



CONGRESSIONAL CALL SCHEDULE

Monday

Mitch McConnell – Gen Kelly
Paul Ryan – Gen Kelly
Kevin McCarthy – Gen Kelly
John Cornyn – Gen Kelly

Tuesday

HSGAC:

Chairman Johnson – Secretary Duke
Ranking Member McCaskill – Secretary Duke

CHS:

Ranking Member Thompson – Secretary Duke

Steve Scalise – Gen Kelly

Democratic Leadership:

Nancy Pelosi – Gen Kelly
Steny Hoyer – Gen Kelly
Chuck Schumer – Gen Kelly
Dick Durbin – Gen Kelly

Senate:

Chairman Chuck Grassley – AG Sessions
Chairman Ron Johnson – AG Sessions
Tom Cotton – AG Sessions
David Perdue – AG Sessions
Ted Cruz – AG Sessions
Orrin Hatch – AG Sessions
Ranking Member Diane Feinstein – AG Sessions
Lindsay Graham – WHOLA (Marc Short/Amy Swonger)
Jeff Flake – WHOLA (Marc Short/Amy Swonger)

House:

Chairman Goodlatte -- AG Sessions
Chairman McCaul -- General Kelly
Ranking Member Conyers – AG Sessions

Mario Diaz Balart – (WHOLA) Joyce Meyer
Carlos Curbelo – (WHOLA) Ben Howard
Ileana Ross Lehtinen – (WHOLA) Cindy Simms



Will Hurd – (WHOLS) Cindy Simms
Martha McSally – (WHOLA) Cindy Simms
Steve Pearce – (WHOLA) Paul Teller
Mark Walker – (WHOLA) Paul Teller
Mark Meadows – (WHOLA) Paul Teller
Steve King – (WHOLA) Paul Teller
Bruce Babin – (WHOLA) Paul Teller
Lou Barletta – (WHOLA) Cindy Simms



TOP FIVE MESSAGES

1. The Obama Administration instituted an unconstitutional program. The Attorney General sent a letter to the Department of Homeland Security on September 4, 2017, articulating his legal determination that DACA “was effectuated by the previous administration through executive action, without proper statutory authority and with no established end-date, after Congress’ repeated rejection of proposed legislation that would have accomplished a similar result. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch.” The letter further stated that because DACA “has the same legal and constitutional defects that the courts recognized as to DAPA, it is likely that potentially imminent litigation would yield similar results with respect to DACA.”
2. Given the Attorney General’s findings on the legality of the DACA program, the President had two stark options. He could: 1) Do nothing and allow for the probability that the entire DACA program could be immediately enjoined by a court in a disruptive manner or 2) phase out the program in an orderly fashion.
3. All current DACA beneficiaries are eligible to retain their benefits at least until March 5, 2018. Deferred action is always temporary in nature. The DACA program only gave recipients the ability to defer action on their immigration case for two-year increments with the potential for renewal. Should Congress decide to develop a permanent legislative solution for current beneficiaries while addressing the need for immigration enforcement, this action will allow them time to do so.
4. Individuals who have properly filed DACA initial requests and associated applications for Employment Authorization Documents that have been accepted as of the date of this memorandum, will have their applications adjudicated.
5. Properly filed DACA renewal applications and associated applications for Employment Authorization Documents from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017 will be adjudicated.



FACT SHEET: Rescission of Deferred Action for Childhood Arrivals (DACA)

On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano issued a memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” creating a non-congressionally authorized administrative program that permitted certain individuals who came to the United States as juveniles and meet several criteria—including lacking any current lawful immigration status—to request consideration of deferred action for a period of two years, subject to renewal, and eligibility for work authorization. This program became known as Deferred Action for Childhood Arrivals (DACA).

The Obama administration chose to deploy DACA by Executive Branch memorandum—despite the fact that Congress affirmatively rejected such a program in the normal legislative process on multiple occasions. The constitutionality of this action has been widely questioned since its inception.

DACA’s criteria were overly broad, and not intended to apply only to children. Under the categorical criteria established in the June 15, 2012 memorandum, individuals could apply for deferred action if they had come to the U.S. before their 16th birthday; were under age 31; had continuously resided in the United States since June 15, 2007; and were in school, graduated or had obtained a certificate of completion from high school, obtained a General Educational Development (GED) certificate, or were an honorably discharged veteran of the Coast Guard or Armed Forces of the United States. Significantly, individuals were ineligible if they had been convicted of a felony or a significant misdemeanor, but were considered eligible even if they had been convicted of up to two other misdemeanors.

