

The Daily stands in solidarity with the Black community. Read our editors' statement.

The Stanford Daily

SEARCH... NEWS SPORTS OPINIONS ARTS & LIFE THE GRIND SATIRE DATA PODCASTS V



FALL WORKSHOPS (ALL REMOTE)

STANFORD DAILY ADVERTISING



TIPS

DIGEST

NEWS

Q&A: Immigration law expert describes challenges for undocumented students despite recent DACA Supreme Court decision



(Photo: Mariam Kelly)

By Logan Little on July 31, 2020

The Daily interviewed Mariam Kelly, managing attorney of Immigration Program Community Legal Services for the East Palo Alto Law Center, to discuss the recent Supreme Court decision to uphold DACA and how this impacts undocumented students. Kelly went on to describe the specific issues undocumented college students are grappling with.

The Supreme Court upheld the Deferred Action for Childhood Arrivals or DACA program in a 5-4 decision on June 18. The program protects approximately 800,000 undocumented young adults, who arrived in the United States before the age of 16, from deportation and makes them eligible for work authorization and other benefits typical of citizens. Although the decision marked a victory for immigration advocacy groups, it did not guarantee DACA could not be struck down through another legislative path.

The Trump administration announced on July 28 it will not be accepting new applications and will limit DACA renewals to one year instead of two as it reviews the future of the program.

The Stanford Daily [TSD]: What was your reaction to the Supreme Court decision? Do you think that decision will last?

Mariam Kelly [MK]: So I think we were surprised because there were a lot of different ways that it could go, especially with the recent Trump appointees onto the court kind of skewing things one way. We thought it would be quite possible that the court would say that DACA was unlawful and they would just leave it at that. This was actually a positive result because they said that they had jurisdiction to review it at all, which is helpful. And 'B,' they said that the way that it was rescinded in 2017 was improper.

What the court did not do was to say that DACA was completely lawful. That was a result that was not on the table, unfortunately. So they've really just kind of punted it back to the administration. So the problem is now that the administration can now reissue a rescission memo if they choose to, and just follow the kind of the roadmap that was set out by the court in terms of doing things the proper way.

So we don't know what the future will hold. It's quite possible that the administration could issue a new memo, they could try to make this more of an election issue, or they'll try to do something completely different. It's really hard to say what's going to happen.

I think it's just a bit of a tricky issue for them because they made a pledge to get rid of DACA. But then if you look at the polls that are conducted nationwide, even people who are quite conservative and Republican have no issue with DACA. I think it has something like an 85% approval rating. So it just seems ridiculous that the administration is going after this the way that they have. So maybe they'll change. That's an optimistic point of view.

TSD: Do you think your clients experience emotional stress from being under DACA and having to renew their status every couple of years? Do you think that brings a certain level of pressure to students who are worried that they won't qualify? Or worried that the legislation will be rescinded, as it almost was a few months ago?

MK: You would think that I would hear more about the stressful nature of DACA and the emotional stresses and the uncertainty. More often than not for my clients, I feel like they're so resilient, way more resilient than I would be in that situation. And they're just kind of like, ... 'I can't change what's going to happen. I can get involved in advocacy. And I can help push things the way that I want them to be. But at the end of the day, my worrying about it is not going to do anything. So I'm focusing on what I can do right now, which is I'm in school and I can continue working on school, getting my education and doing what I can to better my future.'

And for those clients who have already graduated, they're just focusing on work and just doing what they can to move themselves forward with professional advancement opportunities, creating their families and all their different goals. So I think they're doing what they can with what they are being given right now and rolling with the future as it comes.

TSD: How often do you work with students who aren't protected under DACA? And what do the students without this protection do to feel safe and to pursue higher education?

MK: So, yeah, it's true that DACA only applies to folks who have been here since June 15, 2007. So there's a lot of people who just inherently are not eligible for DACA because they arrived too late, or because they were born before that cut off or folks who came here, but that had significant gaps in their presence.

So for people who come to us for screenings for DACA and then we find that they're not eligible for DACA, we screen them for other types of immigration relief. It's just that our immigration laws are really complicated and very limiting ... of the population that's out there, I would say only maybe 10% are eligible for some other form of immigration relief, whether that's through family or if they've ever been a victim of a crime.

