

Policy Brief:

Ending DACA Would Limit Access to Higher Education in Ten States

Almost 100,000 DACA Recipients and DACA-Eligible Individuals Live in These Ten States

June 29, 2020

A decision by the Trump administration to attempt to end Deferred Action for Childhood Arrivals (DACA) for the second time could have a significant impact on higher education, including potentially blocking thousands of current DACA recipients in ten states from either enrolling in public institutions or being eligible for in-state tuition. It could also block thousands of DACA-eligible individuals in those ten states - who may now be eligible to apply for and obtain DACA for the first time - from enrolling in public institutions or accessing in-state tuition.¹

DACA currently provides [almost 650,000](#) young undocumented immigrants who came to the U.S. as children with protection from deportation and the ability to work legally in the United States.² DACA, with its associated grant of lawful presence, also opens the door in at least ten states to enrolling in public colleges or universities or accessing in-state tuition, a result of state or institution-level policies or decisions to expand access to higher education for DACA recipients. Without DACA, thousands of students in ten states would no longer be eligible to enroll in public higher education institutions and/or access in-state tuition.³ U.S. Citizenship and Immigration Services (USCIS) data indicates that [39,370 DACA recipients](#) currently live in these ten states.⁴ In addition, more than [60,000 DACA-eligible individuals](#) are estimated to live in these states.⁵

On June 18, 2020, the U.S. Supreme Court [ruled in a 5-4 vote](#) to maintain DACA in place. The Court found that the Trump administration's rationale for ending DACA in 2017 was "arbitrary and capricious." The Court also found that the Department of Homeland Security (DHS), which oversees DACA, failed to properly consider "what if anything to do about the hardship to DACA recipients," as it was required to do under the Administrative Procedure Act (APA). The Supreme Court's ruling allows DACA to continue in place for the moment and could potentially mean that applications for initial (new) DACA requests and advance parole re-open. However, the Court's decision does not preclude the Trump administration from further attempts to end DACA.

Trump administration officials quickly signaled their intent to rescind DACA. On June 22, 2020, Acting DHS Secretary Chad Wolf [said](#) the administration is looking "to end" DACA, calling it "an unlawful program." The administration could end DACA by providing a more comprehensive rationale for its rescission. It could decide to sunset DACA over a period of time or to immediately end the program. Such an effort will likely take time to implement and be subject to litigation. However, if a second attempt to rescind DACA is successful, more than 39,300 current DACA recipients and thousands of DACA-eligible individuals, now potentially eligible to apply for DACA again or for the first time, could subsequently lose access to higher education opportunities.

State policies on access to higher education for undocumented students and DACA recipients can be categorized into seven distinct policy environments, as noted in Chart 1. Ending DACA would eventually bar current DACA recipients and DACA-eligible individuals from enrolling in any public college or university in Alabama and South Carolina due to "Prohibitive Enrollment" state laws. Undocumented students in those two states would be limited to enrolling in private institutions with undocumented-friendly policies or in postsecondary institutions in another state. The rescission of DACA could also end access to in-state tuition for current DACA recipients living in eight "Limited to DACA" states: Arkansas, Idaho, Indiana, Iowa, Maine, Massachusetts, Mississippi, and Ohio.⁶ Without DACA, these students would be required to pay out-of-state

tuition rates, which can be [two-to-three times](#) more expensive than in-state tuition rates, despite otherwise meeting the state’s resident requirements.

Chart 1. **Definitions of State Policy Environments.**

Policy Environment	Definition
Comprehensive Access	Policies provide statewide access to in-state tuition and some state financial aid or scholarships for the state's resident DACA recipients and undocumented students.
Accessible	Policies provide statewide access to in-state tuition for the state's resident DACA recipients and undocumented students.
Limited	Policies provide the state’s resident DACA recipients and undocumented students with access to in-state or reduced tuition in at least some public institutions.
Limited to DACA	Policies provide the state’s resident DACA recipients with access to in-state tuition in at least some public institutions.
No State Policy	No known policies on access to in-state tuition or state financial aid for the state's resident DACA recipients and undocumented students.
Restrictive	Policies actively bar access to in-state tuition or state financial aid for the state's resident DACA recipients and undocumented students, but permit enrollment in all or at least some public institutions.
Prohibitive Enrollment	Policies actively bar enrollment in public institutions for the state’s resident undocumented students, but may still allow DACA recipients to enroll.

