



FREQUENTLY ASKED QUESTIONS

USCIS Is Accepting DACA Renewal Applications

JANUARY 14, 2018

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 termination of the DACA program while the case goes forward — requiring U.S. Citizenship and Immigration Services (USCIS) to begin accepting DACA renewal applications again.¹ On January 13, 2018, USCIS announced its process for accepting renewal applications. USCIS also stated that further guidance about DACA renewal applications under the court order would be provided later.

United We Dream and the National Immigration Law Center drafted the following answers to frequently asked questions about the Jan. 13 announcement.

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

NO. If you have never had DACA before, you may not submit an application now. Only people who have had DACA at some point in the past 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.² 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*.
- 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.

¹ www.nilc.org/wp-content/uploads/2018/01/Regents-v-DHS-prelim-injunction-2018-01-09.pdf.

² Information from USCIS about requesting DACA for the first time and applying to renew DACA is available from <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process>.

■ Does it matter when my DACA expires or 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 fill out the application as if you were applying for the first time. If you had DACA and your DACA issuance was cut short by the U.S. Department of Homeland Security (DHS) (i.e., if DHS terminated your DACA), you can obtain DACA again by filling out a DACA application as if you were applying for the first time.

When the announcement that DACA was being terminated was made, USCIS imposed the limitation that only people whose DACA expiration dates fell between September 5, 2017, and March 5, 2018, would be allowed to reapply, but that rule does *not* apply to the process announced on Jan. 13.

However, we do not know yet if USCIS will process DACA applications submitted by people whose DACA expires more than 150 days after they submit their application. Early in the DACA program, USCIS stated that it would reject DACA renewal applications from such people. Later, USCIS encouraged DACA recipients to complete their renewal application during the 120 to 150-day window before expiration, to provide enough time for processing and to avoid a lapse in their DACA, but did not reject renewal applications from people who submitted them more than 150 days before their DACA expired. We do not know if USCIS will prioritize cases for people whose DACA has *less* than 150 days left before expiration. People who have more than 150 days of DACA left before it expires may apply, but they should take into account the possibility that their application may be either rejected or accepted but deprioritized, and that while they are waiting for their case to be processed, the option to renew may end and they may not be able to get their \$495 fee payment back.

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

NO. The court case in which the injunction was issued was brought in a U.S. district court in California, but the order and the renewal process announced by USCIS 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 it plans to appeal 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 to apply to renew DACA?

To prepare to apply to renew your DACA:

- 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 may be appealed by the government 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 your initial application and any past renewal applications. Therefore, we recommend that when preparing your renewal application now, you *refer to a copy* of your *initial* and *renewal* DACA applications, if that's possible. You should also make a copy of the current renewal application before you submit it.
- You must have put aside \$495 to pay the renewal application fees.

- If you have received legal 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 a BIA (Board of Immigration Appeals)–accredited representative prior to applying, because given changes in who is considered an “immigration enforcement priority,” the risks associated with applying may be different if you have had interactions with law enforcement.
- If you have a deportation order, a voluntary departure order, or an administratively closed immigration case, we highly recommend speaking to an attorney or BIA-accredited representative prior to applying. Given the change in who is now considered an “immigration 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 the application as if applying for the first time. If you had DACA and your grant of DACA was cut short by DHS (i.e., DHS terminated your DACA), you can apply to renew your DACA, but you have to complete the DACA application as if you were applying for the first time. Information about the requirements and process for submitting a first-time application is available at www.nilc.org/faqdeferredactionyouth/. Be sure to include the date your DACA expired on Part 1 of the Form I-821D, Consideration of Deferred Action for Childhood Arrivals.

If your DACA expired on or after September 5, 2016, you may submit a DACA renewal application. To file a renewal application, you must fill out and submit these forms: **Form I-821D, Consideration of Deferred Action for Childhood Arrivals; Form I-765, Application for Employment Authorization; and Form I-765WS Worksheet.** NOTE: You want to use the *latest edition of each form* to avoid any delays in the processing of your application. To make sure that you’re using the latest edition of each form, look for the following in the bottom left corner of each page of the respective form:

- Form I-821D 01/09/17 Y
- Form I-765 07/17/17 N
- Form I-765WS 07/17/17 N

When you submit 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. Make sure to provide the date your prior DACA ends or ended in the appropriate box on Part 1 of Form I-821D.

USCIS requires that you send a copy of the front and back of your last employment authorization document, as well as two passport-type photographs taken within 30 days of filing your renewal application.³

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

³ See the instructions for Form I-765, available at <https://www.uscis.gov/i-765>.

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 is the fee for the DACA renewal application?

When you apply to renew DACA, you must include the fee of \$495. In very limited circumstances, applicants [may be exempted](#) from having to pay the fees.⁴

■ 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.⁵ We highly recommend sending the application by certified mail, to track when it arrives at the USCIS Lockbox, and including in your application packet Form G-1145, E-Notification of Application/Petition Acceptance, so you'll be notified once USCIS accepts your application.

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

It is a risk to apply. Speak with an attorney or a BIA-accredited representative about your case. Due to how the government's immigration enforcement priorities changed in January 2017 and the possibility that the current renewal process may be available only for a limited time, it is best to speak with an immigration expert before applying. Even if the incident happened before you applied and received DACA in the past and you revealed it in previous applications for DACA, the enforcement priorities have changed and if you reapply now you are at risk of being referred to ICE.

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

It is a risk to apply. Speak with an attorney or a BIA-accredited representative about your case. Due to how the government's immigration enforcement priorities changed in January 2017, if you had any interaction with an immigration judge or immigration court, you should speak with 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 if you reapply now you are at risk of being referred to ICE.

⁴ www.uscis.gov/forms/forms-and-fees/consideration-deferred-action-childhood-arrivals-fee-exemption-guidance.

⁵ <http://www.uscis.gov/i-821d-addresses>.

■ **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 completing the processing of a DACA renewal application 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 19. The decision to terminate DACA made by President Trump created panic and left millions of immigrant youths' lives in limbo. Attorney General Jeff Sessions's announcement about terminating DACA, followed by the DHS's guidance on who could apply for renewal and by when, created confusion and widespread anxiety within the immigrant community. Although the implementation of Judge Alsup's order and USCIS allowing people to apply for renewal will help bring some relief to immigrant youth, many are still worried that the option to apply to renew their DACA may be taken away at any time. This is no way to live. Immigrant youth deserve stability, peace of mind, and protections from detention and deportation, which only a permanent solution such as the Dream Act can provide.