



# FREQUENTLY ASKED QUESTIONS

## USCIS Is Accepting DACA Renewal Applications

**Last updated AUGUST 1, 2019**

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.*, Judge 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.<sup>1</sup> On January 13, 2018, USCIS announced its process for accepting renewal applications.

United We Dream and the National Immigration Law Center drafted the following answers to frequently asked questions about the Jan. 13 announcement and subsequent developments. (This document has been updated since the U.S. Supreme Court announced, on June 28, 2019, that it will review the federal court cases challenging the termination of DACA; see [www.nilc.org/scotus-grants-cert-in-daca-cases/](http://www.nilc.org/scotus-grants-cert-in-daca-cases/).)

### ■ 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 may submit a *renewal* application.

You may have heard that first-time applications would be accepted again, but that is not the case. What happened was that, in another DACA-related case, *NAACP v. Trump*, Judge John D. Bates of the U.S. District Court for the District of Columbia issued an order that if the federal government did not submit additional information to the court showing that the government's attempt to terminate the DACA program is justified under federal law, USCIS would be required to start accepting, again, first-time applications for DACA as well as applications from DACA recipients for advance parole. The court gave the government 90 days to submit the additional information (a period that ended on July 23, 2017).

On June 22, 2018, the government submitted a new DACA-termination memorandum to the court. The memorandum, which is from former Secretary of Homeland Security Kirstjen Nielsen, restates the Department of Homeland Security's (DHS's) rationale for ending the DACA program. Then on August 17, 2018, the court in DC issued an order that partially *stays* its previous order that the DACA program be fully reinstated. (A *stay* is a court order that halts further legal proceedings or the enforcement of orders in a case until the stay is either

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<sup>1</sup> [www.nilc.org/wp-content/uploads/2018/01/Regents-v-DHS-prelim-injunction-2018-01-09.pdf](http://www.nilc.org/wp-content/uploads/2018/01/Regents-v-DHS-prelim-injunction-2018-01-09.pdf).

removed or made permanent.) This halted the parts of the order that would have allowed for first-time applications and advance parole applications to be accepted.

This means that, for now, USCIS is still *not* accepting either *first-time applications for DACA* or applications from DACA recipients for *advance parole*.

■ **Even though USCIS isn't accepting first-time applications now, should I prepare my first-time application in case it *does* start accepting them?**

You may prepare an application if you want to, but at this time nobody knows for certain if USCIS will ever be required to resume accepting first-time applications for DACA. Even if you do not prepare a complete application, you can gather documents that prove you meet the [DACA eligibility guidelines](#) and begin setting money aside to pay the \$495 application fee.<sup>2</sup>

■ **I have DACA. Can I apply for *advance parole*?**

NO. Currently, USCIS is *not* accepting advance parole applications through DACA.

■ **Can I apply to *renew* my DACA?**

YES. If you were *granted* DACA at least once, you may submit an application to renew your DACA.<sup>3</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*.
- 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.

■ **I am interested in applying to *renew* my DACA. Does it matter when my DACA expires or expired?**

USCIS has reopened the DACA renewal application process for anyone who previously had DACA, including those whose DACA has expired. However, the process for applying varies depending on *when* your DACA expired.

If at the time you apply for renewal your DACA is *current*, meaning it has *not* expired, then you can request to renew your DACA by filling out the application *as a renewal* application.

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<sup>2</sup> DACA eligibility guidelines: <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca#guidelines>.

<sup>3</sup> 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>.

## FAQ: USCIS IS ACCEPTING DACA RENEWAL APPLICATIONS

If at the time you apply for renewal your DACA has been expired for *one year or less*, then you can request to renew your DACA by filling out the application *as a renewal* application.

If at the time you apply for renewal your DACA has been expired for *more than one year*, you may request to renew your DACA, but you must fill out the application *as if you were applying for the first time*.<sup>4</sup> And you must submit evidence showing that you meet **each DACA eligibility guideline**.<sup>5</sup>

If you had DACA and *your period with DACA was cut short by DHS* (that is, if DHS terminated your DACA), you can apply again for DACA by filling out your DACA application *as if you were applying for the first time*. In this case, too, you will be required to submit evidence showing that you meet **each DACA eligibility guideline**.<sup>6</sup>

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 January 13, 2018.

Currently, USCIS is accepting and processing 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 USCIS did not reject renewal applications from people who submitted them more than 150 days before their DACA expired. Since January 2018, USCIS has been accepting (and not rejecting) applications for renewal from people whose DACA will expire more than 150 days after the date they submit their application.

