

Rutgers Immigrant Community Assistance Project (RICAP)

OCTOBER 27, 2017

PRESENTED BY:

JASON C. HERNANDEZ, ESQ.

RUTGERS LAW SCHOOL



Important Disclaimer

This presentation is based on information currently available.

Many changes in the law are expected, and anyone who is directly affected should speak with an immigration lawyer to find out how they are directly impacted and how future changes in the law may affect or benefit them.

Presentation Preview

1. Key points on the DACA rescission
2. Effect on Students
3. Legislative Relief
4. Judicial Relief

Rescission: Key Points

1. Individuals with valid DACA status will continue to enjoy all DACA-related benefits until their current term expires (see approval notice or work permit for expiration date)
2. No Initial DACA Applications are being accepted by USCIS after September 5, 2017
3. Renewals were accepted by USCIS between 9/5/17-10/5/17 for those DACA recipients whose status expires between 9/5/2017-3/5/2018
4. As of September 5, 2017, all new and pending applications for advance parole were rejected and fees returned
5. DHS says that information provided to USCIS in DACA requests will not be proactively provided to ICE & CBP for the purpose of immigration enforcement.

Rescission: Key Points

What is the significance of the March 5, 2018 deadline?



Rescission's Effect on Students



Pending Dreamer Legislation

1. Bridge Act (H.R. 496)
2. Recognizing America's Children Act (H.R. 1468)
3. 2017 Dream Act (S. 1615 & H.R. 3440)
4. Hope Act (H.R. 3591)

Bridge Act - H.R. 496

Sponsor: Rep. Mike Coffman (R) (Cosponsored by 13 (D)/ 12(R))

No Path to Citizenship

- 3 year work authorization and Provisional Protected Status

Requirements:

- Born after June 15, 1981
- Entered U.S. before age 16
- Must be age 15 to apply (unless in removal)
- physical presence and status requirements – same as DACA
- Must be seeking or have obtained a H.S. Diploma or GED
 - Or have been honorably discharged from U.S. Armed Forces or Coast Guard

Recognizing America's Children (RAC)– H.R. 1468

Sponsor: Rep. Carlos Curbelo (R) (Cosponsored by 18(R))

Path to Citizenship: 4 Stages, CPR (5-10 yrs.) → LPR* (5-10 yrs.) → Natz (min. 10 yrs.)

Requirements:

- Entered U.S. before age 16
- Lived in U.S. continuously from January 1, 2012
- May not have left U.S. for single period over 90 days, or total period of 180 days
- Ineligible if final order or exclusion, deportation, or removal
 - Unless (1) individual has remained in U.S. since order, or (2) the order was before age 18
- Good Moral Character/Background check – Same as DACA

Recognizing America's Children (RAC)– H.R. 1468

- Ed. Requirements – 18 years or older (Stages 1 and 2)
 - Admitted to Higher Ed. Institution
 - Received a H.S. degree or similar
 - Have valid work authorization (employment track – no post secondary ed.)
- Most restrictive Moral Character/Background Check requirements

***Special Conditional Permanent Resident requirements** (stage 2, after 5 years)

- Enroll in higher ed. Institution w/in one year of CPR, and remain
- Been employed 48/60 months while in CPR status, or
- Enlisted in Armed Forces within 9 months of receiving CPR.

2017 Dream Act – S. 1615/H.R. 3440

Sponsored by Sens. Lindsay Graham (R) and Richard Durbin (D) [Cosponsored by 2(D)/2(R)]

Sponsored by Lucille Roybal-Allard (D) (Cosponsored by 1(D)/2(R))

Path to Citizenship: CPR (8 yrs.) → LPR (5 yrs.) → Natz. (min. 13 yrs.)

Requirements:

- Entered the U.S. before age 18
- Continuously present for 4 years prior to bill's enactment
 - No single trip over 90 days, or total absences of 180 days (DHS authorized travel excluded)
- Status: No lawful status, previous orders of removal, DACA, TPS

2017 Dream Act– S. 1615/H.R. 3440

- Education Requirements
 - Admitted to institution of higher education
 - Earned a H.S. Diploma, GED, or commensurate alternative award
 - Enrolled in a secondary school or program assisting students student acquire a H.S. Diploma, GED, or commensurate alternative award
- More lenient moral character and background check requirements than RAC

2017 Dream Act– S. 1615/H.R. 3440

*Special Permanent Residency Requirements (after 8 years)

- Acquired a degree from an Institution of Higher Ed; or
- Completed 2 years in a bachelors degree program; or
- Served 2 years in the uniformed armed service or honorably discharged; or
- Been employed for periods totaling 3 years, of which 75% was working with valid work authorization (if not working must show enrolled in school)

A hardship exception may be available to people who do not meet one of the 4 above requirements

The Hope Act - H.R. 3591

Sponsor: Rep. Luis Gutierrez (D) (Cosponsors 116 D)

Path to Citizenship: CPR (3-8 yrs.) → LPR (2-5 yrs.) Natz (min. 5 yrs.)

- Can seek LPR after 3 years with CPR or DACA

Requirements:

- Entered U.S. before age 18
- Continuously present since December 31, 2016
- Status: no lawful status, order of removal, voluntary departure, in removal
- No education or work requirements
- Most lenient criminal and inadmissibility requirements

Legal Challenges

Federal District Court of NY –

- *State of New York v. Trump* - 15 States Attorneys General filed suit
- *Batalla Vidal v. Baran*

Federal District Court of CA –

- 4 States Attorneys General filed suit
- University of California

Stay tuned...

Thank You

Questions???

Jason C. Hernandez, Esq.
Immigrant Rights Attorney
RICAP
Rutgers Law School
856-225-2302

