their protection from being deported and their employment eligibility.

The opinion reasons that the injunctions issued by other courts requiring the government to continue accepting DACA renewals are intended to maintain the status quo and that suddenly halting the program would upset it. Over the last six years, DACA recipients have come to rely on the benefits of the DACA program. In Judge Hanen's words, "the egg has been scrambled" and "[t]o try to put it back in the shell with only a preliminary injunction record, and perhaps at a great risk to many, does not make sense nor serve the best interests of this country."

¹ www.nilc.org/wp-content/uploads/2018/08/Texas2-v-US-memorandum-opinion-and-order-2018-08-31.pdf.

LOS ANGELES (Headquarters)
3450 Wilshire Blvd. #108 – 62
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax



WASHINGTON, DC
1121 14th Street, NW, Ste. 200
Washington, DC 20005
202 216-0261
202 216-0266 fax

Judge Hanen also certified his opinion for appeal, and Texas and other states are likely to appeal the decision. An appeal would go first to the Fifth Circuit Court of Appeals, then possibly to the U.S. Supreme Court.

The bottom line: USCIS is still accepting and processing DACA renewal applications

As a result of the nationwide injunctions issued in the U.S. District Courts for the Northern District of California, the Eastern District of New York, and the District of Columbia, along with the refusal by the court in the Southern District of Texas to halt the program, **U.S. Citizenship and Immigration Services (USCIS) is still required to accept, and is currently processing, DACA renewal applications** *from people who have previously received deferred action and work permits through DACA.*

For more information on how you can apply for DACA renewal, see our [Frequently Asked Questions: USCIS Is Accepting DACA Renewal Applications](#).²

² <https://www.nilc.org/issues/daca/faq-uscis-accepting-daca-renewal-applications/>.