

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

<https://www.fwd.us/news/daca-employer-guide/>

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IN REGARD TO THE RECENT COURT DECISION ON DACA

BACKGROUND

On July 16, 2021, Texas federal court Judge Hanen published his opinion on the DACA case, *Texas v. United States*, which challenged the legality of the DACA policy. Judge Hanen's opinion is that DACA is not a lawful policy, but pending future litigation, will allow those with existing DACA to continue to renew. No first-time initial DACA requests will be granted at this time. This court order in no way invalidates any existing DACA work permits or travel authorization.

Employers with DACA recipients on staff can rest assured that USCIS will continue accepting and processing DACA renewal requests until there is a court order saying otherwise.

Meanwhile, USCIS has assigned more adjudications officers to process DACA filings recently to address severe backlogs. However, your employee may need support requesting expedited processing of DACA renewal and work authorization filings to ensure their timely renewal, among other things.

RECOMMENDATIONS

Employers can support their DACA recipient employees and engage in a variety of ways. The following suggested actions include ways to support DACA recipient employees within your company or organization, and support the DACA policy 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 or accredited representative.
- 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 will reuse previously submitted biometrics in order to process work authorization applications.

2. Press on the new Administration and Congress to support legislation with a pathway to legal status for immigrants.

- Companies with contacts to Senate and House offices and the Administration should urge them to support DACA legalization legislation.

3. Highlight your company's support for DACA recipients across your platforms, such as your website and your social media 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 DACA recipients.

- Call on Congress to pass a permanent legislative solution for Dreamers. This can include calling for the Senate to pass the House-passed Dream and Promise Act, which would extend protections to DACA recipients and TPS holders.
- Submit an opinion editorial ("op-ed") 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.](#)

PAST SUPPORT FROM THE BUSINESS COMMUNITY



BR Business Roundtable

Business Roundtable:

"We're proud to call Dreamers across the country our colleagues, friends and neighbors, and forever inspired by their resilience and strength," said Business Roundtable Immigration Chair Tim Cook, Apple's CEO. "Dreamers are as American as anyone born in this country, and our laws should reflect that. Once again, we urge Congress to pass bipartisan legislation that creates a pathway to citizenship, and ends the uncertainty and fear our laws have imposed on these young people for far too long."

COALITION *for the* AMERICAN DREAM

Coalition for the American Dream:

"We have seen time and again that the overwhelming majority of the American public of all political backgrounds agrees that we should protect Dreamers. DACA recipients have been critical members of our workforce, industries, and communities for years now. Their work and commitment to our companies, their families and communities are critical to our nation's strength, especially since there are tens of thousands of DACA recipients working as front line doctors and nurses and in other critical industries fighting COVID-19."



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.”

Uber

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.”



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.”



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.”

EMPLOYEE SUPPORT

For more detailed ways to support your DACA employees in the everyday work environment, please review the suggestions and resources below.

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.
2. Serve as a liaison to your Member of Congress to facilitate expedited review of your employee’s employment authorization document (EAD) application if their expiration date is nearing.
 - Contact your U.S. Senator or Representative, with your employee’s written consent, and request that they ask USCIS to expedite the EAD application. While USCIS does not currently process formal expedite requests from DACA requestors, it is our understanding that USCIS may still consider circumstances-- such as those described on USCIS’ expedite request webpage-- that



Diane Gherson, 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.”



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.”



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.”



warrant more expeditious processing. We therefore encourage you to include any information that may be helpful to USCIS in processing your employee's EAD filing in your correspondence with your member of Congress' office. If your employee has not yet filed their renewal DACA request and EAD application, you can provide a letter of support explaining the exigent circumstances for your company, again in line with USCIS' expedite criteria, if any, that should be included as part of the cover letter of their filing. (Please note that employees have no legal obligation to inform you of the expiration date on their EAD).

3. 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).
4. Arrange **employee-centered, supportive offboarding programs** for employees unable to renew their work authorization or for those whose DACA and work authorization lapse while their renewal filings are pending in USCIS backlogs, 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.
5. Prepare for the possibility of a federal appellate court decision in the Fifth Circuit upholding the *Texas v. US* case decision against the legality of DACA. 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.
6. 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.
7. **Host a regular call** with senior management, HR, and directly affected individuals to ensure that the company is being attentive to employees' needs.
8. 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.

9. 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.
10. 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 programs** 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 [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](#) 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