We can screen them for a visa, which is a special set for people who are crime victims and assisted law enforcement with investigation of a crime. Best case scenario is that we find that they're eligible for some other form of immigration relief, and then we'll encourage them to pursue that. And if they can get help from our office and meet our criteria, we will help them there and if not, provide referrals.

TSD: What about students who just don't qualify for anything?

MK: So we just kind of have to tell people that there are risks. Inherently [with] this administration, it's a more of a risky environment to be in. And so the best way is [to] make sure that they're not having negative encounters with law enforcement because that's the number one way people get picked up. It's not through indiscriminate raids or anything like that. More likely than not it's some sort of negative contact with law enforcement that would lead to an apprehension.

So we just tell people to avoid negative contacts with law enforcement and inform themselves and their family that they have rights. ICE and the police cannot just indiscriminately go into someone's house. They need a warrant, and you have the right to not answer the door. Always ask for a warrant to be pushed up against the window or underneath the door. Whether somebody is a U.S. citizen or a permanent resident or undocumented, they all have rights that are guaranteed to them under the Constitution. And all those provisions against unlawful search and seizure apply to them, too.

TSD: How often do you work with undocumented students who are struggling financially to afford college or to afford expenses beyond college?

MK: Yeah, I think it's a struggle for all of the clients that I've worked with. It comes down to scholarships. Scholarships can kind of be the difference between choosing to attend a college or not. And most of the clients that I work with are just not able to pull out loans generally. They're not eligible for federal aid, and even getting private aid could be really challenging. So a lot of times they're just working part time and paying out of pocket or going to community college unless they have some sort of scholarship that helps to drop the costs significantly.

The good thing is, we connect a lot of our clients with the different resources out there ... There are all of these different scholarships that are available, either in large part, small part, just to help Dreamer students pay their way towards school ... We just try to encourage them to apply for as many as they can and hopefully take a good chunk of their expenses away.

TSD: You mentioned that they [undocumented students] can't apply for loans. Is that also because of their undocumented status or is that for some other reason? For a variety of reasons?

MK: I think every bank has a different policy. And if they see that there's a young person with no credit history, they can put all kinds of barriers in place for them to qualify them for loans. If they are approved for loans, they are often at exorbitant interest rates. Those tend to be prohibitive. And so a lot of our clients choose not to pull out loans.

TSD: How often you work with undocumented students who have family members who are either in another country or are here and undocumented? Are they dealing with particular

family pressures?

MK: Yeah. I think more often than not, people [have] mixed dated families, and it's either that you have somebody who is undocumented and they have younger siblings who were born here, or they are somebody who was born here and the parents are from a different country or the parents are [separated from their children], a broad but also really common scenario, because unfortunately, our immigration laws separate families, and it's just a big tragedy.

So we just advise people to get a consultation, see what you can do for yourself. See what U.S. citizen relatives can do to petition for others. We encourage them to get consultations again because the laws do change. We haven't seen much in the way of positive changes in the last few years, but especially, you know, when we see a new administration, everybody should get a consultation because we're hoping to see better developments.

TSD: Do you think students sometimes avoid getting those consultations?

MK: Yeah, I think that's for a variety of reasons. I think that some people just assume that, 'Oh, I'm not eligible for anything. So there's no point in getting a consultation, or maybe one of their family members or their parents got a consultation years ago.

Knowledge is power, and it's just making sure that you're on top of getting the right information and getting it in a timely fashion. Unfortunately, people who have — like, let's say they [was] like a crime picked up after like 2008 or something, and they never got a consultation about it. We could have applied for you for that 10 years ago and that would have really made a difference. So we just know there's really nothing that could be lost in terms of getting a consultation.

Even if you're not eligible for something, it's a good idea just to know about what the immigration landscape is and how that manifests itself in your own situation and that of your family's. Just having somebody divert [or] reiterate that information to you sure couldn't hurt. It's always a good idea just to make sure that you're up to speed.

This transcript was lightly condensed and edited for clarity.

Contact Logan Little at [loganparislittle 'at' gmail.com](mailto:loganparislittle@gmail.com).

While you're here...

We're a student-run organization committed to providing hands-on experience in journalism, digital media and business for the next generation of reporters. Your support makes a difference in helping give staff members from all backgrounds the opportunity to develop important professional skills and conduct meaningful reporting. All contributions are tax-deductible.