In addition to barriers to enrollment and more expensive tuition rates, the end of DACA would undermine the financial ability of many students throughout the U.S. It would hurt DACA recipients’ ability to pay for tuition and the costs associated with a higher education, including housing, food, and books. In a 2019 survey, [93 percent of DACA recipients](#) indicated that they “pursued educational opportunities that [they] previously could not,” with a potential end to DACA placing these educational pursuits at risk.

Ending DACA Could Bar Enrollment in Alabama and South Carolina

A decision by the administration to once again end DACA could block almost 10,000 current DACA recipients and 16,000 DACA-eligible individuals living in [Alabama](#) and [South Carolina](#) from enrolling in those states’ public institutions of higher education. As noted in Chart 2, Alabama and South Carolina have prohibitive enrollment state policies that actively bar undocumented students from enrolling in the states’ public colleges and universities; however, DACA recipients can enroll in at least some of the public institutions.

Alabama’s [H.B. 56](#), signed into law in June 2011, prohibits students who “are not lawfully present in the United States” from enrolling in any of the state’s public postsecondary institutions.⁷ However, a number of Alabama public community colleges and universities currently [allow](#) DACA recipients to enroll and pay in-state tuition. These institution-level policies likely interpret DACA recipients as eligible for in-state tuition because DACA recipients are authorized by DHS to be in the U.S. In 2017, a report [found](#) that about 390 DACA recipients in Alabama were enrolled in higher education institutions. Without DACA, all undocumented immigrants in Alabama, including current DACA recipients, would be barred by H.B. 56 from enrolling in the state’s public colleges and universities.

South Carolina also bans undocumented students from enrolling in the state’s public postsecondary institutions and receiving in-state tuition. [H.B. 4400](#), signed into law in June 2008, states that an individual “unlawfully present in the United States is not eligible to attend a

public institution of higher learning in this state.” After the implementation of DACA, the South Carolina Commission on Higher Education [determined](#) that DACA recipients are eligible to enroll in the state’s public institutions of higher education. State institutions are [required to verify](#) the students’ DACA protections with the federal government. In 2017, about 660 DACA recipients were [enrolled](#) in higher education in South Carolina.

DACA recipients in South Carolina [must](#) still pay out-of-state tuition rates and cannot receive any public aid. The College Access and Workforce Development Act ([H.3404](#)), a bipartisan bill introduced by State Rep. Neal Collins (R - District 5) in 2019, would [provide](#) DACA recipients with access to in-state tuition and state public aid, as well as access to occupational and professional licensure. According to New American Economy (NAE), the bill would [reportedly allow](#) more than 500 DACA recipients in South Carolina to benefit from in-state tuition, potentially increasing the earnings of South Carolina’s DACA recipients by \$3.5 million annually. Providing in-state tuition to DACA recipients in South Carolina could also [raise \\$780,000](#) in federal income, state and local taxes. Ending DACA would not only block the potential economic contributions of H.3404 in South Carolina, but also prevent current DACA recipients from enrolling in the state’s public colleges and universities.

Alabama and South Carolina would become the only states in the U.S. that actively bar all undocumented students from enrolling in any state public institutions. Only Georgia [currently bars](#) undocumented students, including DACA recipients, from enrolling in three of the state’s top public institutions.

Ending DACA Could Block Access to In-State Tuition in Eight States

The loss of DACA would end access to in-state tuition for current DACA recipients living in Arkansas, Idaho, Indiana, Maine, Massachusetts, Mississippi, and Ohio, as well as most DACA recipients living in Iowa. These eight “Limited to DACA” states allow undocumented students to enroll in public institutions of higher education, but provide access to in-state tuition only to undocumented students with DACA.