However, *before you submit a renewal application more than 150 days before your DACA expires*, we urge you to speak with an attorney or an *accredited representative* to discuss the benefits and risks of applying early.<sup>7</sup> We suggest that you consider these issues:

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<sup>4</sup> During the period between January 13, 2018, and July 31, 2019, if your DACA expired before September 5, 2016, you had to fill out the application as if you were applying for the first time. However, as of August 1, 2019, USCIS will require people whose DACA expired more than one year ago, i.e., more than one year before Aug. 1, 2019, to fill out the application as if they're applying for the first time. See *Deferred Action for Childhood Arrivals: Response to January 2018 Preliminary Injunction* (USCIS), <https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>.

<sup>5</sup> See note 2, above.

<sup>6</sup> See note 2, above.

<sup>7</sup> The U.S. Department of Justice's Office of Legal Access Programs (OLAP) administers the Recognition and Accreditation Program, which accredits certain nonattorneys who work for approved organizations to provide limited legal representation in immigration matters. These nonattorneys are called "accredited representatives." The accreditation of accredited representatives used to be administered by the Board of Immigration Appeals, so formerly they were sometimes referred to as "BIA-accredited representatives." See <https://www.justice.gov/eoir/recognition-and-accreditation-program>.

- If you apply early, USCIS could deprioritize your application and, while you're waiting for your case to be processed, the option to renew may end. If the option to renew ends, USCIS *may* “grandfather in” already-accepted applications and continue processing them *or* USCIS *may* stop processing already-accepted applications and *may* return the application fees that were submitted with the unprocessed applications (like what happened when DACA and advance parole for DACA recipients were terminated in September 2017).
- If you apply early and are granted DACA renewal, your “new” DACA and work permit *may* start being valid before your “old” DACA and work permit expire. Nevertheless, your new work permit will expire two years after its date of approval. Anecdotally, we know that it's taking USCIS about 3-5 months to adjudicate individual applications, but processing times that USCIS reports online indicate that some cases are taking longer.<sup>8</sup>
- **EXAMPLE:** Your *current* DACA and work permit expire on March 2, 2020. The date that's 150 days (about 5 months) *before* your DACA expiration date is October 3, 2019. You submit your DACA renewal application “early,” on August 1, 2019, and USCIS accepts it. USCIS grants your DACA renewal on December 3, 2019, which means that your *renewed* DACA and work permit will expire two years later, on December 3, 2021. Therefore, by applying for renewal on August 1, 2019, rather than waiting until closer to October 3, 2019 (the 150-day mark), you got a total of 21 (rather than 24) more months of permission to remain in the U.S. and work authorization.

If you decide to go ahead and apply now, we recommend doing so as soon as possible. Future developments in DACA-related court cases *may* make it harder or impossible to renew DACA. Information about the status of DACA-related court cases and how decisions and orders in these cases affect the DACA program is available at [www.nilc.org/daca-litigation-timeline/](http://www.nilc.org/daca-litigation-timeline/) and [www.nilc.org/daca/](http://www.nilc.org/daca/) (look under the Litigation tab).

### ■ To be eligible to apply for DACA renewal, do I have to be living in California or New York?

NO. Though the first two U.S. district courts that ordered USCIS to resume accepting DACA renewal applications are located in California and New York, their orders and the renewal process announced by USCIS apply nationwide.

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

You should assess whether it makes sense for you to apply as soon as possible (see the answer to “**I am interested in applying to renew my DACA. Does it matter when my DACA expires or expire?**,” above).

There is no deadline by which applications are due. However, DACA-related court cases are pending in various federal courts, including a case in the U.S. District Court for the Southern District of Texas (*Texas v. Nielsen*) that challenges the lawfulness of the DACA program. In addition, the U.S. Supreme Court has decided that it will review the three U.S. district court cases in which injunctions were issued requiring USCIS to accept DACA renewal requests.

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<sup>8</sup> To check the processing time for a case, see USCIS's “Check Case Processing Times” webpage, <https://egov.uscis.gov/processing-times/home>.

The Court will hear arguments in these cases on November 12, 2019, and it could issue a ruling by June 2020.

Depending on what the Supreme Court and other courts decide, either people with DACA may continue to be able indefinitely to apply to renew it or there may come a point in time when DACA renewal will not be available.

