

## FREQUENTLY ASKED QUESTIONS

# USCIS Accepts Deferred Action for Childhood Arrivals Renewal Applications

On January 9, 2018, Judge William Alsup of the U.S. District Court for the Northern District of California *ordered a halt* to the federal government's termination of the Deferred Action for Childhood Arrivals, or DACA, program. In the case *Regents of the University of California, et al. v. Department of Homeland Security, et al.*, Alsup granted a [\*preliminary injunction\*](#) — a temporary order blocking the end of the DACA program while the case goes forward — requiring U.S. Citizenship and Immigration Services (USCIS) to begin accepting DACA renewal applications again. On January 13, 2018 USCIS announced their process for accepting renewal applications. USCIS additionally stated that further guidance would be provided later.

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United We Dream and the National Immigration Law Center created the following answers to frequently asked questions.

### ■ Can I submit a first-time application for DACA?

NO. If you have never had DACA before, you cannot submit an application. Only people who have had DACA at some point can submit a renewal application.

### ■ I have DACA, can I apply for Advance Parole?

NO. USCIS will not accept advance parole applications from DACA recipients.

### ■ Can I submit an application to renew DACA?

YES. If you were *granted* DACA, you may submit an application to renew your DACA.<sup>1</sup> You must also meet the following requirements in order to qualify for DACA renewal:

- You must *not* have departed the U.S. on or after August 15, 2012, without first having been granted *advance parole*.<sup>2</sup>
- You must have resided continuously in the U.S. from the time you submitted the initial request for DACA up until the present time.
- You must not have been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and must not otherwise pose a threat to national security or public safety.

### ■ Does it matter when my DACA expires/expired?

USCIS has reopened the application process for anyone whose DACA has expired. However, the process for applying is different if your DACA expired before September 5, 2016,. If your DACA expired before September 5, 2016, you can request to renew your DACA but you must

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<sup>1</sup> Information from USCIS about requesting DACA for the first time and applying to renew DACA is available from [www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process](http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process).

<sup>2</sup>

fill out an initial application. If you had DACA and your DACA issuance was cut short by DHS (meaning DHS terminated your DACA), you can obtain DACA again by filling out an initial DACA application.

When the announcement that DACA was being terminated was made, USCIS only allowed people with expiration dates between September 5, 2017 and March 5, 2018 to apply but that rule does not apply here.

However, we do not know yet if USCIS will handle the processing of DACA cases with more than 150 days left before expiration. USCIS previously encouraged DACA recipients to complete their renewal application during the 120-150 day window before expiration to provide enough time for processing and to avoid a lapse in their DACA. We do not know at this time if they will prioritize cases with less than 150 days left before expiration.

■ **Do I need to live in California to be eligible?**

NO. The case is in California but the order and process for renewal applies nationwide.

■ **When should I apply to renew my DACA?**

You should assess whether it makes sense for you to apply as soon as possible. There is no deadline by when applications are due. However, the government has already made public that they plan on appealing the court decision. The renewal program may be available indefinitely or may be stopped by another court depending on how the case proceeds in the courts.

■ **What should I do to prepare for renewal?**

To prepare to apply for DACA renewal:

- It's crucial to weigh the pros and cons of applying at this time. You must consider the possibility that the order requiring USCIS to accept applications gets appealed before or even while your application is pending and you may risk losing the \$495 fee.
- It's important that the information in the renewal request be *consistent* with the information provided in the initial request. Therefore, we recommend that you make sure to have a *copy of your initial application* for DACA. You should also make a copy of your renewal application.
- You must have put aside \$495 to pay the renewal application fees [*but see footnote 6*].
- If you have received citations, been arrested, or been criminally charged or convicted since initially receiving DACA, you must gather evidence of these contacts with law enforcement or the courts. We highly recommend speaking to an attorney or BIA (Board of Immigration Appeals)-accredited representative prior to applying because given the change in who is considered an "enforcement priority," the risks associated with applying may be different if you have had interactions with law enforcement.
- If you have a deportation order, voluntary departure order, or an administratively closed immigration case we highly recommend speaking to an attorney or BIA (Board of Immigration Appeals)-accredited representative prior to applying. Given the change in who

is now considered an “enforcement priority,” the risks associated with applying may have changed.

- If you are currently in exclusion, deportation, or removal proceedings, you must submit any new documents related to your case, unless you already submitted them to USCIS when you first applied for DACA or unless your case was administratively closed. We recommend speaking to an attorney or BIA-accredited representative prior to applying to assess how applying for DACA will affect your case.

