



*Supporting families and strengthening
communities for more than 20 years*

DACA Decision: Fact Sheet

June 18, 2020—This morning, in a 5-4 decision, the U.S. Supreme Court rejected the administration's decision to end the Deferred Action for Childhood Arrivals (DACA) program. In an opinion authored by

Chief Justice Roberts, the court decided that (1) it had the authority to review the President's decision to end DACA and (2) while the Trump administration has the authority to end the DACA program, they did not follow the required procedure for doing so.

The Court decided that the Attorney General and Department of Homeland Security (DHS) did not end DACA properly because DHS did not consider all of the relevant factors.

- First, the Court noted that deferred action—the protection provided under the DACA program—does two things for recipients: (1) it protects them from deportation and (2) it provides benefits, including employment authorization. But when the administration ended DACA, it only provided reasons why the benefits to DACA recipients should end, not why they should not still be protected from deportation. The failure to consider the protection-from-deportation aspect of deferred action was improper.
- Second, the Court noted that recipients, their families, and their communities have significantly relied on the DACA program. However, the administration did not consider that reliance in deciding to end the DACA program. The failure to consider this reliance and the real impacts of ending the program was also unacceptable.

Importantly, the administration did attempt to correct these failures by issuing additional memoranda as this case wound through the courts. The Supreme Court decided that this was too little too late. The Court stated that they had to look at the reasons that were given at the time that the administration tried to end the DACA program in 2017, not *post hoc* justifications given once the administration realized their original reasons were insufficient.

Other than Justice Sotomayor, the justices did not find that the President's decision to end DACA was based on animus toward any particular group. The four dissenting justices—Justices Thomas, Alito, Gorsuch, and Kavanaugh—would have upheld the administration's decision to end DACA.

As a practical matter, this decision means that, for now, the status of current DACA recipients continues, and DACA recipients should continue to renew their status. Also, since the Supreme Court rejected the President's decision to end DACA, the program should be reinstated, which means that new applications—which haven't been processed since 2017—should now be accepted. We anticipate receiving additional guidance from USCIS.

Significantly, the Supreme Court's decision leaves open the possibility that the administration could attempt to end DACA again if it went through the proper process and reasoning. We will continue to monitor the administration's statements and actions in this regard.