Statewide policies in [Indiana \(H.B. 1402\)](#) and [Ohio \(State Statue 3333.31\)](#) actively ban undocumented students from accessing in-state tuition rates. However, in Indiana, a number of public colleges and universities determined DACA recipients qualify for in-state tuition. In Ohio, the Ohio Board of Regents

Chart 2. Access to In-State Tuition and State Financial Aid for DACA Recipients and Undocumented Students in 50 States and the District of Columbia.*

Policy Environment	State	DACA Recipients in State***
Comprehensive Access	California	184,880
	Colorado	14,640
	Connecticut	3,580
	Hawaii	330
	Illinois	34,150
	Maryland	7,960
	Minnesota	5,230
	New Jersey	16,480
	New Mexico	5,770
	New York	28,560
	Oklahoma	6,150
	Oregon	9,760
	Texas	107,020
	Utah	8,590
Washington	16,160	
District of Columbia	590	
Accessible	Florida	25,090
	Kansas	5,620
	Kentucky	2,720
	Nebraska	2,950

[concluded](#) on July 31, 2013 that DACA recipients qualify for in-state tuition in all of the state's public colleges and universities if the students meet all other state residency conditions. In 2017, an estimated 1,350 DACA recipients were enrolled in Indiana's institutions of higher education and 640 in Ohio. A decision by the administration to once again end DACA would block all of the [12,810 DACA recipients](#) living in Indiana (8,920) and Ohio (3,890) from accessing in-state tuition, as well as Ohio's [8,000 DACA-eligible individuals](#).

In the states of [Arkansas](#), [Idaho](#), [Maine](#), [Massachusetts](#), and [Mississippi](#), DACA recipients have access to in-state tuition in all or in at least some public institutions. Arkansas' [H.B. 1684](#), passed on April 10, 2019, allows the state's DACA recipients who meet certain requirements to pay the in-state tuition rate in all the state's public institutions. In Idaho, [S.B. 1280](#) prompted the Idaho State Board of Education to [permit](#) public institutions to extend access to in-state tuition to DACA recipients. DACA recipients meet Idaho's "lawful presence" requirement as defined under [Idaho Code 67-7901](#). In Maine, institutions within the University of Maine system [can provide](#) DACA recipients with access to in-state tuition if they meet the state's residency conditions. The Massachusetts Department of Higher Education [issued a memorandum](#) on November 21, 2012 stating that DACA recipients are eligible for in-state tuition at all public colleges and universities in the state. Finally, Mississippi [allows](#) DACA recipients access to in-state tuition at certain state public institutions. Ending DACA would block more than [14,200 DACA recipients](#) and [32,000 DACA-eligible individuals](#) living in these five states from accessing in-state tuition.

In addition, [Iowa](#) regent guidelines [permit](#) the state's public institutions to extend in-state tuition to individuals with "an immigrant status," potentially allowing the state's DACA recipients to pay in-state tuition if they meet the other residency requirements. Without DACA, current DACA recipients in Iowa might only be eligible to pay in-state tuition at

	Rhode Island	900
	Virginia	9,540
Limited	Arizona	24,120
	Delaware	1,300
	Iowa **	2,440
	Michigan	5,270
	Pennsylvania	4,540
Limited to DACA	Arkansas **	4,530
	Idaho **	2,810
	Indiana **	8,920
	Maine **	50
	Massachusetts **	5,560
	Mississippi **	1,330
	Ohio**	3,890
No State Policy	Alaska	80
	Louisiana	1,730
	Montana	70
	Nevada	12,180
	North Dakota	120
	South Dakota	190
	Vermont	20
	West Virginia	110
	Wyoming	510
Restrictive	Georgia	20,810
	Missouri	3,030
	New Hampshire	270
	North Carolina	24,230
	Tennessee	7,720
	Wisconsin	6,600
Prohibitive Enrollment	Alabama **	4,030
	South Carolina **	5,810

*These classifications represent an estimation as of June 17, 2020 based on known policies at the state and/or institutional level.

**States with policies expected to be significantly impacted by a decision to end DACA.

***For the source on DACA recipients by state, please see: "[Approximate Active DACA Recipients - December 31, 2019](#)," U.S. Citizenship and Immigration Services (USCIS) (April 20, 2020).

the North Iowa Area Community College. If DACA ends, current DACA recipients in these eight states would be required to pay the more expensive out-of-state tuition rates.

A Permanent Solution is Needed

DACA serves as an opportunity portal for thousands of undocumented students to obtain higher education, eliminating barriers to enrollment and permitting DACA recipients to pay in-state tuition rates. DACA also allows thousands of recipients throughout the U.S. to work legally to pay for tuition or other costs associated with a higher education. The Supreme Court decision to maintain DACA in place and potentially open applications for initial (new) DACA requests is a victory for educational access in the U.S.