### ■ How do I apply to renew my DACA?

If your DACA expired before September 5, 2016, you can request to renew your DACA but you must fill out an initial application. If you had DACA and your DACA issuance was cut short by DHS (meaning DHS terminated your DACA), you can renew your DACA, but you have to fill out an initial DACA application. Information about the requirements and process for an initial application is available at [www.nilc.org/faqdeferredactionyouth/](http://www.nilc.org/faqdeferredactionyouth/). Be sure to include the date your DACA expired on Part 1 of the Form I-821D.

If your DACA expired on or after the September 5, 2016 you may submit a DACA renewal application. The renewal application requires filling out and submitting the same forms as before: **Form I-821D**, **Form I-765 Application for Employment Authorization**, and **Form I-765WS Worksheet**. NOTE the forms have been updated and you want to use the *latest versions* to avoid any delays. In the bottom left corner of each page of the latest version of Form I-821D, the following is printed:

Form I-821D dated 01/09/17 Y

Form I-765 Application for Employment Authorization 07/17/17 N

Form I-765 WS Worksheet 07/17/17 N

When you’re submitting a renewal application, you must fill out all sections of the forms and answer all the questions *except* those designated “For Initial Requests Only.” You must also submit any *new* documents relevant to your *removal proceedings* or *criminal history* that you have not submitted previously.

USCIS asks that no additional documents be sent, not even proof that you have resided continuously in the U.S. since you first received DACA. USCIS advises that you keep all documents that provide evidence that you meet all the guidelines. USCIS reserves the right to ask you for additional information, documents, and statements to verify information on your DACA renewal application. USCIS also reserves the right to contact government agencies and others to verify the information provided in the application.

- NOTE: If your DACA was granted initially by U.S. Immigration and Customs Enforcement (ICE) and not USCIS, you must fill out *all* the sections and answer *all* the questions on the forms and submit *all supporting documentation* as if you were filing an initial request. The completed forms and supporting documentation must then be submitted to USCIS.

## ■ What are the fees for the DACA renewal application?

The renewal request costs \$495. In very limited circumstances, applicants [may be exempted](#) from having to pay the fees.<sup>3</sup>

## ■ Where should I send my DACA renewal application?

Regardless of whether your initial DACA was adjudicated by ICE or by USCIS, you must submit your application for renewal to USCIS. Where, specifically, you must send your application depends on where you live. Check USCIS's "[Direct Filing Addresses for Form I-821D, Consideration of Deferred Action for Childhood Arrivals](#)" for the correct mailing address.<sup>4</sup>

## ■ If I have been arrested or convicted of an offense, or have had other interactions with law enforcement since receiving DACA, what should I do?

**It is a risk to apply. Speak to an attorney or a BIA–accredited representative about your case.** Due to the enforcement priorities changing in January of 2017 and the renewal process being available only for a limited time, it is best to speak to an immigration expert before applying. Even if the incident happened before you applied and received DACA in the past and you revealed them in previous applications for DACA, the enforcement priorities have changed and you are at risk of being referred to ICE by applying.

## ■ Can someone with a deportation order, voluntary departure, or an administratively closed case apply for DACA renewal?

**It is a risk to apply. Speak to an attorney or a BIA–accredited representative about your case.** Due to the enforcement priorities changing in January of 2017, if you had any interaction with an immigration judge or immigration court, you want to speak to an immigration expert. Even if these events happened before you applied and received DACA in the past and you revealed them in previous applications for DACA, the enforcement priorities have changed and you are at risk of being referred to ICE by applying.

## ■ My last renewal application was rejected because I did not meet the October 5, 2017 deadline, can I still apply to renew?

YES. You can apply for renewal even if your last application was rejected specifically due to not meeting the October 5, 2017 deadline.

## ■ How long will it take USCIS to process my DACA renewal application?

We do not know. USCIS's goal for processing DACA renewal applications used to be 120 days.

IMPORTANT NOTE FROM THE AUTHORS: We want to emphasize the need for Congress to pass the Dream Act by January 19th. The decision to terminate DACA made by President

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<sup>3</sup>[www.uscis.gov/forms/forms-and-fees/consideration-deferred-action-childhood-arrivals-fee-exemption-guide](http://www.uscis.gov/forms/forms-and-fees/consideration-deferred-action-childhood-arrivals-fee-exemption-guide).

<sup>4</sup> [www.uscis.gov/i-821d-addresses](http://www.uscis.gov/i-821d-addresses).



Trump created panic and left millions of immigrant youth's lives in limbo. Attorney General Jeff Sessions' announcement to terminate DACA, followed by the Department of Homeland Security's guidance on who could apply for renewal and by when created confusion and widespread anxiety within the immigrant community. Although implementing the Judge's order and allowing people to apply for renewal will help bring some relief to immigrant youth, many are still worried that the option to apply for renewal may be taken away at anytime. This is no way to live. Immigrant youth deserve stability, peace of mind, and protections from detention and deportation, which only a permanent solution like the Dream Act can provide.