

Supporting DACA Team Members: A Guide for Employers

Concrete ways employers can support their DACA-impacted employees, interns and contractors in a time of uncertainty

IN REGARD TO THE RECENT SUPREME COURT CASE DECISION ON DACA

BACKGROUND

The [U.S. Supreme Court's June 18 decision in 18-587](#) ruled (5-4) that the Trump Administration's rescission of the Deferred Action for Childhood Arrivals (DACA) program is reviewable and invalid because the change violated administrative law. This is a major victory for DACA recipients, their families and communities; the Court's decision restores the 2012 Obama Administration DACA policy in full. Eligible DACA recipients can continue to apply to renew their DACA for two more years, though because the Trump Administration has indicated that it may try again to end the program, eligible DACA recipients are encouraged to renew as quickly as possible. DACA-eligible individuals who never had DACA **should be able to apply** in the future, but the Department of Homeland Security first needs to reopen the initial application process. Additionally, it is possible that Advance Parole **may** again allow DACA recipients to travel outside the United States and return. However, details of this possibility are still unclear, and the potential impact of the COVID-19 pandemic may limit the ability to travel.

RECOMMENDATIONS

Employers can show up for their DACA recipient employees and engage around the Supreme Court ruling in a variety of ways. The following suggested actions include ways to support DACA recipient employees within your company, and support the DACA program and potential beneficiaries more fully.

- 1. Fund renewals for DACA recipient employees who are eligible, and encourage them to renew as soon as possible.**
 - Encourage employees to consider speaking with an immigration attorney.
 - Resources, including a Legal Service Directory, are available to help with the DACA renewal process at www.InformedImmigrant.com.
 - Ensure employees know that, due to COVID-19, USCIS has closed their offices as of March 18, 2020, and suspended all biometrics appointments until further notice. The agency will reuse previously submitted biometrics in order to process work authorization applications.
- 2. Sign onto upcoming letters to the Trump Administration and Congress which will call for them not to touch DACA again.**
 - Companies with contacts to Senate Republicans should reach out to urge them to leave DACA alone, and to refuse to engage in efforts to end or shrink the program.
- 3. Highlight your company's support for DACA recipients across your platforms, such as your website and your social accounts:**

- Film and share brief videos with company leadership speaking about your company's organizational support for DACA recipients. Please contact FWD.us if you'd like support on this project.
- Show your support on social media; Facebook, Instagram and Twitter.

4. Engage in proactive press efforts to highlight your company's support for the SCOTUS decision.

- Commend SCOTUS for the decision and call on Congress to pass a permanent legislative solution - specifically, for the Senate to take up the House-passed Dream and Promise Act, which would extend protections to DACA recipients and TPS holders.
- Submit an opinion editorial ("oped") from company leadership to a local news outlet. Some potential targets can be business publications that cover your industry, or the major daily newspaper in your location.
- [Refer to this guide for suggestions on how to write an oped](#), and feel free to reach out to FWD.us for additional assistance.

5. Support local organizations and nonprofits hosting DACA renewal workshops, scholarships for DACA-eligible individuals, or other resources that benefit DACA recipients.

- [Find a list of recommended organizations assisting DACA recipients here.](#)

SEE EXAMPLES OF PAST SUPPORT FROM THE BUSINESS COMMUNITY BELOW



U.S. Chamber of Commerce

US Chamber:

"The Supreme Court made the right decision today for Dreamers, our economy, and our country. "Removing 700,000 Dreamers protected under DACA from our economy would deny our country talent, future leaders, and an essential piece of the American workforce including teachers, nurses, doctors, farmers, and entrepreneurs. "But make no mistake, the work is not done. It is long past time for Congress to provide permanent relief for Dreamers. As we said in 2017 when the administration announced the end of the DACA program, deporting Dreamers is 'contrary to fundamental American principles and the best interests of our country.'" Last year, the U.S. Chamber joined a [merits-stage amicus brief](#) with more than 140 companies and business associations in support of the DACA program.



Texas Business Council:

"The TBLC welcomes the Supreme Court decision that will safeguard the hundreds of thousands of DACA recipients in the United States. These Dreamers play an important role in strengthening our economy, contributing over \$2 billion each year nationwide in state and local taxes. The TBLC looks forward to working with the Administration and Congress to encourage a bipartisan solution that will offer permanent protection to DACA recipients moving forward."



IBM:

"IBM's [#Dreamers](#) have worked hard and have overcome many obstacles to pursue their education and become talented professionals valued by our company, our clients and our communities" -[@IBM's](#) Diane Gherson on today's #SCOTUS decision to leave [#DACA](#) in place



Nelson Griggs
@NelsonGriggs

.@Nasdaq applauds the Supreme Court's decision to keep Dreamers in the US. Our nation depends on talented professionals like #DACA recipients who bring needed skills, innovation, and creative energy to a variety of endeavors.



[Apple CEO Tim Cook](#)

"The 478 Dreamers at Apple are members of our collective family. With creativity and passion, they've made us a stronger, more innovative American company. We're glad for today's decision and will keep fighting until DACA's protections are permanent."



[Brad Smith, Microsoft](#)

"Today's #SCOTUS decision is a victory for the country. Nearly 700,000 law-abiding DACA registrants are helping restart the economy & fight COVID-19 – including 30,000+ in healthcare. This decision creates an opportunity for the WH & Congress to find a lasting bipartisan approach."