The Attorney General sent a letter to the Department on September 4, 2017, articulating his legal determination that DACA “was effectuated by the previous administration through executive action, without proper statutory authority and with no established end-date, after Congress’ repeated rejection of proposed legislation that would have accomplished a similar result. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch.” The letter further stated that because DACA “has the same legal and constitutional defects that the courts recognized as to DAPA, it is likely that potentially imminent litigation would yield similar results with respect to DACA.”

Based on this analysis, the President was faced with a stark choice: do nothing and allow for the probability that the entire DACA program could be immediately enjoined by a court in a disruptive manner, or instead phase out the program in an orderly fashion. Today, Acting Secretary of Homeland Security Duke issued a memorandum (1) rescinding the June 2012 memo that established DACA, and (2) setting forward a plan for phasing out DACA. The result of this phased approach is that the Department of Homeland Security will provide a limited window in which it will adjudicate certain requests for DACA and associated applications for Employment Authorization Documents meeting parameters specified below.



Effective immediately, DHS:

- Will adjudicate—on an individual, case-by-case basis—properly filed pending DACA initial requests and associated applications for Employment Authorization Documents that have been accepted as of the date of this memorandum.
- Will reject all DACA initial requests and associated applications for Employment Authorization Documents filed after the date of this memorandum.
- Will adjudicate—on an individual, case-by-case basis—properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted as of the date of this memorandum, and from current beneficiaries whose benefits will expire between the date of this memorandum and March 5, 2018 that have been accepted as of October 5, 2017.
- Will reject all DACA renewal requests and associated applications for Employment Authorization Documents filed outside of the parameters specified above.
- Will not terminate the grants of previously issued deferred action or revoke Employment Authorization Documents solely based on the directives in this memorandum for the remaining duration of their validity periods.
- Will not approve any new Form I-131 applications for advance parole under standards associated with the DACA program, although it will generally honor the stated validity period for previously approved applications for advance parole. Notwithstanding the continued validity of advance parole approvals previously granted, U.S. Customs and Border Protection will—of course—retain the authority it has always had and exercised in determining the admissibility of any person presenting at the border and the eligibility of such persons for parole. Further, U.S. Citizenship and Immigration Services will—of course—retain the authority to revoke or terminate an advance parole document at any time.
- Will administratively close all pending Form I-131 applications for advance parole filed under standards associated with the DACA program, and will refund all associated fees.
- Will continue to exercise its discretionary authority to terminate or deny deferred action for any reason, at any time, with or without notice.

It should be noted that DACA was not intended to be available to persons who entered illegally after 2007. Thus, persons entering the country illegally today, tomorrow or in the future will not be eligible for the wind down of DACA.



FINAL PRESS RELEASE

RESCISSION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS (“DACA”)

WASHINGTON – Today, the Department of Homeland Security (DHS) initiated the orderly wind down of the program known as Deferred Action for Childhood Arrivals (DACA).

“This Administration’s decision to terminate DACA was not taken lightly. The Department of Justice has carefully evaluated the program’s Constitutionality and determined it conflicts with our existing immigration laws,” said Acting Secretary Elaine Duke. “As a result of recent litigation, we were faced with two options: wind the program down in an orderly fashion that protects beneficiaries in the near-term while working with Congress to pass legislation; or allow the judiciary to potentially shut the program down completely and immediately. We chose the least disruptive option.

“With the measures the Department is putting in place today, no current beneficiaries will be impacted before March 5, 2018, nearly six months from now, so Congress can have time to deliver on appropriate legislative solutions. However, I want to be clear that no new initial requests or associated applications filed after today will be acted on.”

On June 29, the attorneys general of Texas and several other states sent a letter to U.S. Attorney General Jeff Sessions asserting that the DACA program is unlawful for the same reasons stated in the Fifth Circuit and district court opinions regarding an expansion of the DACA program and the now-rescinded program known as Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA). The letter noted that if DHS did not rescind the June 2012 DACA memo by September 5, 2017, the states would seek to amend the DAPA lawsuit to include a challenge to DACA.

Yesterday, Attorney General Sessions sent a letter to Acting Secretary Duke articulating his legal determination that DACA “was effectuated by the previous administration through executive action, without proper statutory authority and with no established end-date, after Congress’ repeated rejection of proposed legislation that would have accomplished a similar result. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch.” The letter further stated that because DACA “has the same legal and constitutional defects that the courts recognized as to DAPA, it is likely that potentially imminent litigation would yield similar results with respect to DACA.” Nevertheless, in light of the administrative complexities associated with ending the program, he recommended that the Department wind down the program in an efficient and orderly fashion, and his office has reviewed the terms on which the Department will do so.

