

Keep Dreaming: DACA is no DREAM Act

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On December 8, 2011, the DREAM Act (acronym for Development, Relief, and Education for Alien Minors) passed the U.S. House of Representatives, but failed to reach the 60 vote threshold needed on the Senate floor by just several votes. This was an enormous blow to public supporters and advocates of the proposed legislation, and the immigrant community who would have reaped its benefits.

The following summer, President Obama announced his administration's plans to provide young people who would have otherwise been eligible for relief under the DREAM Act with a form of "deferred action" – a promise to not deport them and the chance to apply for work authorization. When Obama's plan, the Deferred Action for Childhood Arrivals (DACA) went into effect on June 15, 2012, the number of applicants soared in September and October of 2012, but then significantly dropped into a steady decline.



Since its implementation, more than half a million young people have benefitted from DACA provisions. At DACA's one year anniversary, the Center for American Progress released a comprehensive study of program, analyzing the demographic makeup of DACA applicants and the general eligible population. One goal of this report was to identify what portion of the eligible population had already applied for DACA. "Of those immediately eligible for DACA, a full 61.2 percent have applied—a remarkable feat in just one year."

The Immigration Policy Center also released some preliminary findings on a study of DACA recipients, finding that these young people were more economically and socially incorporated into their communities than their undocumented counterparts. The study found that "[a]pproximately 61% of DACA recipients surveyed have obtained a new job since receiving DACA, Meanwhile, over half have opened their first bank account, and 38% have obtained their first credit card. Additionally, 61% have obtained a driver's license, which has likely widened educational, employment, and other options for these young adult immigrants." <http://www.immigrationpolicy.org/just-facts/how-daca-impacting-lives-those-who-are-now-documented>

But DACA is no DREAM Act. As immigration attorneys, we see that this is surprisingly misunderstood by the public over a year since DACA went into effect. DACA provides no pathway to citizenship and must be renewed every two years. While recipients of DACA are considered to be in "lawful status," they are not technically "lawfully present" (a nuance of immigration law distinguishing the "haves and have-nots"). Some states have used this distinction to deny beneficiaries of DACA driver licenses. DACA recipients are not eligible for most public aid. They do not qualify for federal financial aid for higher education, and all but a handful of states deny state financial aid. Further, DACA recipients are excluded from eligibility under the Affordable Health Care Act.

And DACA is naturally a very restrictive program, allowing only certain young people who meet a very narrow set of criteria to reap its benefits. The obstacles to DACA eligibility that we mostly encounter among young people (these do not cover the comprehensive criteria) include those who:

- Are in the eligible age group now but entered the U.S. after July 15, 2007;
- Entered before July 15, 2007 but were 16 or older at the time of their entry, and;
- Entered before July 15, 2007 but aged out, since they were 31 years old or older on July 15, 2012, on the day that DACA went into effect.

This leaves a small portion of the undocumented population (an estimated 900,000 at the time DACA was passed, according to the Brookings Report) who are eligible for the benefits. Due to the age limits and residence requirements, the benefits of DACA also are self-exhausting as time goes by, meaning that the pool of eligible people gets smaller by every year, and in fact by every day. Meanwhile, the targeted demographic of undocumented young people continues to grow.

Despite its reach and benefit to over half a million undocumented young people to date, DACA falls short of the DREAM Act by leaps and bounds. The DREAM Act would provide a pathway to citizenship. Its beneficiaries would not only have "lawful status" but would be "lawfully present," and would be able to confer more benefits in society and to contribute in more socially and economically meaningful ways. The DREAM Act was included in the comprehensive immigration reform (CIR) bill proposed by the Senate in the summer of 2013, and has been discussed in many of the evolving proposals by the House since then. With broader provisions and benefits, we need the DREAM Act to be included as an important component of CIR. It provide a much stronger avenue than DACA for young people who are already live in our community—attending schools, churches, and participating in the workforce—to become a part of our community, and really fulfill their dreams.

For more information about the DACA program or for any other immigration matter, please contact Grzeca Law Group at (414) 342-3000 or visit our website at www.grzecalaw.com.

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