



September 2015 Tip of the Month

Immigration: Status of the November 20, 2014 Executive Orders

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On November 20, 2014, President Barack Obama announced changes to immigration policy through a series of executive actions. Those initiatives included:

- Expanding the current Deferred Action for Childhood Arrivals (DACA) by eliminating the upper age limit, changing the mandatory physical presence date, and extending the DACA and work authorization period from two years to three years;
- Allowing parents of US Citizens and lawful permanent residents to apply for deferred action upon meeting certain criteria, referred to as Deferred Action for Parents of Americans and Lawful Permanent Residents or Deferred Action for Parental Accountability (DAPA);
- Expanding the use of provisional waivers of unlawful presence to include the spouses and sons and daughters of lawful permanent residents and the sons and daughters of U.S. citizens;
- Modernizing, improving and clarifying immigrant and nonimmigrant visa programs to grow our economy and create jobs;
- Promoting citizenship education and public awareness for lawful permanent residents and providing an option for naturalization applicants to use credit cards to pay the application fee.¹

Each of these executive actions was to be implemented as soon as possible, with instructions, forms, fees and other information to be provided by US Citizenship and Immigration Services (USCIS) as it became available. The impact of these executive actions was expected to reach millions of noncitizens currently living in the United States. As anticipation mounted and potential applicants waited for one of the biggest changes in immigration policy in years, everything came to a screeching halt in February 2015, just one day before USCIS was to start accepting applications for the expanded DACA and the new DAPA.

USCIS' website issues the following warning:

Update: Due to a federal court order, USCIS will not begin accepting requests for the expansion of DACA on February 18 as originally planned and has suspended implementation of Deferred Action for Parents of Americans and Lawful Permanent Residents. The court's temporary injunction, issued February 16, does not affect the existing DACA. Individuals may continue to come forward and request an initial grant of DACA or renewal of DACA under the original guidelines. Please check back for updates.

¹ See, <http://www.uscis.gov/immigrationaction> (last accessed Sept. 10, 2015).

What happened and what does it mean for your clients? In December 2014, the state of Texas (led by Gov. Greg Abbott), filed suit on behalf of 25 other states to stop President Obama's November 20 executive actions. On February 16, 2015, Judge Andrew Hanen issued a [123 page](#) opinion ordering a preliminary injunction that halted the implementation of President Obama's executive actions. On May 26, 2015, the Fifth Circuit Court of Appeals denied the federal government's request for an emergency stay of the preliminary injunction that blocked expanded DACA and DAPA and from being implemented. In addition to the emergency stay, the federal government filed an appeal of the preliminary injunction to the Fifth Circuit Court of Appeals. Oral arguments were scheduled for July 10, 2015. A decision is still pending as there is no set deadline by which the Fifth Circuit must issue its decision. If you would like to listen to the audio of the July 10, 2015 oral arguments, please click [here](#).

For a discussion about the potential next steps that the federal government can take, please see National Immigration Law Center's ["Likely Scenarios" Fact Sheet](#).

Legal experts nationwide are of the opinion that the lawsuits against the implementation of the two programs and the temporary injunction ultimately will not prevail. However, until a final decision is reached, **it is important to inform our clients and communities of the following:**

- **This decision is NOT permanent.** This is NOT the district court's final decision on the matter but a decision to put things on hold so that a full evidentiary hearing/trial can be held.
- **Do not pay anyone to prepare a DAPA or expanded DACA application.** The warning on USCIS' website makes it clear that USCIS is not accepting any applications for DAPA/expanded DACA. USCIS has not issued any application or instructions on how to apply for DAPA/expanded DACA.
- **Do not panic.** Courts play an important role in U.S. government. The legal challenge to President Obama's executive action was expected. The ruling by Judge Hanen does not permanently affect DAPA and expanded DACA. The decision has been appealed and high courts have consistently supported a president's authority to set immigration policy.
- **The current DACA Program remains unchanged.** This decision does NOT affect the current DACA programs announced in 2012 and renewed in June 2014. **VLN continues to screen and provide services to persons eligible under the current DACA program announced in 2012, as well as DACA renewals.**
- **It is very important to continue to prepare to apply for DAPA and expanded DACA.** This temporary decision delays the application process for the two programs. It is important that potential applicants:
 - seek out reliable legal advice regarding eligibility;
 - are protected from fraud;
 - continue to gather the necessary paperwork for applying; and
 - save money for the application fees.

If you have any questions about the status of expanded DACA and DAPA, or would like to volunteer to help those eligible for existing DACA, please contact Gabriela at gabriela@vlnmn.org or Colleen at colleen@vlnmn.org.