Based on guidance from Attorney General Sessions, and the likely result of potentially imminent litigation, Acting Secretary Elaine Duke today issued a memo formally rescinding the June 15,



2012 memorandum that created DACA, and initiating an orderly wind down of the program. This process will limit disruption to current DACA beneficiaries while providing time for Congress to seek a legislative solution. The details are contained in Acting Secretary Duke's September 5 memorandum, and in our Frequently Asked Questions. [insert hyperlinks to the documents]

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Talking Points – DACA Rescission

BACKGROUND

On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano issued a memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” establishing an administrative program that permitted certain individuals who came to the United States as juveniles and met several criteria—including lacking any lawful immigration status—to request consideration of deferred action for a period of two years, subject to renewal and eligibility for work authorization.

Recognizing the complexities associated with terminating the program, the Department will provide a limited window during which it will adjudicate certain requests for DACA and associated applications meeting certain parameters specified below.

TALKING POINTS: President Trump Directs Phased Ending of DACA

- Acting Secretary Duke issued a memo rescinding the June 15, 2012 memorandum that created the Deferred Action for Childhood Arrivals (DACA) program.
- President Donald J. Trump, in close coordination with the Department of Homeland Security and the Department of Justice, considered a number of factors, including the legality of the DACA program, the likely outcome of imminent litigation, and the administrative complexities associated with ending the program.
- We are a nation of laws. DACA was an unconstitutional, unwarranted exercise of authority by the Executive Branch. Only the U.S. Congress has the authority to pass legislation to provide immigration benefits to individuals.
- President Obama noted repeatedly in the months and years leading up to the creation of DACA that the President of the United States does not have the authority to create such an open-ended, wide-ranging program without Congressional authorization.
- DACA will be phased out. All DACA benefits are provided on a two-year basis, so individuals who currently have DACA will be allowed to retain both DACA and their work authorizations (EADs) until they expire.
- U.S. Citizenship and Immigration Services will adjudicate—on an individual, case-by-case basis—properly filed pending DACA *initial requests* and associated applications for Employment Authorization Documents that have been accepted as of September 5, 2017.



- USCIS will adjudicate—on an individual, case-by-case basis—properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted as of the date of this memorandum, and from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017.

Individuals who have not submitted a request by September 5th, for an *initial grant* under DACA may no longer do so. All requests for initial grants received after September 5th will be rejected.

- In general, individuals who will no longer have DACA will not proactively be referred to ICE and placed in removal proceedings unless they satisfy one of the Department's enforcement priorities.
- The Department of Homeland Security urges DACA recipients to use the time remaining on their work authorizations to prepare for and arrange their departure from the United States—including proactively seeking travel documentation—or to apply for other immigration benefits for which they may be eligible.
- As of September 4, 2017, there are 689,821 individuals with current valid DACA.
- It should be noted that DACA was not intended to be available to persons who entered illegally after 2007. Thus, persons entering the country illegally today, tomorrow or in the future will not be eligible for the wind down of DACA.



Media Advisory – DACA

DHS TO HOST PRESS CALL ON DACA

WASHINGTON – Senior Department of Homeland Security (DHS) officials will participate in a press call today, Tuesday, Sept. 5 at 10 am EDT to discuss Deferred Action for Childhood Arrivals (DACA). The call will be held ON BACKGROUND and EMBARGOED.

Reporters who RSVP will receive an email with dialing instructions and additional information for this media-only briefing. Due to high interest, only one line will be allotted per news outlet.

Tuesday, Sept. 5

10:00 AM EDT Senior officials from the Department of Homeland Security and the Department of Justice will host and participate in a press call to discuss Deferred Action for Childhood Arrivals (DACA).

OPEN PRESS*

**Credentialed media planning to call in must RSVP to (b)(6) for conference call-in number and embargo information.*



FAQ

September 5, 2017

Frequently Asked Questions on the September 5, 2017 Reversion of the Deferred Action for Childhood Arrivals (DACA) Program

Q1: Why is DHS phasing out the DACA program?

A1: Taking into consideration the federal court rulings in ongoing litigation, and the September 4, 2017 letter from the Attorney General, it is clear that program should be terminated. As such, the Acting Secretary of Homeland Security rescinded the June 15, 2012 memorandum establishing the DACA program. Please see the Attorney General's letter and the Acting Secretary of Homeland Security's memorandum for further information on how this decision was reached.

Q2: What is going to happen to current DACA holders?

A2: Current DACA recipients will be permitted to retain both the period of deferred action and their employment authorization documents (EADs) until they expire, unless terminated or revoked. DACA benefits are generally valid for two years from the date of issuance.

