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POTENTIAL OUTCOMES FOR DACA IN THE COURTS

On Wednesday, July 6, 2022, the Fifth Circuit Court of Appeals heard oral arguments for the *State of Texas v. the USA*. A decision is expected in the coming months that will determine the future of DACA. Eligible DACA recipients should consider renewing their protections as soon as possible.

At the University of Utah and at Salt Lake Community College, we are committed to supporting all students, regardless of their immigration status. Here are the 3 potential court outcomes you should be aware about:

1

The Fifth Circuit rules DACA is unconstitutional and lifts the stay Judge Hanen issued on renewals.

This could result in USCIS immediately ending processing for all DACA renewal requests. The decision could be appealed to the Supreme Court. Additionally, DOJ and/or MALDEF (and intervener in the case) could request that the Supreme Court restore Judge Hanen's stay, which would require five Justices to vote to allow the stay, and would result in the continued processing of DACA renewals throughout the litigation timeline.

2

The Fifth Circuit rules DACA is unconstitutional and does not lift the stay.

In this scenario, DACA renewals would continue while the case remains pending before the Supreme Court. Although the Fifth Circuit does not lift the stay in this scenario, states led by Republican governors could ask Judge Hanen to lift the stay himself. If Judge Hanen lifts the stay, renewals would end and the DOJ and/or MALDEF could request to the Supreme Court that they restore Judge Hanen's stay. Five Justices would need to vote to allow the stay, which would make sure USCIS continues to grant renewals throughout the litigation timeline.

3

The Fifth Circuit rules that DACA is constitutional.

This outcome is very unlikely. In this scenario, renewals continue and initial applications could be processed. Similar to the previous scenario, Republican-led states could ask the Supreme Court to review the Fifth Circuit's decision, and could also ask the Court to block the adjudication of initial applications, as well as renewal applications, pending completion of the litigation.

