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## The Uncertain Future of DACA

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The Consideration of Deferred Action for Childhood Arrivals (DACA) program continues to be under attack. The DACA program has deferred deportation and provided employment authorization for nearly 700,000 - 800,00 individuals living in the United States. Currently there is a pending threat from Attorney Generals in ten states: Texas, Alabama, Arkansas, Idaho, Kansas, Louisiana, Nebraska, South Carolina, Tennessee and West Virginia. The Attorney Generals in these ten states sent the Department of Justice a letter requesting that the Department of Justice phase out the DACA program. The Attorney Generals argue that DACA program is unlawful because “the Executive Branch does not have the unilateral power to confer lawful presence and work authorization on unlawfully present aliens simply because the Executive chooses not to remove them”.

The Attorney Generals are proposing that the executive program be phased out by allowing the program to naturally expire and does not require the deferred status or the employment authorizations already issued to be rescinded immediately. Instead, those that already have deferred status and a work permit would continue to have it until their DACA naturally expires. Individuals would not be allowed to renew their DACA status. The letter from the Attorney Generals specifically states that their request “does not require the federal government to remove any alien.”

The Attorney Generals state that if the Executive Branch does not rescind the DACA program by September 5, 2017, then they will challenge the DACA program in court.

The President has commented on the letter from the Attorney Generals and stated that the decision about whether to rescind DACA is a decision that he as a President will need to decide. He stated that it is a decision that requires a lot of thought and he is not ready to make a decision on the future of DACA as of yet. The Secretary for the Department of Homeland Security, John Kelly, has expressed a willingness to keep the program, but has suggested that the Attorney General Jeff Sessions may not agree to keep the DACA program intact. At this time, we do not know if the Attorney Generals from those ten states will actually go forward and challenge the DACA program in court or whether the Executive Branch will act before September 5, 2017.

For now, DACA continues to remain intact. Initial DACA applications and renewals continue to be approved. However, DACA applicants should be made aware the immigration enforcement has increased. An individual who has DACA status and forgets to renew their DACA application and is picked up by ICE can be placed in removal proceedings because they no longer have DACA’s protection to grant them deferred status from deportation. It is imperative that DACA applicants

continue to renew their DACA status on time. It is also important for DACA applicants to be aware that if they commit any felony or even a misdemeanor such as a DUI or domestic violence, USCIS will revoke their DACA status because they are no longer eligible for DACA's protection. These individuals may then be placed in removal proceedings and ordered removed from the only country that they have known.

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