Q3: What happens to individuals who currently have an initial DACA request pending?

A3: Due to the anticipated costs and administrative burdens associated with rejecting all pending initial requests, USCIS will adjudicate—on an individual, case-by-case basis—all properly filed DACA initial requests and associated applications for EADs that have been accepted as of September 5, 2017.

Q4: What happens to individuals who currently have a request for renewal of DACA pending?

A4: Due to the anticipated costs and administrative burdens associated with rejecting all pending renewal requests, USCIS adjudicate—on an individual, case-by-case basis—properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted as of September 5, 2017, and from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017. USCIS will reject all requests to renew DACA and associated applications for EADs filed after October 5, 2017.

Q5: Is there still time for current DACA recipients to file a request to renew their DACA?

A5: USCIS will only accept renewal requests and associated applications for EADs for the class of individuals described above in the time period described above.



Q6: What happens when an individual's DACA benefits expire over the course of the next two years? Will individuals with expired DACA be considered illegally present in the country?

A6: Current law does not grant any legal status for the class of individuals who are current recipients of DACA. Recipients of DACA are currently unlawfully present in the U.S. with their removal deferred. When their period of deferred action expires or is terminated, their removal will no longer be deferred and they will no longer be eligible for lawful employment.

Only Congress has the authority to amend the existing immigration laws.

Q7: Once an individual's DACA expires, will their case be referred to ICE for enforcement purposes?

A7: Information provided to USCIS in DACA requests will not be proactively provided to ICE and CBP for the purpose of immigration enforcement proceedings, unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q8: Will USCIS share the personal information of individuals whose pending requests are denied proactively with ICE for enforcement purposes?

A8: Generally, information provided in DACA requests will not be proactively provided to other law enforcement entities (including ICE and CBP) for the purpose of immigration enforcement proceedings unless the requestor poses a risk to national security of public safety, or meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria. This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q10: Can deferred action received pursuant to DACA be terminated before it expires?

A10: Yes. DACA is an exercise of deferred action which is a form of prosecutorial discretion. Hence, DHS will continue to exercise its discretionary authority to terminate or deny deferred action at any time when immigration officials determine termination or denial of deferred action is appropriate.

Q11: Can DACA recipients whose valid EAD is lost, stolen or destroyed request a new EAD during the phase out?



A11: If an individual's still-valid EAD is lost, stolen, or destroyed, they may request a replacement EAD by filing a new Form I-765.

Q12: Will DACA recipients still be able to travel outside of the United States while their DACA is valid?

A12: Effective September 5, 2017, USCIS will no longer approve any new Form I-131 applications for advance parole under standards associated with the DACA program. Those with a current advance parole validity period from a previously-approved advance parole application will generally retain the benefit until it expires. However, CBP will retain the authority it has always exercised in determining the admissibility of any person presenting at the border. Further, USCIS retains the authority to revoke or terminate an advance parole document at any time.

Q13: What happens to individuals who have pending requests for advance parole to travel outside of the United States?

A13: USCIS will administratively close all pending Form I-131 applications for advance parole under standards associated with the DACA program, and will refund all associated fees.

Q14: How many DACA requests are currently pending that will be impacted by this change? Do you have a breakdown of these numbers by state?

A14: There were 106,341 requests pending as of August 20, 2017 – 34,487 initial requests and 71,854 renewals. We do not currently have the state-specific breakouts.

Q15: Is there a grace period for DACA recipients with EADs that will soon expire to make appropriate plans to leave the country?

A15: As noted above, once an individual's DACA and EAD expire—unless in the limited class of beneficiaries above who are found eligible to renew their benefits—the individual is no longer considered lawfully present in the United States and is not authorized to work. Persons whose DACA permits will expire between September 5, 2017 and March 5, 2018 are eligible to renew their permits. No person should lose benefits under this memorandum prior to March 5, 2018 if they properly file a renewal request and associated application for employment authorization.

Q16: Can you provide a breakdown of how many DACA EADs expire in 2017, 2018, and 2019?

A16: From August through December 2017, 201,678 individuals are set to have their DACA/EADs expire. Of these individuals, 55,258 already have submitted requests for renewal of DACA to USCIS.



In calendar year 2018, 275,344 individuals are set to have their DACA/EADs expire. Of these 275,344 individuals, 7,271 have submitted requests for renewal to USCIS.

From January through August 2019, 321,920 individuals are set to have their DACA/EADs expire. Of these 321,920 individuals, eight have submitted requests for renewal of DACA to USCIS.