[Sundar Pichai, Google](#)

"Heartened by today's SCOTUS decision on the #DACA program. For millions of immigrants, America represents a land of opportunity; for the many Dreamers, it's the only home they've known. Today is a victory for us all."



[Amazon](#)

"Amazon applauds the Supreme Court's decision to protect DACA. DREAMers are critical to America's family & economy, & we are grateful for those who've helped us create & innovate. We'll continue to push for laws that honor their contributions & allow a path to citizenship."



[Uber CEO, Dara Khosrowshahi:](#)

"Today's #SCOTUS decision reflects what so many of us know to be true: our country's greatness comes from the belief that everyone, especially #DREAMers, deserves a chance to pursue the #AmericanDream."

For more detailed ways to support your DACA employees outside of the Supreme Court Case decision in the everyday work environment, please review the suggestions and resources below.

EMPLOYEE SUPPORT

1. Provide **financial assistance** for DACA renewal application processes. A DACA renewal application is \$495, not including preparation costs (legal consultation, postage and other materials).
 - These costs can be prohibitive to the employee, and it is within an employer's rights and interest to provide this service. If an employment authorization document (EAD) expiration date is nearing and your employee has not yet received his/her renewal, contact your U.S. Senator or Representative and request that they work with USCIS to expedite the application. Among other reasons, a basis to request expedited processing of a request is severe financial loss to the company or person. Please note that employees have no legal obligation to inform you of the expiration date on their EAD.
 - [Expedite criteria](#)
2. Offer **immigration legal assistance/counsel** to immigration-impacted employees, contractors, and family members of employees, including spouses, parents, siblings, etc. (using outside counsel to avoid

potential conflicts). Assistance can include legal defense of employees who are detained or encounter other legal troubles arising from losing protection from deportation (i.e., their DACA status and ancillary work authorization).

3. Arrange **employee-centered, supportive offboarding programs** for employees unable to renew their work authorization and who are forced to leave the workplace. Review existing company policies to determine if affected employees can receive separation benefits, including accrued sick leave, vacation leave balances, and continuation of health benefits. Consider what health care benefits can be extended despite termination.
4. Prepare for possibility of a federal court in Texas to rule against the legality of DACA in a challenge brought by Texas and other states. Employees will need legal assistance/counseling regarding whether DACA work permits remain valid until their expiration date. For employees whose work authorizations are close to expiration, review company policies to determine availability of separation benefits and continuation of health benefits. Provide legal assistance/counseling to employees who lose work authorization regarding the possibility of creating an independent contractor/LLC and/or obtaining a nonprofit, government, or private sector fellowship.
5. Assuming the employer has an employee assistance program (EAP), remind immigration-impacted employees of available **mental health resources**.
 - If your company does not already have existing EAPs in place, make a list of in-network mental health service providers for easy access - and if superior options are only offered out of network, cover the difference.
6. **Host a regular call** with senior management, HR, and directly affected individuals to ensure that the company is being attentive to employees' needs.
7. Host **Know Your Rights trainings** during work hours for all staff that cover an individual's rights when interacting with law or immigration enforcement at home, in public spaces, and in the workplace. Consider using outside counsel to host this training.
 - Establish, communicate, and implement company protocol to protect employee rights should immigration enforcement visit the work site or request employee information from managers. Employers can take these steps while simultaneously ensuring they observe their own legal obligations.
 - Plans should include employees' emergency contact list, attorney's contact information, family contact, and alien numbers as necessary.
8. Make all **training and resources** on immigration and rights widely known and available to all staff, and clearly designate an HR Point of Contact for anyone looking for additional resources or assistance (including legal assistance) to access confidentially.
9. Be sensitive to people's differing levels of comfort with being public about their immigration status. Never "out" somebody to coworkers or speak about somebody's immigration status with others if that individual has not made explicitly clear that they consent to this information being shared.

SOLIDARITY AND SERVICE

1. Ask large law firms used by the company whether they will agree now to **participate in pro bono program** being set up that, if DACA is terminated, will provide advice to DACA recipients and to small/medium sized businesses that employ DACA recipients. They can sign up to volunteer [here](#).
2. Commit **company or contracted lawyer's hours** to provide in-house, pro-bono legal assistance at local immigrant-serving organizations. You can find a list of organizations to volunteer [here](#).
3. Join the **'I Stand With Immigrants' initiative** to promote solidarity throughout the calendar year and publicly showcase your support for immigrants/ immigration reform.
 - Publish a blog post on immigrant contributions within the company/organization
 - E.g.: Celebrate Immigrant Heritage Month in June
4. Collaborate or support internal collaborators who partner with immigrant-serving community organizations to offer volunteer and/or mentoring hours that capitalize on company or employee strengths and expertise.
 - E.g.: Employees from a financial institution conduct a financial literacy workshop with an immigrant-serving community organization and its members
5. Support [Informed Immigrant's](#) work with local organizations providing immigration legal services.
 - Sponsor a legal services clinic for immigration and consular services
 - Donate to a Know Your Rights card fund for local immigrant-serving organizations. [KYR cards \(example\)](#) have prevented civil rights violations of undocumented individuals in the past.
 - Sponsor a local know your rights training for a school, faith group, youth group or other community organization