

Ninth Circuit Court of Appeals Rules in Favor of DACA

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A three-judge panel for the Ninth Circuit Court of Appeals has upheld a nationwide preliminary injunction issued by a [California district court](#), temporarily preventing the Trump administration from ending the Deferred Action for Childhood Arrivals (DACA) program. The order requires the Department of Homeland Security (DHS) to continue to accept renewal applications. The Ninth Circuit, which is the first appeals court to rule on the matter, found that DACA “was a permissible exercise of executive discretion” and thus the plaintiffs are likely to succeed on the merits.

The Ninth Circuit’s decision to uphold the preliminary injunction follows a handful of court decisions blocking the Trump administration from putting an end to the program, pending the outcome of the underlying litigation challenging its legality. U.S. district courts in California and [New York](#) have both issued nationwide injunctions. In [Washington, D.C.](#), a district judge ruled in favor of fully reinstating DACA (but stayed the effective date to allow DHS time to appeal). A court in Texas refused to put an immediate end to DACA, as requested by Texas and several other states, deciding that the potential risk of harm to DACA beneficiaries outweighed

the potential burden to the states if the program was allowed to continue.

Even before the Ninth Circuit issued its ruling, the Trump administration took the unusual step of filing a request with the Supreme Court of the United States to consolidate and review the DACA cases. This is the second time the Trump administration has made such a request of the Supreme Court. The request was denied the first time, but in light of the recent appeals court ruling, it now seems likely that the Supreme Court will take up the DACA issue in the spring of 2019.

In the meantime, employers can expect more of the same—at least for the time being. DHS will continue to accept DACA renewal applications. DACA beneficiaries with valid employment authorization documents (EADs) are permitted to work through the validity period of their EADs.

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