Q18: What were the previous guidelines for USCIS to grant DACA?

A18: Individuals meeting the following categorical criteria could apply for DACA if they:

- Were under the age of 31 as of June 15, 2012;
- Came to the United States before reaching their 16th birthday;
- Have continuously resided in the United States since June 15, 2007, up to the present time;
- Were physically present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action with USCIS;
- Had no lawful status on June 15, 2012;
- Are currently in school, have graduated, or obtained a certificate of completion from high school, have obtained a General Educational Development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
- Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.



Internal Q&A for Surrogates and SMEs

Q1. Who made the decision on DACA, the President, Acting Secretary Duke or the Attorney General?

A1. The Attorney General made the legal determination that the DACA program constitutes an unwarranted exercise of authority by the Executive Branch, is unconstitutional, and will likely face the same outcome as the DAPA program in imminent litigation. Based on that analysis, today (Sept. 5, 2017), the Acting Secretary of Homeland Security rescinded the June 15, 2012 memorandum establishing DACA and initiated a phase out of the program.

Q2. What role did Gen. Kelly play in the decision?

A2. Defer to the WH.

Q3. The President said he had “great heart” for DACA kids. Why is he ending the program that protected them from deportation and allowed them to work?

A3. Given the Attorney General’s findings on the legality of the DACA program, the President was given two stark options. He could either allow the program to be challenged in court and risk have it struck down in a disruptive manner that terminated benefits for all DACA beneficiaries, or he could wind the program down in an orderly manner that ensured no current beneficiary was impacted for a minimum of six months while providing Congress and opportunity to seek an appropriate legislative solution as it sees fit. This decision reaffirms this Administration’s long-stated and ongoing commitment to the rule of law.

Q4. Many lawyers and advocacy groups believe DACA is legal. Why didn’t the Administration let the courts decide?

A4. A U.S. district court, affirmed by the 5th Circuit Court and U.S. Supreme Court, determined that the Deferred Action for Parents of Americans and Lawful Permanent Residents, (DAPA) program was unlawful. Among other things—such as the expansion of the coverage criteria under the 2012 DACA policy to encompass aliens with a wider range of ages and arrival dates, and lengthening the period of deferred action and work authorization from two years to three—the November 20, 2014 memorandum on DAPA directed USCIS “to establish a process, similar to DACA, for exercising prosecutorial discretion through the use of deferred action, on a case-by-case basis,” to certain aliens who have “a son or daughter who is a U.S. citizen or lawful permanent resident.”

Because the DACA program was created in the same manner as that used to create the DAPA program, it is likely to be struck down by the court also. If the decision is left to the courts, there



is a probability that the entire DACA program could be immediately enjoined by a court in a disruptive manner.

Q5. We're told the Administration was considering several options for DACA. Why was this option chosen?

A5. Given the Attorney General's findings on the legality of the DACA program, the President was given two stark options. He could either allow the program to be challenged in court and risk having it struck down in a disruptive manner that terminated benefits for all DACA beneficiaries, or he could wind the program down in an orderly manner that ensured no current beneficiary was impacted for a minimum of six months while providing Congress an opportunity to seek an appropriate legislative solution as it sees fit. This decision reaffirms this Administration's long-stated and ongoing commitment to the rule of law.

Q6. What happens to the 690,000 DACA recipients, who came to this country as children, through no fault of their own? Doesn't DHS have better things to do with its scarce resources than seek to deport these children?

A6. The Department has committed to an orderly wind down of the program, and no current beneficiaries will automatically lose their benefits as a result of these changes. Absent a law enforcement interest—which is generally the standard that has been in place since the inception of the program—the Department will generally not take actions to remove active DACA beneficiaries.

Q7. Will ICE officers seek to arrest and deport DACA recipients or will they exercise prosecutorial discretion on these cases?

A7. See A6.

Q8. Speaker Ryan, Sen. Hatch and other prominent Republicans voiced support for DACA and asked the President not to end the program to allow Congress time to act. Why did the Administration end the program rather than allowing Congress to legislate a solution?

A8. The Administration was faced with imminent litigation for a program that would likely fail in court, given the precedent set by litigation against the DAPA program. Instead of waiting for a court to strike down the program, the Administration chose to wind the program down in an orderly fashion. In the interim, of course, Congress has the authority to pass any legislation it chooses.

Q9. Did the Administration have discussions with the Texas Attorney General and the other AGs who threatened a lawsuit over DACA to see if they would delay the deadline given the situation? If not, why not?



A9. The litigants in Texas indicated they would amend their complaint on September 5th if DHS did not rescind the DACA memo. The Department will not comment on specific communications between the litigants and the United States government.

