

From: Todd Schulte, FWD.us  
Date: November 2, 2022  
To: Democratic Elected Officials, Policy-Makers and Staff  
Re: DACA Update - Timeline for Legislation to Prevent Disaster

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### **Summary**

We want to provide a clear - and stark - assessment of the current trajectory for DACA and DACA recipients. **In summary: DACA has been ruled illegal by the 5th Circuit, the program will be fully terminated very soon, renewals for current DACA recipients will end, and if either the House and/or the Senate change control in the midterm election, the legislative window to prevent total disaster for nearly 600,000 current DACA recipients (along with more than 1 million of their family members and nearly 400,000 DACA-eligible individuals) is this lame duck session.**

Four weeks ago, we received the extremely bad ruling from the 5th Circuit Court of Appeals ruling the DACA program unlawful—specifically, the court made clear that the 2012 DACA memo - the policy under which 600,000 young people have the ability to work and protections from deportation - is illegal. Immediately thereafter, the Texas district court determined the new DACA rule, which was set to take effect on October 31st, must be enjoined - barring nearly 400,000 young people from accessing protections. If either the House or the Senate flips to Republican control, ***this lame duck period before the end of 2022 may be the last chance to pass bipartisan legislation to protect Dreamers, paired with investments in border security.***

Given the realities of what control of one or both chambers of Congress changing in January means, we want to be clear: while it is good that in the past, the House and the Senate have, in different Congresses, passed both protections for Dreamers and increased border security, what must happen right now is that everyone who is committed to protecting DACA recipients must work tirelessly to pass a narrow bipartisan legislative solution that pairs an earned pathway to citizenship for Dreamers with investment in border security. [This is what the American public wants on both counts](#), given widespread support for these policies in 2022 — and we believe that there is a majority to get this done.

### **So What Happens When DACA Ends?**

There are approximately 600,000 current DACA recipients, and approximately 400,000 more individuals who would qualify for DACA but are currently prohibited from doing so. Another 1 million individuals are DACA recipients' family members or live in households with them—including hundreds of thousands of U.S. citizen children of DACA recipients. The end of DACA is a disaster for millions.

Once renewals are halted, [a new group of 1,000 existing DACA recipients will lose work authorization - and thus be forced out of their jobs - each and every single business day for the next 24 months.](#) This would cause terrible, unneeded human and economic hardship for millions of individuals—the consequences of forcing this many people not just from their current job, but excluding them from legal employment moving forward would be extremely harmful for the U.S. workforce and our recovering economy. The average DACA recipient came to this country at the age of 6, and they have been here 23 years; nearly all have jobs, and many have children. The devastation to their families' income will in many cases also be coupled with the loss of healthcare and access to basic necessities like a driver's license. People will lose their homes. Millions of lives will be thrown into chaos.

While we expect President Biden would take efforts to shield most DACA recipients from deportation, that is not the same as affirmative protection—and that could go away at any point with a new President or subsequent court ruling. There are important and critical executive actions President Biden should take on many immigration issues. There are some that may help some DACA recipients - but **none of them have any real chance of surviving in the courts and that provide a significant number of DACA recipients with the benefits they currently have today, including work authorization.**

This would be morally and economically harmful at any point - but expelling 22,000 DACA recipients every month for two years from the workforce would be particularly absurd while the U.S. struggles with continued inflation. Each month, this would mean a new group of 1,600 doctors and nurses working in healthcare, 800 teachers and teacher aides, and 600 personal care workers in child or senior care would be forced out of the workplace. *Every day, news outlets across the country* will be filled with new stories of DACA recipients, who have spent decades living in their communities in the United States, losing their jobs at alarming rates.

Regardless of who is actually to blame, many of these families, the media, and the American public will look to blame the current President and the Democratic Party - which had unified control of government for at least two years - and failed to secure protections for DACA recipients, a group of individuals and a policy with widespread bipartisan support in this country. Employers forced to fire DACA recipients will make clear that their hands were tied, and point fingers. Employers across industries and major corporations who have long and loudly [voiced the challenges facing DACA recipients](#) will want to make clear that without work authorizations, they have no choice but to fire their DACA staff.

### **The Legislative Path Forward is the Only Path Forward**

In the last week, House Republican Leader Kevin McCarthy once again made clear that he will not put forth any legislation that provides a permanent solution for DACA recipients, including legislation that includes both [protections for DACA recipients paired with increased border security](#).

**It should never have come to this; Congress should have passed legislation many years ago, but now, if the goal is to do everything possible to pass legislation before DACA renewals are terminated, then two scenarios exist:**

Scenario 1: Democrats lose control of the House and/or the Senate during midterm elections.

- **If this happens, lame duck will be the necessary window Democrats have to protect DACA recipients and provide the permanent legislation that Dreamers desperately deserve. Democrats will only have seven weeks to pass a solution for DACA recipients into law.**
- Legislation must have to be bipartisan, and it will have to be a compromise.
- Our primary goal is to solve the crisis for those eligible for Dreamers, and one solution is pairing that with some border security measures.
- Another solution is a still narrow, but slightly broader legislative package could include components like Dreamer protections, the Farm Workforce Modernization Act, spending on border security and related measures, and potentially reforms around STEM students, visa recapture, and eliminating per-country caps.
- To achieve this, we need to secure 60 votes in the Senate -- so at least 10 Republicans -- and need Democrats to do all they can to make this a must-pass priority in lame duck and do everything in their power to get this done--**this requires starting bipartisan negotiations**

***ASAP. Messaging-only bills with no chance of passage into law will not stop the crisis that is coming.***

Scenario 2: Democrats maintain control of the House and the Senate.

- In this case, there may be some additional time period for Congress to act and protect DACA recipients, but the possibility of DACA being terminated very soon remains high.
- It is likely that DACA will again go before the Supreme Court. Experts who follow this case predict that it is unlikely the program will survive another fight at the Supreme Court.
- While awaiting this decision, nearly 400,000 of prospective DACA recipients will be waiting in limbo, in addition to the [more than 100,000 high school graduates that do not meet the current DACA eligibility criteria](#).

DACA has been ruled illegal. A very conservative judiciary is poised to terminate the program once and for all when they see fit — and only Congress can stop a catastrophe. Doing so likely requires passing legislation in the next seven weeks before the end of 2022 months; failure will play out as a disaster for many, many years.

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