

## Campus Checklist to Prepare for Court Decisions on DACA

December 10, 2020

On December 4, 2020, a federal district court ruled in *Batalla v. Trump* that the Trump administration [must restore](#) Deferred Action for Childhood Arrivals (DACA) to its original terms. The court's decision rescinds the [most recent memorandum](#) that severely limited and undermined DACA, effectively restoring the terms and eligibility of the original 2012 DACA memo. Under the decision, U.S. Citizenship and Immigration Services (USCIS) must: (a) accept initial applications for DACA for eligible applicants; (b) accept applications to travel internationally for educational and other grounds; and (c) restore existing work permits to two years, instead of one. USCIS updated its [DACA page](#) on December 7, 2020 to reflect the court's decision. Over [one million](#) current and potential DACA recipients could benefit.

Though the court's decision is positive news, we expect the Trump administration to appeal. It is unclear whether any movement will occur before the incoming Biden administration. Additionally, the legality of DACA is [still on the table](#). There is another court case by state's attorney generals in the Southern District of Texas that threatens the continued existence of DACA. A hearing for that case is scheduled for December 22, 2020. We expect a potentially negative decision to come in late December or in January.

Campuses can support their students by providing information about the *Batalla* decision restoring DACA and planning for a potential negative court decision in late December or in January. The Presidents' Alliance on Higher Education and Immigration (the Presidents' Alliance) convened a group of campus, higher education, and immigration advocacy stakeholders, which helped inform the following checklist representing the top six priorities campuses can consider engaging in to support students and prepare for a new court decision:

### **Raise Awareness About the *Batalla* Decision**

- Reach out to students with information about the implications of the *Batalla* decision to restore DACA.
- Provide students with information about resources on campus and in the community related to legal screenings and financial support for application fees.

### **Expand and Continue Legal Representation and Screenings**

- Partner with nonprofits, private attorneys, campus clinics, and others.
- Identify existing and emerging paths to legalization for students.
- Establish a relationship with the office of your Member of Congress, including the office's constituent services staffer.

### **Audit and Update Internal and Institutional Policies**

- Decouple institutional admissions, aid/funding, and tuition policies from DACA; clarify admissions and financial aid policies for undocumented students on your website.

- Ask local, national, and field-specific organizations that provide scholarship/fellowships to expand eligibility access to undocumented undergraduate and graduate students.
- Expand eligibility for admissions, tuition, and aid to undocumented students if not already the case; decouple eligibility from DACA status (if an existing requirement).
- Establish local, state, and regional collaboratives with other higher ed institutions.
- Ensure focus on access and funding includes undocumented graduate and professional students.
- Prepare a Comprehensive Communications Plan**
  - Create a communications plan for pre- and post-decision.
  - Participate in unity or coalitional messages in support of DACA post-decision.
  - Meet with your or establish a campus immigration task force.
- Promote Holistic Support Services and Career Guidance**
  - Provide and communicate the availability of holistic support services, including mental health support, grants, food security, career guidance, etc.; establish or direct students to a portal where information is available.
  - Review and update existing financial aid appeal and adjustment processes.
  - Share alternative income options with students and campuses.
- Develop Rapid Response Plan**
  - Develop a rapid response network for steps to take after a Southern District of Texas court decision.
  - Train students, faculty, and staff on their rights in response to ICE enforcement on campus.
  - Utilize FERPA privacy protections to protect immigrant student information.

**Raise Awareness About the *Batalla* Decision.** The court's decision in *Batalla v. Trump* has a tremendous positive impact for about [216,000 DACA-eligible](#) individuals enrolled at higher education institutions. DACA will provide these individuals the opportunity to obtain financial security, including access to driver's licenses and work permits. Colleges and universities must reach out to DACA and DACA-eligible students to share information with them about the implications of the *Batalla* decision. They could also provide students with information about resources on campus and in the community related to [legal screening](#), financial support for the application fees, and other support.

Individuals who are considering applying for DACA for the first time should consider seeking legal assistance to discuss their eligibility and potentially have an attorney or representative assist them in preparation of their applications. Individuals should also begin to save or look for financial assistance for the application fee.

**Expand and Continue Legal Representation and Screenings.** Campuses should continue to develop and expand existing access to legal representation for immigrant students and DACA recipients on campus, including non-profits, private attorneys, pro bono representation, campus-based clinics, and partnerships with other institutions that have legal clinics. Campuses should arrange presentations on campus from

qualified legal service providers on campus to conduct screenings, intakes, and general informational sessions.

Legal advocates recommend individualized screenings for all DACA recipients, Temporary Protected Status (TPS) holders, and other undocumented & immigrant students. Even if a student was screened in the past, new options may surface due to an individual's current field of study or work, change in family circumstances, or other life changes. DACA recipients who have held DACA since before the age of 18 can likely explore a range of temporary visas and pathways to lawful permanent status (LPR) (also known as a "green card"). For an example of these types of pathways, see [The D-3 Waiver and H-1B Visa: FAQ for Students](#), FAQs related to H-1B visas and Dreamers.

