

School leaders – as you are aware, earlier this week President Trump ordered the rescission of the Deferred Action for Childhood Arrivals (“DACA”) program, and established a six-month “wind down” of the program. While Congress will be considering legislation to retain some or all aspects of DACA, the coming months will be a time of uncertainty and stress for DACA recipients and their families. The rescission has created many questions regarding the obligations of school districts and the impact on students, families, and staff. Below is general guidance regarding the impact of the rescission, including links to additional resources.

#### Duty to educate K-12 students

The rescission of DACA does not change the obligation of public schools to educate all students, regardless of the immigration status of the student or his or her parents. Schools must continue to provide a safe environment for all students, and fairly apply all policies (including policies that prohibit bullying and harassment). FERPA protects the confidentiality of student information for all students, and school staff should not share confidential student or family information with immigration enforcement officials without a subpoena or in other very limited circumstances. Many of these issues are addressed in a recent publication by the National School Boards Association entitled “[Lifting the Lamp by the School House Door: A Legal Guide to Serving Undocumented Students in Public Schools.](#)” In addition, I’ve attached a PowerPoint that addresses many of these issues and includes a discussion of Oregon law. Again, the rescission of DACA does not change these obligations.

#### Resources for students and families

Many Oregon students and their families will be impacted by the DACA rescission. Losing DACA status means that an individual cannot legally be employed in the United States, and does not have protection regarding deportation proceedings. This will create economic hardship and instability for some families. Following are some resources that may be helpful.

The [Latino Network](#) provides great resources for Oregon families, and is hosting community forums to provide information and resources for families related to the DACA rescission. The [Immigrant Law Resource Center](#) has issued an advisory that provides guidance on key issues regarding the rescission of DACA: [https://www.ilrc.org/sites/default/files/resources/if\\_daca\\_ends.pdf](https://www.ilrc.org/sites/default/files/resources/if_daca_ends.pdf) (Spanish translation: [https://www.ilrc.org/sites/default/files/resources/if\\_daca\\_ends\\_spanish.pdf](https://www.ilrc.org/sites/default/files/resources/if_daca_ends_spanish.pdf)) The [National Immigration Law Center](#) is another good resource: For adults who have relied on DACA status for employment, here is link with information on employment considerations: <https://immigrantsrising.org/resources/>

The Latino Network also created a planning guide for families to use in the event of deportation so that children are provided for. This website provides links to the planning guide in both English and Spanish, as well as other helpful resources: <https://www.latnet.org/community-resources/>

#### Specific information on the DACA “wind down”

Following the President’s decision on DACA, the Department of Homeland Security (“DHS”) issued specific guidance about how it will handle current DACA recipients, as well as pending applications and requests for renewal of DACA status. Following is a summary of that guidance, along with links to the specific guidance documents.

The new guidance provides as follows:

- Current DACA recipients will retain their deferred action status and their Employment Authorizations Documents (“EADS”) (this is the document that allows a DACA recipient to legally work) until those documents expire, unless they are terminated or revoked for reasons other than expiration. The typical DACA authorization lasts for two years. This means that a current DACA recipient with a current EAD can continue working until their authorization expires.
- In terms of initial requests, DHS will review on a case-by-case basis pending DACA initial requests and applications for EADS that have been accepted by DHS as of September 5, 2017. All DACA initial requests and applications for EADS filed after September 5, 2017 will be rejected.
- In terms of renewal requests, DHS will review on a case-by-case basis pending DACA renewal requests and applications for EADS from current DACA beneficiaries that have been accepted by DHS as of September 5, 2017. DHS will also review, on a case-by-case basis, renewal requests and applications for EADS from current DACA beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018, if the request/application is accepted by DHS as of October 5, 2017. All other DACA renewal requests and applications for EADS will be rejected.
- DHS reserves the right to terminate DACA status or EADS whenever immigration enforcement officials determine termination is appropriate.
- DHS will not approve any new or pending applications for advance parole (this is the permit that allowed DACA recipients to re-enter the United States after travel outside the country). DHS is not affirmatively withdrawing current advance parole authorizations for DACA recipients, but the guidance emphasizes that DHS may revoke or terminate an advance parole authorization at any time.
- In general, DHS will not proactively provide information to Immigration and Customs Enforcement about an individual whose DACA status expires or whose pending request for renewal is denied, unless that individual meets certain criteria regarding national security or public safety. (These criteria are set out in the “Notice to Appear” policy: [https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static\\_Files\\_Memoranda/NTA%20PM%20%28Approved%20as%20final%2011-7-11%29.pdf](https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/NTA%20PM%20%28Approved%20as%20final%2011-7-11%29.pdf)).
- According to DHS, under the timeline above, no qualified DACA recipient who has properly filed a renewal request and an application for an EAD should lose benefits before March 5, 2018. This timeline is intended to give DACA recipients time to plan for their loss of status and work eligibility and/or for Congress to act to preserve some or all of the DACA program.

Here are links to the newly issued documents from DHS regarding the rescission of DACA: “[Memorandum on Rescission of Deferred Action for Childhood Arrivals \(DACA\)](#),”; “[Frequently Asked Questions: Rescission of Deferred Action for Childhood Arrivals \(DACA\)](#),”; and “[Rescission of Deferred Action for Childhood Arrivals \(DACA\)](#).”

Finally, as you may have heard, a number of states including Oregon have already filed a lawsuit challenging the rescission of DACA. As both Congress and the courts consider this issue, there will undoubtedly be updates. The bottom line for public schools, however, is that the DACA rescission does not change the obligation to continue to provide education to all students regardless of immigration status.

Please don’t hesitate to let me know if you have additional questions.

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