Q11. The President and Gen. Kelly voiced support for DACA over the past eight months. What changed their minds about ending the program?

A11. The Administration was faced with imminent litigation for a program that would likely fail in court, given the precedent set by litigation against the DAPA program. Instead of waiting for a court to strike down the program the Administration chose to wind the program down in an orderly fashion. DACA was not a permanent solution to the issues it was created to address. A permanent solution can only be provided by legislation.

Q12. Doesn't ending DACA, a program that was overwhelmingly supported by Democrats, as well as many Republicans, threaten the President's agenda in Congress this fall?

A12. No. See A11.

Q13. Many DACA recipients, because they came to the U.S. as children, don't know the countries to which they'll be deported to and don't speak the language there. How will they assimilate and survive, particularly in those countries with significant gang activity?

A13. DHS cannot ignore the immigration laws enacted by Congress even if it will create hardship for those who violate those laws. Only Congress has the authority to pass legislation to provide immigration benefits to individuals.

Q14. What type of support will the U.S. provide to DACA recipients who are deported?

A14. DHS does not provide affirmative benefits to individuals it deports.

Q15. How many DACA recipients are able to seek legal status in the United States?

A15. That number is not known as a determination of status eligibility could only be made after an application by a current beneficiary.

Q16. How many DACA recipients are or were working with authorization and what is the expected impact on American businesses of losing all those workers?

A16. We do not have the number of DACA recipients who are currently employed. Therefore any expected impact statement would be speculative.

Q17. Can you give any assurances that once DACA status is revoked, ICE won't target those individuals for deportation?

A17. DHS enforcement priorities will remain in place. Refer to A6.



Q18. Given the devastation in Texas, and the large number of DACA recipients there, did the Administration consider making an exception for DACA recipients impacted by the hurricane and floods in southeast and south central Texas? If not, why not?

A18. The Administration was faced with imminent litigation for a program that would likely fail in court, given the precedent set by litigation against the DAPA program. Instead of waiting for a court to strike down the program in a sudden and harmful manner, the Administration chose to wind the program down in the least disruptive manner possible. The wind down of the program is structured to allow for a minimum of six months continued benefits for all current DACA beneficiaries.

Q19. How do you expect Mexico and Central American countries, facing many challenges that cause their citizens to migrate to the U.S., to accept an influx of former DACA recipients, many of whom no longer have immediate family in those countries? Is the U.S. prepared to offer assistance to those countries? What will this decision do to the already strained relationship with those governments?

A19. The United States has robust international programs in place in many of these countries. The United States must respect the rule of law. To propose ignoring the rule of law because it will strain relationships with foreign partners is unwise. Additionally, as many advocates of the DACA program are quick to point out, many recipients of DACA are educated and will likely be highly valued employees in their home countries if they return.

Q20. What impact will this decision have on funding for the President's border wall, given the opposition in Congress to funding a wall, as well as the questioning of the need for one, even among border state legislators?

A20. The Administration's commitment to enforcing the rule of law should come as no surprise to Congress. The House has fully funded the fiscal year 2018 \$1.6 billion requested for the wall system. This decision should have no impact on the request for adequate funding for a border wall on our southern border.

Q21. Did the Administration reach out to Congressional leaders to seek a legislative solution before deciding to end DACA?

A21. Congress did not pass legislation such as the "Dream Act" on numerous occasions for more than a decade, and Congress has had more than five years to find a legislative solution for DACA. If it wants to do so now, it has six months to do so before any current DACA beneficiaries are affected.

Q22. What was Acting Secretary Duke's recommendation to the White House about the DACA program?



A22. We do not discuss internal Administration deliberations nor the Secretary's conversations with the President.

Q23. Did USCIS make a recommendation to DHS or the White House on DACA? What was it?

A23. We do not discuss internal Administration deliberations. USCIS was aware of the legal uncertainty of the DACA program and the potential for the program to be ended in litigation.

Q24. Does USCIS have the personnel and the funding to handle this major change to the program? If not, will DHS seek additional funding?

A24. Yes, USCIS has adequate personnel and funding to handle this change. USCIS employees are trained to adjudicate multiple types of benefits. In FY 2016, USCIS received more than eight million applications and petitions adjudicated more than seven million. As the program winds down, any time previously spent processing DACA will transition to focus upon adjudicating other requests from individuals seeking benefits provided under the law.

Q25. Did DHS or the Administration seek input from stakeholders before making this decision? If so, who, and what were their recommendations? If not, why not?