Consider reaching out to your Member of Congress proactively to connect with the office to request legal support and assistance for DACA recipients, including establishing a relationship with that Member's case manager. Finally, campuses should consider building alliances and coalitions with other higher ed institutions on a local, state, or regional basis, including sharing resources, hosting events, and supporting students on a cross campus basis.

**Audit and Update Internal and Institutional Policies.** Campuses should review internal and institutional policies to ascertain whether admissions, financial aid, donor-funded, scholarship or other grant programs are dependent on a student's DACA status. If so, campuses should update policies wherever possible to decouple DACA status from eligibility and to ensure DACA recipients (and other undocumented students) are eligible and have access.<sup>1</sup> Institutions are strongly encouraged to improve access, funding and support for undocumented students not only at the undergraduate level, but also for those seeking to pursue graduate and professional programs.

**Advocate for Expanding Eligibility for External Fellowships and Programs, and Advocate for Updates to State Policies.** Work with local, field-specific, and national scholarship programs that your students may apply to and advocate to those scholarship organizations for the expansion of eligibility to *all* undocumented students to ensure that DACA recipients will still have access to those programs without DACA. This action step will also benefit other undocumented students. For example, see pages 3-4 of [Higher Ed Guide to Tuition, Financial Aid & Other Funding for Undocumented Students FAQs](#).

Review your state policies as they relate to the eligibility of undocumented students for in-state tuition, state financial aid or scholarships, professional and occupational licensure, state IDs, and driver's licenses. Are DACA recipients and/or undocumented students eligible? Is eligibility dependent on DACA status? Are there opportunities to advocate extending eligibility to no longer require DACA? Campuses should consider working together across the state and with local advocates and state legislatures to expand eligibility.

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<sup>1</sup> For example, this new University of New Mexico *Lobo First Year Promise* program is open to all state residents regardless of immigration status: <https://promise.unm.edu/>

**Prepare a Comprehensive Communications Plan.** Campuses should plan on a comprehensive communications plan in the case of a negative court decision rescinding DACA, including campus messaging, specific outreach with affected students, communications with alumni and other stakeholders, and public statements. The Presidents' Alliance will collaborate with other higher education groups and immigration advocacy organizations on the development of unity statements (across sectors, including business, religious, military, civic and other leaders) as well as on the provision of sample campus messaging and other resources. The American Council on Education [developed](#) a stand-alone website to support campuses with DACA messaging, advocacy, and other resources, including from the Presidents' Alliance, and others. If your campus has not yet created an immigration task force or working group, consider forming one now.<sup>2</sup>

**Promote Holistic Support Services and Career Guidance** Campuses should ensure that holistic, non-immigration support services are available for DACA recipients, undocumented students, and mixed-status families. These wrap-around services include mental health support, emergency grants, food security programs, flexible financial aid packages and payment plans, career guidance, staff and faculty liaisons, student support groups, and more. Campus should share resources on alternative income, funding, and career pathways; and may want to explore the creation of non-employment based fellowships to support undergraduate and graduate undocumented students. Campuses should also develop best practices on how to share these resources with students (including the development of a centralized hub, center, or staff point of contact), including campus-wide emails, informational sessions, presentations during class, and one-on-one sharing by campus support staff.

Campuses may want to review their existing financial aid appeals processes to determine it will address work authorization loss and changes in aid for undocumented students. For example, University of Connecticut anticipates utilizing their [existing process](#), but plan to make changes to reflect aid for undocumented students.

Check out the webinars on alternative income and career pathways sponsored by the Presidents' Alliance, TheDream.US, Immigrants Rising, and Democracy at Work. For the webinar geared toward students, check out a [recording](#) of the webinar, its corresponding [Powerpoint](#), and shared [resources](#). You can also review [The Non-Citizen's Guide to Entrepreneurship](#) by the New York State Youth Leadership Council.

**Develop Rapid Response Plan.** Campuses should develop a rapid response care team, and outline the steps that they and other stakeholders will take immediately after a potential negative court decision, including messaging, outreach to students, and protecting students from deportation. The Presidents' Alliance plans to work with members' institutions and other organizations to help develop the elements of a

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<sup>2</sup> You may want to consider creating a cross-campus immigration task force encompassing undocumented and international students including those tracked in SEVIS and those who are not, such as H-4 students), TPS recipients, refugees, and other immigrant populations—which brings together administrators/staff, faculty, and students to share information and resources on campus, and identify emergent campus and student needs.

national rapid response network which should assist campuses in their individual preparations.

Ensure that all staff, faculty, and students are provided information on campus protocols regarding ICE officers coming onto campus. Provide training for campus police and Know Your Rights information and training opportunities for students and community members.

Provide training and information to students and campus personnel on how FERPA protections of undocumented students' personal identifiable information **still** apply regardless of the Southern District of Texas court decision. The Presidents' Alliance released an updated [FAQs](#) on ICE enforcement on campus to include additional state contexts and resources.

For additional tips for how campuses can support DACA recipients and undocumented students, see these [suggested actions](#) by Professor Roberto Gonzales, Director of the [Immigration Initiative at Harvard](#), [Top 5 FAQs for Public and Private Colleges and Universities](#) or Immigrants Rising's [Top 10 Ways to Support Undocumented Students](#).