

# FREQUENTLY ASKED QUESTIONS

## Deferred Action for Childhood Arrivals Renewal Process

Last updated AUGUST 31, 2015

**T**he revised Deferred Action for Childhood Arrivals (DACA) application form—[Form I-821D](#)—that U.S. Citizenship and Immigration Services (USCIS) issued in June 2014 is the form that’s to be used either when applying for DACA the first time *or* when applying to renew DACA.<sup>1</sup> The following answers to frequently asked questions are intended primarily for *people applying to renew DACA*, as well as for *legal service providers* and *organizers*.

**This document is a work in progress** and will be updated as USCIS releases more details about the DACA renewal process. Sign up for updates at <https://nilc.z2systems.com/survey.jsp?surveyId=5>.

**NOTE: This FAQ contains general information and is not legal advice.**

Every person’s case is different.

**Do not take advice from a notary public or an immigration consultant.**

People who have DACA and want to apply for renewal are advised to consult with a qualified immigration lawyer or a Board of Immigration Appeals–accredited representative for advice about their case.

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### INFORMATION FOR THOSE APPLYING TO RENEW DACA

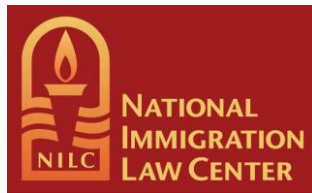
■ Can I submit an application to renew DACA?

If you were *granted* DACA, you may submit an application to renew your DACA.<sup>2</sup> You must also meet the following requirements in order to qualify for DACA renewal:

<sup>1</sup> [www.uscis.gov/i-821d](http://www.uscis.gov/i-821d). See also [www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/renew-your-daca](http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/renew-your-daca).

<sup>2</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).

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- You must *not* have departed the U.S. on or after August 15, 2012, without first having been granted *advance parole*.<sup>3</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.

If you are considering applying for DACA for the *first time*, more information about the requirements and process is available at [www.nilc.org/faqdeferredactionyouth/](http://www.nilc.org/faqdeferredactionyouth/).

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

We recommend you take the following steps to find out when you should apply to renew your DACA:

- STEP 1: Find out when your DACA expires by doing either of the following:
  - Look at the I-797 Notice of Action under “Notice Type.”
  - Look at your employment authorization document (EAD) under “Card Expires.”
- STEP 2: Figure out when your optimal “filing window” is. While you can file your renewal at any time, USCIS recommends that you file your renewal application NO EARLIER THAN 150 days before your DACA expires and NO LATER THAN 120 days before it expires. Filing within this window of time will help you avoid having your DACA and EAD expire.

To help you with STEP 2 (figuring out when to file), we make available an [online DACA renewal calculator](#).<sup>4</sup> You can also use a calendar to figure out when your optimal filing window is. On your calendar, count backwards 150 days from the date your DACA expires, and mark that date on your calendar. It would be best *not* to file your renewal application before that date. Then go back to the date your DACA expires, count backwards 120 days, and mark this date on your calendar. It would be best to file your renewal application *before* this second date that you’ve marked. The period between the two dates you’ve marked is the optimal filing window.

USCIS expects that if you submit your renewal application approximately 150 to 120 days before your DACA expiration date, USCIS will be able to review your application and either grant or deny it before your DACA and EAD expire. However, since some DACA renewal applications have not been approved before the applicants’ DACA expired, *we* recommend that you file your application *no later than 140 days before* your DACA expires, so that USCIS has as much time as possible to make a decision on your application.

You can file a renewal request more than 150 days before your initial DACA expires, but keep in mind that filing early could result in your DACA and EAD renewal date being earlier than your initial DACA’s expiration date. This, in turn, would mean that your two-year renewal period would expire sooner than it would if you did not submit an early application.

<sup>3</sup> A person with DACA can apply for advance parole with Form I-131. USCIS will grant advance parole only if the travel abroad is for educational, employment, or humanitarian purposes. See [www.uscis.gov/i-131](http://www.uscis.gov/i-131).

<sup>4</sup> [www.nilc.org/dacarenewalcalculator/](http://www.nilc.org/dacarenewalcalculator/).

EXAMPLE: Your DACA's expiration date is in March 2016. You decide to submit your renewal application in September 2015, about 6 months before your DACA expires. USCIS will accept your early application for processing, but if your application is approved and your DACA is renewed for a period of two years, that period will begin on the date USCIS approves the application. So if USCIS approves your renewal application in November 2015, your DACA renewal period will be from November 2015 through November 2017, not from March 2016 through March 2018.

You can still file a renewal request later than 120 days before your DACA expires, but USCIS cannot guarantee that such an application will be accepted or denied by the time your current DACA and EAD expire.

There are a very small number of people who were granted DACA by U.S. Immigration and Customs Enforcement (ICE) *before* August 15, 2012, while they were in detention or removal proceedings. These people are allowed to apply to renew their DACA and EAD right away.

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

Both the initial application for DACA and the renewal application are made by filling out and submitting the same forms: **Form I-821D**, **Form I-765 Application for Employment Authorization**, and **Form I-765WS Worksheet**. Note that you must use the *latest version* of Form-821D. In the bottom left corner of each page of the latest version of Form I-821D, the following is printed:

Form I-821D 06/04/14 N

If you don't use the latest version of Form I-821D, your application will be rejected.

