

Sessions rips federal judge for 'improperly' reinstating DACA, 'eviscerating' executive power

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Attorney General Jeff Sessions on Monday excoriated a federal judge for ordering the reinstatement of DACA, saying he had exceeded his authority. (Copyright 2018 The Associated Press. All rights reserved.)

Attorney General Jeff Sessions on Monday unloaded on a federal judge who ordered the administration to reinstate the Obama-era Deferred Action for Childhood Arrivals (DACA) policy last week, saying the ruling was "improper" and vowing to keep up enforcement efforts against illegal immigration "aggressively."

Sessions added that the judge had effectively "eviscerated" the legal authority of the executive branch and Congress, and strongly suggested the administration would appeal the ruling.

The Trump administration [announced last year](#) it would end DACA, which was implemented by the Obama administration using executive authority and protects illegal immigrants brought to the U.S. as children from deportation. However, the Republican-controlled Congress has [failed to agree to a permanent statutory replacement](#) for the program, despite several legislative attempts.

Federal judges [have since barred the administration](#) from ending the program entirely, saying it would be acceptable only to shut down future enrollment in DACA because existing applicants had already relied on it. But the ruling by U.S. District

Judge John Bates went a step further by ordering authorities to essentially reinstate DACA in full.

In a statement, Sessions decried Bates' ruling as one of a "number of decisions in which courts have improperly used judicial power to steer, enjoin, modify, and direct executive policy."



Bates, a George W. Bush appointee, ruled that while the Trump administration has the power to rescind DACA, it must legally provide a "rational explanation for its decision."

The Administrative Procedure Act (APA) is a federal law that prohibits the federal government from enacting new policies -- or getting rid of old ones -- for reasons that are "arbitrary and capricious," or lacking any rational basis.

Trump's lawyers have argued that because DACA was created by executive action under the Obama administration, similar executive action by the Trump administration should be able to quickly rescind it.

But the judge concluded that under the APA, the Trump administration's lawyers had offered only a "conclusory assertion that a prior policy [DACA] is illegal, accompanied by a hodgepodge of illogical or post hoc policy assertions." Bates added that this approach "simply will not do," although he emphasized that there is nothing that would prevent the administration from ending DACA if it could provide a workable justification.



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Sessions countered Monday that federal judges were placing too high a bar on the executive branch to justify the policy change, despite Bates' arguments that thousands of people had come to rely on DACA.

"The judicial branch has no power to eviscerate the lawful directives of Congress—nor to enjoin the executive branch from enforcing such mandates," Sessions said.

"The last administration violated its duty to enforce our immigration laws ..."

- Attorney General Jeff Sessions

"This ignores the wisdom of our Founders and transfers policy making questions from the constitutionally empowered and politically accountable branches to the judicial branch," he added. "It also improperly undermines this Administration's ability to protect our nation, its borders, and its citizens. The Trump Administration and this Department of Justice will continue to aggressively defend the executive branch's lawful authority and duty to ensure a lawful system of immigration for our country."

The attorney general has previously announced several policies designed to toughen immigration enforcement, in addition to the administration's zero-tolerance prosecution policy for illegal border crossers. He has [limited the ability of non-Americans](#) to make asylum claims because of alleged domestic abuse or gang activity, citing increasing numbers of fraudulent claims.

Also, the Justice Department has sued California, [saying the state has stood](#) in the way of federal immigration authorities unconstitutionally. Last month, a federal judge struck down one "troubling" California sanctuary state law in response, but upheld two others.

On Monday, Sessions said the DACA ruling -- which the Trump administration can appeal within 20 days -- would not stop or slow efforts to curb illegal immigration.

"The last administration violated its duty to enforce our immigration laws by directing and implementing a categorical, multipronged non-enforcement immigration policy for a massive group of illegal aliens," Sessions said, adding that the Trump White House has "simply reestablished the legal policies consistent with the law."

Sessions suggested that the Justice Department would appeal Bates' ruling.

"The executive branch's authority to simply rescind a policy, established only by a letter from the Secretary of the Department of Homeland Security, is clearly established," he said. "The Department of Justice will take every lawful measure to vindicate the Department of Homeland Security's lawful rescission of DACA."

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