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Understanding DACA and its Future Under a New Administration

DACA, or Deferred Action for Childhood Arrivals, is a program started in 2012 that gives temporary protection from deportation (“deferred action”) to undocumented immigrants who came to the United States as children.

What you need to know:

DACA is not a visa or an immigration status. Individuals approved for DACA are still undocumented—they do not have valid immigration status—but they have certain legal protections that allow them to stay in the country and obtain work authorization. DACA recipients are not barred from applying for a visa or seeking other immigration benefits they might qualify for. However, because these individuals are in undocumented status, most are ineligible for a visa.

Current DACA recipients can still renew their DACA applications and work authorization, but new DACA applications are not being processed at this time. A recent court case ruled against the DACA program but upheld that existing DACA applications and related work permits approved before July 16, 2021, will remain valid. However, new applications cannot be processed. Litigation is ongoing to determine the legality of the DACA program.

DACA is still active under President Trump. Since taking office, President Trump has not taken any action toward the DACA program. During his first term in 2017, he attempted to rescind DACA, but the Supreme Court of the United States rejected the attempt to rescind DACA.

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The future of DACA continues to remain uncertain. It is currently undergoing challenges under different grounds, and it is expected that the program's future will eventually be determined by the Supreme Court. It is unlikely that the current administration will provide any support or defense of the program.

Husch Blackwell's Business Immigration and Global Mobility team offers a Resource Center with insights to help employers navigate the evolving immigration policy landscape.