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 (see USCIS's [Instructions for Consideration of Deferred Action for Childhood Arrivals](#),<sup>5</sup> page 10, items 11 and 12, and also the section on pages 10–11 of the instructions titled "Evidence for Renewal Requests Only"). The completed forms must be submitted to USCIS (see p. 12 of the instructions under "Where to File?").

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

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<sup>5</sup> [www.uscis.gov/sites/default/files/files/form/i-821dinstr.pdf](http://www.uscis.gov/sites/default/files/files/form/i-821dinstr.pdf). Note that the latest edition of USCIS's DACA application instructions has "Form I-821D Instructions 06/04/14 N" printed in the bottom left corner of each page.

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 the same as the initial request: \$465. The cost includes a \$380 application fee for Form I-765 (Application for Employment Authorization) and an \$85 fee for biometrics (fingerprints and photo). DACA renewal applicants are required to submit new biometrics. In very limited circumstances, applicants [may be exempted](#) from having to pay the fees.<sup>6</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>7</sup>

■ What should I do to prepare for renewal?

To prepare to apply for DACA renewal:

- 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. If you don't already have a copy and you initially applied for DACA with the help of an attorney, the attorney's office is likely to have a copy of your application. Another option is to file a [Freedom of Information Act](#) (FOIA) request with USCIS to get a copy of the initial application.<sup>8</sup>
- You must have put aside \$465 to pay the renewal application fees.
- 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.
- 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.

■ If I initially received DACA and was under age 31 on June 15, 2012, but have since become older than age 31, can I still apply to renew?

Yes. Eligibility for DACA renewal is *not* limited to people who currently are under age 31.

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<sup>6</sup> [www.uscis.gov/forms/forms-and-fees/consideration-deferred-action-childhood-arrivals-fee-exemption-guidance](http://www.uscis.gov/forms/forms-and-fees/consideration-deferred-action-childhood-arrivals-fee-exemption-guidance).

<sup>7</sup> [www.uscis.gov/i-821d-addresses](http://www.uscis.gov/i-821d-addresses).

<sup>8</sup> Information about how to file a FOIA request is available at [www.foia.gov](http://www.foia.gov).

- What if I am no longer in school. Can I still apply to renew my DACA, since the application form does not ask DACA renewal applicants for that information?

Yes. Neither the DACA application form nor the instructions ask renewal applicants for information about continued school enrollment or graduation. The instructions for renewal applications specify that a person may be considered for DACA renewal if he or she met the guidelines for consideration of initial DACA and

1. did not depart the U.S. on or after August 15, 2012, without advance parole;
2. has continuously resided in the United States since submitting the prior DACA application; and
3. has not been convicted of a felony, a significant misdemeanor or three or more misdemeanors, and is not a threat to national security or public safety.

However, as mentioned above, USCIS may ask you for additional information as well as for documents to verify the information on your DACA renewal application.

- Do I have to submit updated information and evidence about how I meet the educational guideline?

No. You do not need to include evidence or information related to the educational requirement with your renewal application.

- Do I have to be in college in order to be eligible for DACA renewal?

No. You do not have to be enrolled in college to be eligible for DACA renewal. DACA is *not* the same as the proposed federal “DREAM Act,” whose eligibility criteria would include college enrollment or military service.

- Do I have to be currently working in order to be eligible for DACA renewal?

No. To be eligible for DACA renewal, you do not need to be currently working, and you do not need to submit evidence of employment as part of your renewal application.

- 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?

Here are some suggestions for what you can do before applying for renewal if you have had interactions with law enforcement since first receiving DACA:

- **Get a background check.** USCIS requires that applicants for DACA renewal submit proof of the disposition of (what has happened with respect to) any criminal arrests, charges or convictions.<sup>9</sup>
- **Complete a “live scan” (electronic fingerprinting),** if it’s available in your state. For example, if you have lived only in California and are sure that you have not had any arrests or contact with law enforcement in any state other than California, you

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<sup>9</sup> For a list of crimes that would make a person ineligible for DACA, see the “Criminal Convictions” section of the USCIS DACA FAQ, available at [www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions](http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions).

can complete the California “live scan.” Visit <http://oag.ca.gov/fingerprints> to find locations and information about the California process. Other states may have similar processes.

- **Request an FBI criminal background check.** The instructions for requesting an FBI criminal background check are at [www.fbi.gov/about-us/cjis/criminal-history-summary-checks](http://www.fbi.gov/about-us/cjis/criminal-history-summary-checks).
- **Request your file from the court**, if you have had to appear in criminal court. **WARNING:** If you have an outstanding warrant, you may be arrested if you go to court in person to request your file.
- **Speak to an attorney or a Board of Immigration Appeals (BIA)–accredited representative** about your case.

