

Federal Court Halts DAPA and Expanded DACA Programs

On Monday, February 16, 2015, Judge Andrew S. Hanen of the US District Court for the Southern District of Texas, Brownsville Division **issued** a **preliminary injunction** to temporarily prevent the federal government from implementing the **Deferred Action for Parental Accountability (DAPA) and the expanded Deferred Action for Childhood Arrivals (DACA)** programs.

The order was issued as Judge Hanen continues to consider the lawsuit brought in December 2014 by twenty-six states **seeking** declaratory and injunctive relief against the United States and certain federal officials. The plaintiffs aver that the DAPA and expanded DACA programs violate the Take Care Clause of the US Constitution and the Administrative Procedure Act (APA). In ordering the injunction, Judge Hanen found that the federal government failed to fulfill the APA's "notice and comment requirement." Judge Hanen has not yet issued a final decision on the merits of the case, including whether or not the executive measures violate the US Constitution.

US Citizenship and Immigration Services (USCIS) had planned to begin accepting applications for the expanded DACA program on Wednesday, February 18, 2015. The DAPA program was expected to open sometime in May 2015. Department of Homeland Security (DHS) Secretary Jeh Johnson has **announced** that, pending an appeal, DHS "will not begin accepting requests for the expansion of DACA...as originally planned." Johnson also said, "Until further notice, we will also suspend the plan to accept requests for DAPA."

The DAPA and expanded DACA programs would have provided temporary relief from deportation and work authorization for up to 5.2 million unauthorized immigrants in the US (Warren

2014). The order will not affect unauthorized immigrants eligible for the DACA program implemented in 2012 because the lawsuit does not challenge the original DACA program (Lind 2015).

In a [statement](#) released on February 17th, the White House stated, “The Department of Justice, legal scholars, immigration experts, and the district court in Washington, D.C. have determined that the President’s actions are well within his legal authority.” The federal government is expected to appeal the injunction to the Fifth U.S. Circuit Court of Appeals in New Orleans (Koppel and Meckler 2015; Lind 2015). Should the federal government win its appeal, it is possible that enrollment may open for the DAPA and expanded DACA programs.

Regardless of the success of the appeal or Judge Hanen’s final decision, officials, experts, and advocates anticipate an extremely long legal battle that may reach the Supreme Court. Meanwhile, service organizations remain optimistic and are continuing to prepare immigrants for the two programs (Koplowitz 2015; Hennessy-Fiske 2015; Solís 2015).

- The Complaint for Declaratory and Injunctive Relief is available at <https://www.texasattorneygeneral.gov/files/epress/files/20141203ImmigrationExecutiveOrderLawsuit.pdf>.
- Judge Hanen’s Memorandum Opinion and Order is available at <https://www.scribd.com/doc/255994067/Memorandum-Opinion-Texas-v-United-States>. His Order of Temporary Injunction is available at <https://www.scribd.com/doc/255992850/Order-of-Temporary-Injunction-Texas-v-United-States>.