



Written by [Warren Mass](#) on September 7, 2017

15 States and DC File Suit Against Trump Administration Plan to Rescind DACA

The attorneys general of 15 states and the District of Columbia — all of whom are Democrats — filed a lawsuit on September 6 in the United States District Court, Eastern District of New York to block the Trump administration from terminating the Deferred Action for Childhood Arrivals (DACA) program, which protects young people who were brought to this country by illegal alien parents from deportation.



Attorney General Jeff Sessions announced on September 5 that the program will end in six months, giving Congress time to find a legislative solution for people enrolled in the program.

In a Fox News report on the legal battle over DACA, Judge Andrew P. Napolitano provided background on the history of the amnesty program, writing, “Shortly after President Obama formalized two programs, Deferred Action for Childhood Arrivals (commonly known as DACA) and Deferred Action for Parents of Americans (commonly, DAPA), in a series of executive orders, the U.S. Court of Appeals for the 5th Circuit ruled that DAPA — the orders protecting undocumented immigrants who are the parents of children born here — was unconstitutional.”

We have written much about DACA and the years-long battle waged for and against it, noting in a [2015 article](#) that the Obama administration had extended amnesty from deportation to 664,607 illegal aliens through the DACA program, which began in 2012.

In that article, we noted that former President Obama initiated DACA with an executive action after Congress failed to pass the Development, Relief, and Education for Alien Minors (DREAM) Act. DREAM was first introduced in the Senate in 2001 and reintroduced in the 107th through 111th Congresses. Though it never passed both houses, Obama was determined to implement it anyway. So on June 15, 2012, he announced that his administration would stop deporting young illegal immigrants who met certain criteria previously proposed under the DREAM Act.

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The DACA program was formally initiated by a policy memorandum sent from then-Secretary of Homeland Security Janet Napolitano on June 15, 2012, to the heads of U.S. Customs and Border Protection (CBP), U.S. Citizenship and Immigration Services (USCIS), and U.S. Immigration and Customs Enforcement (ICE), ordering them to practice “prosecutorial discretion” toward some individuals who were brought to this country before their 16th birthday.

Former Homeland Security Secretary Jeh Johnson expanded DACA on November 20, 2014, when he sent an executive action memorandum to the heads of CBP, USCIS, and ICE that removed its age cap and extended work authorization to three years.

In response to that expansion of DACA, U.S. District Judge Andrew Hanen of the U.S. District Court in Brownsville, Texas, issued an injunction on February 16, 2015 blocking the executive action. Hanen



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issued his injunction at the request of a coalition of 26 states, led by Texas, which have filed a lawsuit (*State of Texas, et al. v. United States of America, et al.*) to stop the administration's executive action, asserting that it is unconstitutional.

Following numerous appeals by the Obama administration at various levels, *United States v. Texas* went to the Supreme Court. The High Court's tie 4-4 vote on the case on June 23, 2016 left intact a lower-court ruling upholding Hanen's injunction. On October 2, 2016 the Supreme Court rejected a request from the Obama administration to rehear the case.

Among those initiating the above-mentioned lawsuit against the Trump administration was Washington Attorney General Bob Ferguson, who claimed that the Trump administration violated the due-process rights of the young immigrants by failing to safeguard the personal information they initially gave the government in order to enroll in DACA.

Ferguson and the other attorneys general claim that racial bias is behind the move to end DACA. The states' lawsuit alleges that Trump violated the Constitution's equal protection clause by targeting a cohort that is nearly 80 percent Mexican natives.

As indications of Trump's alleged bias, the suit cited his previous statements referring to some Mexican immigrants as rapists and his decision to pardon former Arizona Sheriff Joe Arpaio, who was convicted of contempt for ignoring a federal court order to stop traffic patrols that targeted immigrants.

"Ending DACA, whose participants are mostly of Mexican origin, is a culmination of President's Trump's oft-stated commitments — whether personally held, stated to appease some portion of his constituency, or some combination thereof — to punish and disparage people with Mexican roots," the lawsuit filed in federal court in Brooklyn said.

However, an AP report noted legal experts say the evidence of bias is not strong in the case involving the ending of DACA.

"[The lawsuit] might be able to muck up the works, maybe push off the effective date of the repeal, but I don't see litigation being successful in the same way as the travel ban," AP quoted Kari Hong, an immigration expert at Boston College Law School. Hong was referring to the lawsuit earlier this year that limited the Trump administration's temporary travel suspension involving people from several predominantly Muslim nations.

The Department of Justice responded to the lawsuit in a news conference, citing Attorney General Jeff Sessions' statement that phasing out DACA preserves the rule of law. Sessions and other critics of DACA maintain that it is unconstitutional because former president Barack Obama created it by an executive action, rather than leaving the decision to legislators.

"While the plaintiffs in Wednesday's lawsuit may believe that an arbitrary circumvention of Congress is lawful, the Department of Justice looks forward to defending this administration's position," said DOJ spokesman Devin O'Malley.



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