

# Preparing for Upcoming Changes to *DACA Work Authorization*

A guide for employers to understand and prepare for changes to the validity of DACA work permits, beginning with imminent court orders in Texas.

## What You Need To Know

- Any day now, Judge Hanen will issue implementation guidance on how work authorization will be ended for Deferred Action for Childhood Arrivals (DACA) recipients in Texas. Changes to work authorization for DACA recipients in other states could follow, depending on litigation and changes in the administration's policies.
- DACA recipients should consider renewing their deferred action and employment authorization applications as early as possible to avoid processing delays, and be aware of a sharp increase in the number of DACA recipients detained and removed from the U.S. under this administration.
- There are steps that employers can take **now** to protect their workforce, minimize disruptions, and help employees with DACA or other vulnerable immigration statuses access more stable protections.

## State of Play on DACA

The DACA program has faced [legal challenges](#) for nearly a decade. In September 2023, Judge Andrew Hanen in the Southern District Court of Texas issued a ruling finding that parts of the DACA rule violated immigration law, but the Court allowed current DACA recipients to continue to renew their protections while the case went through appeals.

The Fifth Circuit Court of Appeals upheld Judge Hanen's decision, but limited the impact to the state of Texas (the only state found to have shown harm), and determined that DACA recipients in Texas could keep their protections from deportation but *not* their work authorization. The case was sent back to Judge Hanen to determine how to implement the decision.

**This means that, at some point soon, DACA recipients living in Texas will not be allowed to work legally despite being DACA recipients.** At this stage, the decision does not impact residents of any other states. None of the parties involved petitioned for Supreme Court review, so there is no further legal recourse in this case.

**As of the date of publication, nothing has changed, and DACA recipients with valid work permits can continue to work.** We are still waiting on Judge Hanen to issue directions on how to implement this decision, which could come any day. All parties involved have briefed the Court with recommendations. (More details on potential implementation approaches below).

In order to maintain active DACA and work authorization, legal experts recommend that DACA recipients submit renewal DACA requests and work authorization applications *as soon as possible* to account for [mounting processing delays](#); USCIS will accept renewal filings submitted [as early as 150 days](#) before a current DACA work permit is set to expire. Additionally, some DACA renewal processing may be paused for recipients from countries subject to [full and partial travel bans](#).

It is important to note that, while DACA should provide protection from detention and removal barring DACA termination, [recent reports](#) indicate a significant increase in DACA recipients being arrested and removed from the U.S. under the current administration.

## What Comes Next

The Hanen Court's implementation order will determine *when* and *how* DACA recipients in Texas will lose work authorization. The implementation order could:

- Make existing work permits invalid *immediately*
- Allow permits to remain valid until they expire
- Provide a 'sunset' period, giving current recipients one or two renewal cycles before permits are invalidated

Additional actions could impact DACA recipients in the rest of the country. Other states could request to be covered by this decision, or launch similar legal challenges. The Trump administration could move to further restrict DACA by formally closing initial requests (they are currently being accepted but not processed), eliminating the work authorization component entirely, or attempting to end DACA as a whole.

The uncertain future of DACA means that all employers should prepare for changes that could impact their workforce.

## How to Prepare

The most important guidance for any business that employs foreign workers is **to be direct and specific about what support is available, who qualifies, and the process for requesting support**. This means telling employees plainly if you will consider sponsoring them for a visa or green card; what costs you are willing to cover; if this support applies to only certain roles in the company or categories of work-authorized immigrants; and details on who they should contact and how, if they want to access resources and request support.

Businesses that employ individuals who are working in Texas with DACA work permits should consider developing contingency plans. Would you support relocating employees within or outside of the U.S.? What severance will you offer if you have to let them go? Will you hold their spot and pay for legal consultations to determine whether they qualify for work authorization through another immigration avenue? Workers without valid work authorization may be able to be placed on unpaid leave until they can secure work authorization through another immigration avenue.

**Note: You cannot terminate an employee simply because of the possibility that their work permit could become invalid in the future.**

We strongly encourage helping employees explore [alternative immigration options and pathways](#). You may be able to sponsor them for a more secure visa or even a green card or support them if they have another pathway to adjust their status. Immigration consultations are essential to help you and your employees determine what options they may have. You can work with an employment lawyer or a local legal services organization that specializes in DACA employment cases to provide consultations for employees.

**For more information about supporting employees with DACA, [read our full guide here](#).**

**If you do not know if your employees have DACA, you can provide information and opportunities for support generally, and invite people to reach out if they want to participate.** For example, you could share that changes are coming for DACA recipients working in Texas and what support you are providing for impacted individuals, and invite them to come forward if they are interested. Many employers distribute information and opportunities through informal networks like employee resource groups. You can engage managers and team leaders to find the best networks where information could reach impacted individuals.

Note that employees are not obligated to reveal their current status and, in the current climate, may be very fearful about revealing this information or engaging further.

## Additional Resources

**However you prepare, your team must stay updated about changes to work permit validity and process.** FWD.us and the Coalition for the American Dream will continue to provide updates and support, so sign up, reach out, and keep in touch.

**For help exploring options for your employees:** The [Legal Pathways that Work](#) initiative offers free consultations for DACA recipients and others who are enrolled in or have graduated from college in Texas. The [Path2Papers](#) project offers free consultations for employers and DACA recipients to offer technical support and explore alternative visa and legalization options, with a priority on employers in the San Francisco Bay Area and near Cornell University.

**For help preparing your team:** FWD.us has produced numerous guides for employers, including our [Knowing Your Rights in the Workplace](#) and [Supporting DACA Team Members](#) guides. To stay updated on legal developments, check our regularly updated [DACA Court Case blog](#). If you want to learn more about workplace policies that you can implement to best support members of your team directly impacted by immigration policies, e-mail Ali Procopio, Director of Education & Workforce, [ali@fwd.us](mailto:ali@fwd.us).

## About Us

[FWD.us](#) is a policy organization working to advance better and more politically resilient solutions on criminal justice and immigration. For over a decade, FWD.us has advanced criminal justice and immigration reforms that expanded freedom and opportunities to tens of millions of people in the United States.

[The Coalition for the American Dream](#) is an organization of businesses, trade associations, and other groups representing every major sector of the U.S. economy and more than half of American private sector workers. Our more than 100 top companies and trade associations also proudly employ thousands of Dreamers who came to this country as children and were raised as Americans.