A25. We will not discuss private conversations that members of the Administration have had on this topic, but it is clear that many members of Congress and the advocacy community have conveyed their interests in the program – both for and against – on a frequent basis.

Q26. If the Administration believes DACA is unconstitutional, why did it wait eight months before making this decision? What went into the deliberations?

A26. The Administration will not comment on its litigation strategy with respect to DACA. However, DACA policy is vulnerable to the same legal and constitutional defects the court recognized with regard to DAPA.

Q27. The Administration has said repeatedly that it's focused on national security and public safety threats. How do DACA kids threaten national security or public safety?

A27. This question does not address the reality of the situation the Administration faces. The Administration was faced with imminent litigation for a program that would likely fail in court, given the precedent set by litigation against the DAPA program. Instead of waiting for a court to strike down the program, the Administration chose to wind the program down in an orderly fashion. The notion that the Department will immediately dedicate personnel to seek out and remove former DACA beneficiaries is false.

Further, pursuant to dually enacted law, an individual who is in the United States illegally—whether from entering illegally or overstaying an authorized period of admission—is subject to



removal from the United States. A permanent solution can only be provided by legislation which only Congress can enact.

Finally, DHS enforcement priorities will remain in place whereby law abiding illegal immigrants remain a lower priority for DHS enforcement.

Q28. Can you provide us a breakdown of DACA recipients, by state and/or age? Which states will feel the biggest impact?

A28. No. We do not characterize recipients in that manner.

Q29. Why is DHS ending parole for DACA recipients, who may need to travel to the countries where they will be deported or may voluntarily depart, to make arrangements in advance of their move? Will those who choose to self-deport be allowed to travel back and forth to make appropriate arrangements? If not, why not, what's the risk?

A29. The parole program is intended for situations of urgent humanitarian need or of significant public benefit. Instead of a blanket allowance for DACA beneficiaries to travel abroad in contravention of the law's intended use, parole will only be granted as intended in the by Congress and outlined in the Immigration and Nationality Act.

Q30. Since the program began, how many DACA recipients have become naturalized U.S. citizens or green card holders?

A30. The number of DACA recipients who have applied for LPR status as of August 21, 2017 is 59,778 and 39,514 have been approved. In addition, 2,181 LPRs who originally had DACA approval applied for U.S. citizenship and 1,056 have taken the oath of citizenship

Q31. With DACA ending, does this moot the Montes case? Will the government now ask for dismissal?

A31. We do not comment on ongoing litigation.

Q32. The President has issued many Executive Orders since he has been in office. Why didn't he use an EO to continue the DACA program, in a different way than was done under Obama?

A32. The DACA program was created without legislation enacted by Congress via a Secretarial memorandum. It can be ended in the same way.

Q33. For DACA recipients who are enrolled in college or other educational institutions, will they be forced to drop out and lose the money they've paid to attend? What happens to those who worked to support themselves and pay for school now that they can no longer legally work?



A33. In general, DACA beneficiaries will not lose benefits under the rescission during the next six months, many not for two years.

Q34. What criteria will be used to evaluate pending applications for initial DACA grants or renewals?

A34. USCIS will adjudicate—on an individual, case by case basis—all properly filed DACA initial requests and associated applications for Employment Authorization Documents that have been accepted as of September 5, 2017. It will also adjudicate—on an individual, case-by-case basis—all properly filed DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017.

Q35. Can DACA recipients with expiration dates in 2018 and beyond apply early for renewal, before the program shuts down?

A35. Only recipients whose benefits expire between September 5, 2017 and March 5, 2018 can file renewal requests and associated applications for Employment Authorization Documents until October 5, 2017. Any request to renew DACA filed after October 5, 2017 will be rejected by USCIS. Renewal requests from any other individual other than the limited class described above will be automatically rejected by USCIS.

Q36. Is there a grace period for DACA recipients to apply for renewal? If not, why not?

A36. See Q35.

Q37. Has the Texas AG indicated he'll no longer pursue a lawsuit based on this decision? Does this decision satisfy his concerns over the program?

A37. We believe the Administration's decision to phase the program out will render the threatened litigation unnecessary.

Q38. Will DHS withhold action to deport DREAMERS while Congress is working on a legislative solution? If so, for how long?

A38. In general, DACA recipients will not lose benefits under this rescission memorandum during the next six months, many not for two years.

Q39. Who from DHS was involved in the discussions on ending DACA?

A39. We will not comment on internal deliberations or the specific individuals consulted.

Q40. How much did the DACA program generate in fees each year? What will the loss of those fees mean for DHS's current funding and future budgets?



