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## When Can One Apply for DAPA and Expanded DACA?

Tiyalaw · Thursday, June 2nd, 2016



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**DAPA AND EXPANDED DACA UPDATES: U.S. Supreme Court Decision on the outcome of DAPA and Expanded DACA is likely at the end of June 2016.** U.S. President Barack Obama announced important executive actions on November 20, 2014, such as DAPA and expanded DACA. The **implementations** of DAPA and expanded DACA have been **on hold since February 2015 due to a preliminary injunction, supported by 26 states.** The fate of DAPA and expanded DACA will likely be decided at the end of June 2016 when the U.S. Supreme Court renders its decision in *United States v. Texas*.

**WHAT IS DAPA?** Undocumented parents of U.S. citizens and lawful permanent residents may request **deferred action** and apply for a 3-year **work permit (employment authorization document/EAD)** under the Deferred Action for Parental Accountability Program (**DAPA**). On November 20, 2014, they must be **parents of U.S. citizens or lawful permanent residents born on or before November 20, 2014.** Among other things, such parents must also have been **continuously residing in the U.S. since January 1, 2010;** and must have passed the required background checks. Eligible applicants would have been able to apply for DAPA around May 19, 2015, if it was not blocked by the preliminary injunction.

**WHAT IS EXPANDED DACA?** The executive actions were also expanding DACA eligibility. DACA is Deferred Action for Childhood Arrivals. The executive actions are expanding work authorization to 3 years from 2 years; the age requirement to

include those born prior to June 15, 1981; the continuing residence to include those residing in the U.S. since January 1, 2010 instead of June 15, 2007. All other DACA prior requirements must be met. Eligible applicants would have been able to apply for this expanded DACA around February 18, 2015, if it was not blocked by the preliminary injunction. The U.S. Citizenship and Immigration Services (USCIS) had previously approved work permit/work authorization for 3 years for certain applications for DACA extensions.

**WHEN CAN ONE APPLY FOR DAPA AND EXPANDED DACA?** DAPA and expanded DACA are still on hold because it has been under litigation. Eligible applicants may still apply for the original DACA (instead of the expanded DACA). In February 2015, with the support of 25 other states, a federal District Court in Texas issued a preliminary injunction to block the implementation of DAPA and expanded DACA. After the 5<sup>th</sup> Circuit Court of Appeals affirming the preliminary injunction, the U.S. government (President Obama) requested a U.S. Supreme Court review so that the U.S. federal government may proceed with DAPA and expanded DACA. On January 19, 2016, the U.S. Supreme Court agreed to review the case. **A U.S. Supreme Court decision is likely at the end of June 2016.**

**The following are some possible outcomes of a U.S. Supreme Court (Court) decision:**

1. **If the Court dismisses the case because the Plaintiff states lack standing, the entire case will end, and the injunction blocking DAPA and expanded DACA will be lifted. This means the U.S. federal government can implement DAPA and expanded DACA.**
2. **The Court may reverse the 5<sup>th</sup> Circuit Court on a critical legal issue, thereby allowing the U.S. federal government to implement DAPA and expanded DACA if it chooses to. However, the litigation on DAPA and expanded DACA may continue.**
3. **The Court may affirm the 5<sup>th</sup> Circuit Court decision, upholding the preliminary injunction blocking DAPA and expanded DACA. This means, the U.S. federal government cannot move forward with DAPA and expanded DACA.**

This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship. By **Aik Wan Kok, Lawyer USA Immigration Services, at Tiya**; Tel: 703-772-8224 & koka at tiyalaw dot com; Direct dial from abroad: 001-703-772-8224; <http://www.tiyaimmigration.com> ; <http://tiyalaw.blogspot.com> ; <http://immigrationresource.net>

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