

DACA Rescinded: Impact on K-12 Districts

On September 5, 2017, U.S. Attorney General Jeff Sessions announced the Trump administration's rescission of the Deferred Action for Childhood Arrivals ("DACA"), a program created by executive order under the Obama Administration. This fact sheet offers a brief overview of how the recent announcement may affect K-12 districts, and in particular, their student and employee populations. For more on the rights of undocumented students, families and staff, please see F3 and ACSA's fact sheet regarding undocumented students and their families, available at www.acsa.org/undocumented.

What is DACA?

DACA protected certain undocumented immigrants from deportation who entered the country as minors, and made them eligible for work permits. Eligible individuals could apply for renewal of their DACA status every two years.

When will DACA end and how does that affect currently protected individuals?

Unless the U.S. Congress passes legislation renewing DACA in some form, the program will end March 5, 2018. This means that previously protected undocumented immigrants will technically be eligible for deportation and ineligible for work permits. In the meantime, according to a fact sheet issued by the U.S. Department of Homeland Security ("DHS"), the administration will continue to process currently pending DACA applications, but will consider no new applications received after September 5, 2017, and will not allow renewal of DACA status after October 5, 2017.

What are the consequences for students who were recipients of DACA?

The ability of K-12 students who were recipients of DACA to attend school will not be affected by the end of DACA. Under the U.S. Supreme Court's 1982 decision in *Plyler v. Doe*, students have the right to a public education regardless of their citizenship status. For these students, the threat of deportation will likely be the most serious consequence of the change in policy.

The most serious consequence for higher education students, in addition to the threat of deportation, will be the inability to receive work permits. In addition, higher education students may be ineligible for student loans because lenders are unlikely to lend to individuals who will not ultimately be able to obtain employment and repay the loans. The end of DACA will not impact California higher education students' eligibility for financial aid; regardless of DACA status, undocumented students were—and will continue to be—ineligible for federal aid such as Pell grants, and eligible for state aid under California's Dream Act.

What are the consequences for teachers and staff who were recipients of DACA?

The most serious consequence for teachers, faculty and other employees is likely to be the inability to receive a work permit. Without work permits, K-12 employees previously protected by DACA will not be permitted to lawfully work in the United States.

This fact sheet is a summary only and not legal advice. We recommend that you consult with legal counsel to determine how this legal development may apply to your specific facts and circumstances.

Special thanks from ACSA to Fagen Friedman & Fulfroft, leaders in education law, for assisting our members by helping create this important resource.