A40. The only fees associated with the DACA program covered the expenses from capturing a beneficiary's biometrics and adjudicating their application for an Employment Authorization Document on the form I-765. There was not a separate fee for the I-821D itself. The I-765 fee has been sufficient to cover USCIS costs of administering the DACA program.

Q41. The President defended his travel executive order (EO) by citing broad authority over immigration rights, so why now is he deferring to Congress with DACA?

A41. This is an apples-to-oranges comparison. First, the travel EO was a temporary ban on travel into the U.S. from terrorist prone countries in order to protect our national security interests as the appropriate federal agencies improved their vetting procedures. The president's authority to restrict people from entering the country represents the apex of presidential authority. See 8 USC 1182 (f). In the EO, the President exercised express power delegated to him by Congress.

Prior to Obama's 2012 announcement of DACA, he admitted he had no legal authority to ignore federal immigration law. But bowing to politics in an election year, he reversed course to authorize the program in what he even then called "a temporary stopgap measure." DACA was an unlawful order, based on the same statutes that the courts determined DAPA violated. Only Congress has the authority to amend the existing immigration laws.

- A **Hurricane Watch** is issued when a tropical cyclone containing winds of at least 74 MPH poses a possible threat, generally within 48 hours.
- A **Hurricane Warning** is issued when sustained winds of 74 MPH or higher associated with a tropical cyclone are expected in 36 hours or less. A hurricane warning can remain in effect when dangerously high water or a combination of dangerously high water and exceptionally high waves continue, even though winds may be less than hurricane force.

For coastal flooding:

- A **Coastal Flood Watch** is issued when moderate to major coastal flooding is possible. A **Coastal Flood Warning** is issued when moderate to major coastal flooding is occurring or imminent.
- A **Coastal Flood Advisory** is issued when minor or nuisance coastal flooding is occurring or imminent.

Immigration Enforcement

- U.S. Immigration and Customs Enforcement's (ICE) and U.S. Customs and Border Protection's (CBP) highest priorities are to promote life-saving and life-sustaining activities, the safe evacuation of people who are leaving the impacted area, the maintenance of public order, the prevention of the loss of property to the extent possible, and the speedy recovery of the region.
- The Department's law enforcement components will be at the ready to help anyone in need of assistance. In evacuation or response, we are committed to making sure that we can assist local authorities quickly, safely, and efficiently.
- Routine non-criminal immigration enforcement operations will not be conducted at evacuation sites, or assistance centers such as shelters or food banks. The laws will not be suspended, and we will be vigilant against any effort by criminals to exploit disruptions caused by the storm.
- ICE and CBP also seek to provide for the safety and security of those in our custody and to protect them from bodily harm in the event of a hurricane or a major destructive storm.

DACA

- This Administration's decision to terminate DACA was not taken lightly. The Department of Justice has carefully evaluated the program's Constitutionality and determined it conflicts with our existing immigration laws. Given the Supreme Court's decision on DAPA, they do not believe DACA is legally viable, and thus the program should be ended.
- As a result of recent litigation, we were faced with two options: wind the program down in an orderly fashion that protects beneficiaries in the near-term while working with Congress to pass

legislation; or allow the judiciary to potentially shut the program down completely and immediately. The Administration choose the least disruptive option.

- I am very aware of the consequences of this action, and I sympathize with the DACA recipients whose futures may now be less certain. But I am also frustrated on their behalf. DACA was never more than deferred action—a bureaucratic delay—that never promised the rights of citizenship or legal status in this country. The program did not grant recipients a future, it was instead only a temporary delay until a day of likely expiration. And for that reason, DACA was fundamentally a lie.
- If our current laws do not reflect our country’s values, then I urge Congress to use its Constitutional authority to write and pass legislation that does. I believe the President shares my confidence in the Congress.

TEMPORARY PROTECTED STATUS

- Temporary Protected Status is a temporary immigration benefit that allows qualified individuals from designated countries (or parts of those countries) who are in the U.S. to stay here for a limited period of time.
- Currently, 10 countries are designated for TPS. The countries are South Sudan, Sudan, Somalia, Honduras, Nicaragua, El Salvador, Syria, Haiti, Nepal and Yemen. [Note: TPS for Liberia, Guinea and Sierra Leone expired May 21, 2017. Citizens of those countries were given six months to prepare for departure or apply for an immigration status for which they may be eligible.]
- TPS is a temporary benefit that does not lead to lawful permanent resident status or give any other immigration status.
- Individuals with TPS can obtain work authorization in the U.S. and may request travel authorization.
- Once granted TPS, an individual cannot be detained by DHS solely on the basis of his or her immigration status in the U.S. during the period TPS has been designated.