

# UC LEGAL

## Legal Advisory

July 1, 2020

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### SUMMARY

**The Supreme Court vacated the Trump administration's rescission of DACA, holding that it was arbitrary and capricious.**

If you have any questions about the Supreme Court's DACA decision, please contact:

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*UC Legal provides updates regarding important legal and regulatory developments that affect the University. For additional information*

## U.S. Supreme Court Rules in Favor of DACA and UC

On June 18, 2020, the U.S. Supreme Court issued a decision blocking the Trump administration's attempt to end the Deferred Action for Childhood Arrivals (DACA) program in the consolidated cases *U.S. Department of Homeland Security v. Regents of the University of California*. The Court ruled that the Trump administration acted arbitrarily and unlawfully when it announced in 2017 that it would end DACA – a program that has enabled approximately 700,000 undocumented young people, including approximately 1,700 UC students, to go to college, work, and live without fear of deportation.

### Factual Background and Litigation History

UC President Janet Napolitano established the program in 2012 while she was Secretary of Homeland Security under President Obama. The DACA program provides temporary, renewable relief from deportation to children brought to the United States by their undocumented parents.

Five years later, on September 5, 2017, the Department of Homeland Security (DHS) announced that it was rescinding DACA. On September 8, 2017, UC was the first university to file a lawsuit against the administration, alleging that the decision to rescind DACA violated the Administrative Procedure Act ("APA") because it was arbitrary and capricious and did not comply with the APA's procedural requirements.

UC Legal in partnership with the Covington & Burling law firm, assembled a robust factual record using statements from DACA students and employees; university administrators, including President Napolitano; and faculty from across the system, including UC medical centers, who could speak to the tremendous contributions of DACA recipients. UC effectively demonstrated that the rescission of DACA could mean the loss of skilled workers, research expertise, and unique perspectives central to its academic mission.

On January 9, 2018, a federal judge in the Northern District of California issued a nationwide preliminary injunction halting the termination of the DACA program, a decision subsequently affirmed by the Ninth Circuit Court of Appeals. Courts in New York and the District of Columbia issued similar orders allowing renewal of DACA grants. The preliminary injunctions required the administration to continue processing DACA renewals but did not require the acceptance of new applications or requests for advance parole (allowing certain aliens to temporarily leave and then return to the United States).

On June 28, 2019, the U.S. Supreme Court agreed to review these lower court decisions. UC filed a brief in the U.S. Supreme Court. Amicus briefs reflecting a wide variety of interests from corporations, national security experts, colleges and universities, members of Congress, and other entities and individuals were also filed in support of DACA. President Napolitano, Regents Chair John Perez, and members of UC Legal attended the oral argument before the Court on November 12, 2019.

### **Supreme Court Outcome and the Future of DACA**

In the majority opinion written by Chief Justice Roberts and joined by Justices Ginsburg, Breyer, Kagan, and Sotomayor, the Court as a threshold matter rejected the administration's argument that the decision to rescind DACA was not subject to judicial review. The Court further held that the rescission violated the Administrative Procedures Act (APA). Rejecting the administration's attempts to justify the rescission after the fact, the Court found that then-Acting Secretary Elaine Duke failed to consider other measures short of rescinding DACA altogether and also failed to consider any reliance interests that DACA recipients; their families, schools, and employers; and federal, state, and local governments may have in the long-standing program. The Court specifically cited to UC's brief in noting these reliance interests. The Court did dismiss the equal protection claim brought by some of the plaintiffs; Justice Sotomayor, in a separate opinion, dissented to this ruling, finding the complaints had plausibly alleged the rescission was motivated by racial animus and that dismissal without further litigation was premature. Justices Thomas, Alito, and Kavanaugh each filed opinions dissenting to the APA decision.

With the Supreme Court's decision vacating the rescission, U.S. Citizenship and Immigration Services (USCIS) should resume processing new applications and requests for advance parole. However, as of the date of this advisory, USCIS has not confirmed that it will do so. See [here](#) for more information on legal and fee assistance, including any updates regarding applications. UC departments that have questions about potential impacts on their operations should consult with their campus counsel.

Although the Supreme Court ruled in UC's favor, the decision does not restrict the Trump administration from making another attempt to rescind DACA. Any such future attempt would have to comply with the standards articulated in the opinion and could again be subject to legal challenge.

Although the ultimate fate of DACA remains uncertain, UC will continue providing a safe and supportive environment for DACA students and advocating for Congress to make DACA's protections permanent. UC campuses offer a range of support services for students, and every campus has designated staff or faculty members who can work with students to find the right support on campus and answer questions.