

Court rules that USCIS must accept new DACA applicants

A federal judge ruled on December 4, 2020 that the Trump administration must accept new applications for the "Deferred Action for Childhood Arrivals" program (DACA), which protects some young immigrants from deportation and allows them to apply for employment authorization. The decision vacated a memo issued by Chad Wolf, the acting secretary of the Department of Homeland Security (DHS), on September 5, 2020 that prohibited new DACA applications and added other restrictions to the DACA program. U.S. District Judge Nicholas Garaufis ordered DHS to post a public notice on its website and on the websites of all other relevant government agencies, stating that new DACA applications would now be accepted. Judge Garaufis' order followed his November, 2020 order, in which he ruled that Acting DHS Secretary Chad Wolf was unlawfully in his position and as a result, was not authorized make the changes to DACA that were contained in the September, 5, 2020 memo.

USCIS complied with the judge's order and issued a statement on its website summarizing the DACA program as it stands today. USCIS will now:

- Accept first-time requests for deferred action under DACA;
- Accept DACA renewal requests;
- Accept applications for advance parole (permission to return to the United States after temporary travel abroad); and
- Extend one-year grants of deferred action and employment authorization to two years (until the Wolf memo changed the policy, DACA recipients had been given two years of deferred action and employment authorization; the Wolf memo reduced both periods to one year).

USCIS said that it will take "appropriate steps" to provide evidence of the one-year extensions of deferred action and employment authorization to individuals who were issued one-year periods under the Wolf memo.

These developments represent a huge win for Dreamers. We hope that the next Congress will create a more permanent solution for them, but in the meantime, the DACA program is a good start.