



## ALERT: USCIS Retracts *Some* Three-Year DACA Work Permits

*What to do if USCIS has contacted your clients and members*

THIS PAST JUNE, the Deferred Action for Childhood Arrivals (DACA) program reached its third anniversary. The [program](#) allows eligible undocumented immigrants who entered the country at a young age to apply for temporary protection from deportations and two-year work permits (also known as Employment Authorization Documents or EADs).<sup>1</sup> To date, [over 665,000](#) immigrant youth have received their DACA. Over the past year, over 355,000 immigrant youth have applied to renew their DACA.<sup>2</sup>

The success of DACA is clear. It has allowed hundreds of thousands of immigrant youth to live without fear of deportation and [pursue their interests](#).<sup>3</sup> However, there has been much confusion recently regarding whether some DACA recipients must return their three-year work permits to USCIS. United We Dream and the National Immigration Law Center created this document in hopes of clarifying some of the confusion for your clients and members.

### How does the *Texas v. U.S.* case affect DACA?

A November 20, 2014, Department of Homeland Security Memorandum states that people with DACA would receive an EAD and DACA for a 3-year, rather than a 2-year, period. On February 16, 2015, Judge Hanen issued an order in the *Texas v. U.S.* case requiring USCIS to stop issuing 3-year EADs.

The order does not affect approximately 108,000 people who received 3-year EADs before February 16, 2015. It also does not affect any other aspect of the DACA program announced in 2012. Immigrant youth who are eligible for DACA can still

apply and those with DACA should also apply for a renewal before their EAD expires.

### Who must return their three-year EADs?

USCIS mistakenly issued about 2,100 3-year EADs after February 16, 2015 and must retrieve these 3-year EADs by July 31, 2015. USCIS also issued about 500 3-year EADs before February 16, 2015 which were returned to USCIS as undeliverable. USCIS then re-mailed these EADs to an updated address after February 16, 2015. **USCIS has notified people in both these groups that their 3-year EADs are no longer valid and must be immediately returned, along with any approval notices.** USCIS is re-issuing 2-year EADs to people who were erroneously issued 3-year EADs.

The two groups of people who must return their 3-year EADs to USCIS are:

1. People who received their 3-year EADs in the mail after February 16, 2015.
2. People whose 3-year EADs were re-mailed after February 16, 2015 because the first mailing was undeliverable. USCIS has mailed one or more letters to the people in these two groups stating that they must mail back their 3-year EADs. USCIS has also called people and begun conducting home visits.

**People who received 3-year EADs before February 16, 2015, that have never been returned or reissued by USCIS do not have to return them.**

### What happens if the 3-year EAD is not returned?

USCIS will contact people by phone and/or in person to retrieve the 3-year EADs. USCIS will visit the homes of people who have not returned their 3-

<sup>1</sup> [www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca](http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca).

<sup>2</sup> <http://tinyurl.com/n9wts32>.

<sup>3</sup> [www.uscis.gov/immigrationaction](http://www.uscis.gov/immigrationaction).

year EAD or have not replied to USCIS's letter. If USCIS does not receive the erroneously issued 3-year EAD by July 31, 2015, they will terminate the person's deferred action and their EAD. USCIS has also stated that it could consider the refusal to return an EAD as a negative factor in a future deferred action request, or any other discretionary request.

People who are unable to return their 3-year EAD due to losing it or another reason can sign a document stating this.

#### If people are in this situation, what can they do?

If they have already sent back their 3-year EAD, they can call the USCIS National Customer Service Center (1-800-375-5283, select option 1 for English, then option 8) to confirm the receipt of the EAD.

If they have not returned their EAD, they should return their 3-year EAD by hand to their local USCIS office. They can call the USCIS National Customer Service Center to find the office closest to them and to verify that they must return it. People who have moved since applying for DACA, should immediately file a change of address form (AR-11) at [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange).

#### What will USCIS do on a home visit to a DACA recipient's house?

USCIS has stated that they will call people and if represented, their attorney of record, at least one day before a scheduled home visit. The person should expect to see two plain clothed USCIS employees. They will not be dressed like the police or like ICE. The USCIS employees will have credentials that show that they work for USCIS. They will carry cards that contain their name, phone number and office location. The USCIS employees will also have a copy of the notices that they mailed out. USCIS has assured us that they will not ask to speak to anyone else in the house besides the DACA recipient.

If USCIS employees arrive at a person's house, the person should ask to see their USCIS credentials, get a copy of their business card and also ask to see a copy of any letters that USCIS has sent. People should give USCIS their 3-year EAD.

#### Has USCIS already issued 2-year EADs to people who were erroneously issued a 3-year EAD?

USCIS has stated that they have issued and mailed 2-year EADs to persons who were erroneously issued a 3-year EAD.

#### What if a person has a 3-year EAD that was erroneously issued but has not received a 2-year EAD in the mail?

They must return their invalid 3-year EAD by July 31, 2015 even if they have not yet received a new 2-year EAD. If they do not return the 3-year EAD by the deadline, USCIS will terminate their DACA and EAD and may count this against the person in future immigration applications.

#### What if a person has lost his/her erroneously issued 3-year EAD and cannot return it to USCIS?

USCIS must receive an attestation (signed document) from the person certifying that there is a good reason why s/he cannot return the EAD. The person can give the attestation in person by visiting a USCIS Field Office. S/he must turn in the attestation by the July 31, 2015 to avoid negative consequences.

#### What if a person received a valid 3-year EAD between November 2014 and February 15, 2015 and mistakenly turns in his/her EAD to USCIS?

USCIS will not return the 3-year EAD. Those persons will be issued a new 2-year EAD. If you are confused about whether to turn in your EAD, you should call the National Customer Service Center, your attorney and/or a BIA accredited agency to get more information.

#### What validity dates will the new 2-year EADs show?

People will keep their initial validity date and their EAD will remain valid for two years from that date. For example, if a person initially received an EAD for 2/18/15 to 2/18/18, their new EAD will be valid from 2/18/15 to 2/18/17.

If your clients or members have any questions, feel free to contact any of the following entities:

- USCIS has provided an online tool for individuals who are unsure if they must return their EAD: [https://my.uscis.gov/daca\\_ead](https://my.uscis.gov/daca_ead).
- If they received a letter or call from USCIS regarding their 3-year EAD, it is important that they take the notice seriously because they may suffer adverse consequences. They can call the USCIS National Customer Service Center: 1-800-375-5283 (select option 1 for English and then option 8).
- They can contact United We Dream (1-844-343-1623) on this issue and if they have questions or concerns.
- UWD and NILC will continue to monitor this issue and provide updates. You can visit our websites at [www.unitedwedream.org](http://www.unitedwedream.org) and at [www.nilc.org/dreamdeferred.html](http://www.nilc.org/dreamdeferred.html) for more information.