State policies that provide access to in-state tuition for DACA recipients, as well as undocumented students, help students reach their full academic potential and subsequently contribute to the state's economy. As highlighted by a Presidents' Alliance on Higher Education and Immigration/New American Economy (NAE) [report](#), "studies have found that Hispanic/Latinx non-citizens living in states with in-state tuition policies are anywhere from 31 percent to 54 percent more likely to be enrolled in higher education than their peers in other states." The report also [found](#) that undocumented students in the U.S. comprise 2% of all students in higher education (about 454,000 students), with DACA-eligible students comprising 1% (about 216,000) of all students in higher education. The Supreme Court's decision to maintain DACA could allow thousands of DACA-eligible individuals to make an initial (new) DACA request, gaining access in certain states to enrollment in public postsecondary institutions or in-state tuition. However, in light of the Trump administration's [signals](#) that it will attempt to rescind DACA for a second time, states must still implement policies to ensure its undocumented students have access to in-state tuition and state financial aid.

In the end, Congress must act. As Justice Brett Kavanaugh [stated](#) in his dissenting opinion to the Supreme Court's ruling on DACA, "[t]he Court's resolution...cannot eliminate the broader uncertainty over the status of DACA recipients." Congress must now pass legislation to protect undocumented immigrants who came to the U.S. as children, ensuring that they earn permanent legal status if they meet certain requirements, including attending or graduating from an institution of higher education, serving in the military, and/or working for a set period of time. A legislative solution should also repeal of Section 505 in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which limits access to higher education for undocumented students. The administration's potential second rescission of DACA will directly impact the higher education community, including thousands of students who currently rely on DACA to access higher education.

The impact of fully rescinding DACA on access to higher education underscores the urgency of the moment and the many lives being kept in continuous limbo. The time to pass concrete policy changes at the state and federal level is now.

Endnotes

¹ The Migration Policy Institute (MPI) [estimates](#) that about 66,000 individuals nationwide who were unable to apply for DACA because they turned 15 after the Trump administration rescinded DACA in September 2017 could now be eligible to apply for an initial DACA request as a result of the June 18, 2020 Supreme Court [decision](#) in *Department of Homeland Security, Et Al. v. Regents of the University of California, Et Al.*

² To be eligible for DACA, young undocumented immigrants must have arrived in the U.S. before the age of 16, lived continuously in the U.S. since June 15, 2007, have no felony, significant misdemeanor, or multiple misdemeanor convictions, and be in high school or a high school graduate or veteran, among [other requirements](#) established by U.S. Citizenship and Immigration Services (USCIS). Since 2012, over 800,000 individuals have obtained DACA. Currently, there are [almost 650,000](#) active DACA recipients.

³ DACA recipients enrolled in public postsecondary institutions in other states could also be impacted by the elimination of DACA.

⁴ USCIS data [shows](#) that about 39,370 DACA recipients live in the following ten states: Alabama (4,030), Arkansas (4,530), Idaho (2,810), Indiana (8,920), Iowa (2,440), Maine (50), Massachusetts (5,560), Mississippi (1,330), Ohio (3,890), and South Carolina (5,810). A number of DACA recipients in these ten states might already have a postsecondary degree. A [2017 MPI report](#) found that 18% of DACA recipients in the U.S. were enrolled in a postsecondary institution, including sizeable percentages in Alabama (10%), Arkansas (9%), Indiana (15%), Massachusetts (26%), Ohio (16%), and South Carolina (11%). The report did not provide state-level data for Idaho, Iowa, Maine, and Mississippi.

⁵ MPI [estimates](#) that about 60,000 DACA-eligible individuals live in the following eight states: Alabama (7,000), Arkansas (8,000), Iowa (4,000), Idaho (4,000), Massachusetts (17,000), Mississippi (3,000), Ohio (8,000), and South Carolina (9,000). MPI does not provide state-level estimates for Indiana and Maine.

⁶ Undocumented students in Iowa might still have access to in-state tuition at the North Iowa Area Community College.

⁷ H.B. 56 is a sweeping immigration enforcement measure, which also includes provisions authorizing law enforcement to ask anyone they stop about their immigration status and requiring school districts to determine the immigration status of all students.

Authors:

Christian Penichet-Paul, Director, Higher Ed Immigration Portal, Presidents' Alliance on Higher Education and Immigration; and Ivana Lopez-Espinosa, Research Assistant, National Forum on Higher Education for the Public Good, M.A. Student in Diversity and Social Justice in Higher Education at the University of Michigan.