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Biden administration moves to formalize DACA and shield it from legal challenges

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The Biden administration on Wednesday finalized a rule to transform the Deferred Action for Childhood Arrivals (DACA)

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reamers" into a federal regulation, a move aimed at protecting
nce.

urity (DHS) is set to take effect on Oct. 31 and will codify the
2 memo for a decade, into the federal government's code of

sands of unauthorized immigrants who arrived in the U.S. as
Children to live and work in the country legally without fear of deportation. As of March 31, 611,270 immigrants were
enrolled in DACA, government data show.

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While technical in nature, the change announced Wednesday is designed to address some of the Republican-led legal challenges against the DACA, which a federal judge in Texas last year closed to new applicants.

Unlike the 2012 DHS memo that created DACA, the new regulation underwent a months-long rulemaking process that was open to comments from the public, steps that the federal judge in Texas said the Obama administration should've undertaken before implementing the policy.



"Today, we are taking another step to do everything in our power to preserve and fortify DACA, an extraordinary program that has transformed the lives of so many Dreamers," Homeland Security Secretary Alejandro Mayorkas said in a statement to CBS News. "Thanks to DACA, we have been enriched by young people who contribute so much to our communities and our country."

The regulation will maintain the longstanding eligibility rules for DACA, which include requirements that applicants prove they arrived in the U.S. by age 16 and before June 2007; studied in a U.S. school or served in the military; and lack any serious criminal record.

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authorization under the new rule, as well as considered to be immigration applications.

legal jeopardy. U.S. District Court Judge Andrew Hanen, who said that the policy itself violates federal immigration law, as Texas argued.

The 5th Circuit Court of Appeals, which held a hearing in July on the Biden administration's appeal of Hanen's ruling, is expected to issue an opinion on DACA's legality later this year. The conservative-leaning appeals court is expected to side with Republican state officials who argue that DACA is unlawful. The Biden administration could appeal such a ruling to the Supreme Court.

The ongoing litigation could keep DACA closed to new applicants and even lead to its complete termination, a scenario that would bar the program's beneficiaries from working in the U.S. legally and render them eligible for deportation, though they would likely not be prioritized for arrest under the Biden administration.



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ferred Action for Childhood Arrivals" (DACA) at the U.S. Capitol on June 15, 2022 in

to place DACA recipients on a path to U.S. citizenship. Despite
lly failed to create such a path amid more than 20 years of
gridlock over other immigration issues, including U.S. border policy.

Congress' failure to pass these so-called "Dream Act" proposals prompted the Obama administration in 2012 to create DACA, which utilizes a longstanding immigration policy known as "deferred action" to shield beneficiaries from deportation and render them eligible for work authorization.

Former President Donald Trump's administration tried to end and scale back DACA, calling it illegal. Its efforts, however, were halted by federal courts, including the Supreme Court, which in June 2020 said officials had not followed the proper procedures to terminate the program.

A DHS official said the Biden administration will continue to defend DACA against lawsuits. In the event of another adverse court ruling, the administration will "assess our response and our options for continuing to protect the program," the official added.

In a statement Wednesday, President Biden urged lawmakers to legalize Dreamers, calling them "part of the fabric of this nation."

"I will do everything within my power to protect Dreamers, but Congressional Republicans should stop blocking a bill that provides a pathway to citizenship for Dreamers," Mr. Biden said. "It is not only the right thing to do, it is also the smart thing to do for our economy and our communities."

A recent poll by the liberal group Immigration Hub and Democratic polling outfit Hart Research showed that 65% of surveyed voters in states with competitive congressional elections this November would want Congress to grant relief to DACA recipients if the program is struck down in court.

Approximately 80% of DACA recipients were born in Mexico, U.S. Citizenship and Immigration Services (USCIS) statistics show. Immigrants from El Salvador, Guatemala, Honduras, Peru, South Korea, Brazil, Ecuador, Colombia and Argentina make up the other top 10 nationalities enrolled in the program.

Nearly 70% of the 611,270 immigrants enrolled in DACA as of March 31 were 30 or younger, including 17,070 recipients under the age of 21, the USCIS data show.

Flavia Negrete, a DACA beneficiary who came to the country as a 4-year-old, expressed frustration that her fate has been dictated by a "chess game" among politicians in Washington, D.C. The Maryland resident hopes to attend medical school to study gene therapy, but those plans could be derailed if DACA is shut down.

"I don't want someone in Congress debating whether I can work tomorrow, or whether I can go see a doctor tomorrow," Negrete told CBS News on Wednesday. "I think that these are two things that belong to me, rightly so. And I'd like to take ownership over that."

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