More information about how to obtain criminal records is available from “How to Get Your Criminal Record” guide, available from the Own the Dream website, at [www.weownthedream.org/library/attachment.244832](http://www.weownthedream.org/library/attachment.244832).<sup>10</sup>

Keep in mind that the guidelines regarding a criminal record have not changed, so crimes that would disqualify you from obtaining DACA initially will also disqualify you from renewing your DACA.

- If I have or had DACA and am in the process of adjusting to a permanent immigration status through another process (for example, through my U.S. citizen spouse), should I still apply to renew DACA?

You may apply to renew DACA while simultaneously applying for another type of immigration relief. Whether it is worth applying for both is a decision you will need to make, preferably with the help of an experienced attorney or a BIA-accredited representative who works for a nonprofit organization that helps people with immigration matters.

## INFORMATION FOR THOSE WHO HAVE ALREADY APPLIED TO RENEW DACA

- I applied to renew my DACA but have not heard back from USCIS. Why is it taking them so long to process my application?

USCIS has said that the following factors may affect the timely processing of a DACA renewal application:

- Failure to appear at a biometric appointment—the appointment during which your fingerprints are taken. Rescheduling these appointments or not showing up to them adds to the processing time.
- Issues of national security, criminality, or public safety discovered during the background check that USCIS has to look into further.

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<sup>10</sup> Own the Dream is a national campaign to help aspiring Americans brought to the U.S. as children take advantage of the opportunity to apply for DACA and work authorization. NILC and United We Dream are partners in the campaign, along with many other organizations. More information about Own the Dream is available at [www.weownthedream.org/about/](http://www.weownthedream.org/about/).



- Issues of travel abroad that need additional evidence or clarification. USCIS has not stated whether people who have used advance parole can expect delays in processing their renewal application.
  - Name and/or date-of-birth discrepancies that may require additional evidence or clarification.
  - An incomplete renewal application or a renewal application that contains evidence suggesting that it may not satisfy the DACA renewal guidelines. USCIS must then request additional evidence or explanation.
- I applied to renew my DACA but have not heard back from USCIS, and my DACA and EAD will expire soon. What happens if my DACA and EAD expire before my DACA renewal application has been processed?

USCIS has clarified that it will not issue interim EADs to applicants for DACA renewal, no matter what the circumstance. If your initial DACA and EAD expire while USCIS is still processing your renewal application, then you will likely lose your DACA status and employment authorization until USCIS makes a decision about the renewal application. If this happens, you will no longer be “lawfully present” in the U.S. and will begin accruing “unlawful presence,” unless you were under age 18 at the time you submitted the renewal application. You will also be at risk of losing your employment, since you will no longer have legal authorization to work. Therefore, *it is very important that you apply for renewal no later than 120 days before the expiration of your DACA and EAD to lessen the likelihood of this happening.*

Information about how to check the status of your application can be found in NILC’s and the Immigrant Legal Resource Center’s (ILRC’s) [“Steps to Take if Your DACA Renewal Is Delayed.”](#)<sup>11</sup>

- I applied to renew my DACA, but my DACA and EAD will expire soon or have expired. Is there anything I can do to find out about my case’s status and to expedite it?

Yes. Information on the steps you can take to find out about your case’s status and to potentially expedite it can be found in ILRC’s and NILC’s [“Steps to Take if Your DACA Renewal Is Delayed.”](#)

- If my DACA renewal request is denied, what will happen? Will I be placed in deportation proceedings?

USCIS says that if your DACA renewal request is denied, generally they will not refer your case to ICE (the immigration enforcement authorities), unless your case involves a criminal offense, fraud, or a threat to national security or public safety.

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<sup>11</sup> [www.nilc.org/steps-take-daca-renewal-delayed/](http://www.nilc.org/steps-take-daca-renewal-delayed/).

## INFORMATION FOR THOSE WHOSE DACA HAS BEEN RENEWED

- I heard that some people had to return their three-year EADs. I got my EAD renewed for a three-year period, but I did not receive a notice from USCIS telling me to return it. Should I mail it in anyway?

No. If you have not received a written notification or phone call from USCIS, or a visit from a USCIS officer, instructing you to return your three-year EAD, then it is unlikely that you are required to return it. The only three-year EADs that had to be returned were those issued after February 16, 2015.

USCIS has an online tool—[https://my.uscis.gov/daca\\_ead](https://my.uscis.gov/daca_ead)—to help DACA recipients find out if they have to return their EADs. Additional information can be found in NILC’s and United We Dream’s (UWD’s) “[Alert: USCIS Retracts Some Three-Year DACA Work Permits](#).”<sup>12</sup>

- I got my DACA and EAD renewed for a two-year period already. But President Obama announced on Nov. 20, 2014, that DACA will now be granted for three-year periods. Will my DACA now be extended for an additional year?

No. Because of a court order, USCIS can issue DACA and EADs for DACA recipients only for two-year periods.

MORE INFORMATION AND UPDATES ARE AVAILABLE FROM

[www.nilc.org/issues/daca/](http://www.nilc.org/issues/daca/)

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<sup>12</sup> [www.nilc.org/wp-content/uploads/2015/11/three-year-EAD-2015-07-28.pdf](http://www.nilc.org/wp-content/uploads/2015/11/three-year-EAD-2015-07-28.pdf)