## ■ What should I do to prepare to apply to renew my 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 a court order *may* stop USCIS from continuing to accept applications before or even while your application is pending, which means you may risk losing the \$495 fee you must pay when you file the application. If this were to happen, USCIS *may* “grandfather in” already-accepted applications and continue processing them *or* USCIS *may* stop processing already-accepted applications and *may* return the application fees that were submitted with the unprocessed applications (like what happened when DACA and advance parole for DACA recipients were terminated in September 2017).
- 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 are having trouble paying the fees, consider creating a [GoFundMe](#) campaign, sending [letters and emails to select friends or family members](#) (clicking on this link will download a Word file with suggestions for what a message should say), and applying for a grant from United We Dream's [DACA Renewal Fund](#).<sup>9</sup>
- 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 an 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 an accredited representative before you apply. 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

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<sup>9</sup> [www.gofundme.com](http://www.gofundme.com); [www.nilc.org/template-daca-renewal-fundraising-letter/](http://www.nilc.org/template-daca-renewal-fundraising-letter/); <https://unitedwedream.org/2018/04/daca-recipient-needs-support/>.

recommend speaking to an attorney or an accredited representative before you apply to assess how applying for DACA will affect your case.

## ■ How do I apply to renew my DACA?

The process for applying varies depending on *when* your DACA expires or expired:

1. If at the time you apply for renewal your DACA is *current*, meaning it has not expired, then you can request to renew your DACA by filling out the application as a *renewal* application.
2. If at the time you apply for renewal your DACA has been expired for *one year or less*, then you can request to renew your DACA by filling out the application as a *renewal* application.
3. If at the time you apply for renewal your DACA has been expired for *more than one year*, you may request to renew your DACA, but you must fill out the application as if *you were applying for the first time*.<sup>10</sup>

In addition, if you had DACA but your grant of DACA was cut short by DHS (in other words, DHS terminated your DACA), you can apply to renew your DACA, but you must complete the DACA application as if *you were applying for the first time*.

Below are instructions for each of these scenarios.

### Instructions for if you must fill out the application as a *renewal* application

If at the time you apply for renewal your DACA is *current* or has been expired for *one year or less*, you may submit a DACA renewal application *and fill it out as an application for renewal*. To file a renewal application, you must fill out and submit these forms: **Form I-821D, Consideration of Deferred Action for Childhood Arrivals**;<sup>11</sup> **Form I-765, Application for Employment Authorization**; and **Form I-765 Worksheet**.<sup>12</sup> NOTE: We recommend that you 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 04/24/19
- Form I-765 05/31/18
- Form I-765WS 05/31/18

When you submit your 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 expires or expired in the appropriate box on Part 1 of Form I-821D.

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<sup>10</sup> See also note 4, above.

<sup>11</sup> Form I-821D: <https://www.uscis.gov/i-821d>.

<sup>12</sup> The I-765 forms are available from <https://www.uscis.gov/i-765>.

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.<sup>13</sup>

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.

**Instructions for if you must complete the DACA application *as if you were applying for the first time.***

If at the time you apply for renewal your DACA has been *expired for more than one year* or if your DACA was granted initially by U.S. Immigration and Customs Enforcement (ICE) and not USCIS, you must fill out the application as if you were applying for the first time. Make sure to follow *all the instructions for initial applicants on Form I-821D, Consideration of Deferred Action for Childhood Arrivals*,<sup>14</sup> and to submit evidence demonstrating that you meet each *DACA eligibility guideline*.<sup>15</sup> Information about the requirements and process for submitting a first-time application is available at [www.nilc.org/faqdeferredactionyouth/](http://www.nilc.org/faqdeferredactionyouth/). When you fill out Part 1 of the Form I-821D, be sure to *include the date your DACA expired*.

As part of your application, you also must complete and submit *Form I-765, Application for Employment Authorization*; and *Form I-765 Worksheet*.<sup>16</sup> The completed forms and supporting documentation must then be submitted to USCIS. Before sending, we recommend you double-check to make sure you filled out *all* the sections, answered *all* the questions on the forms, and submitted *all supporting documentation* as if you were filing an initial request.

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 04/24/19
- Form I-765 05/31/18
- Form I-765WS 05/31/18

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<sup>13</sup> See the instructions for Form I-765, available at <https://www.uscis.gov/i-765>.

<sup>14</sup> Form I-821D: <https://www.uscis.gov/i-821d>.

<sup>15</sup> See note 2, above.

<sup>16</sup> The I-765 forms are available from <https://www.uscis.gov/i-765>.

■ **What is the fee for the DACA renewal application?**

When you apply to renew DACA, you must include the fee of \$495 made out to “U.S. Department of Homeland Security.” In very limited circumstances, applicants **may be exempted** from having to pay the fees.<sup>17</sup>

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

Regardless of whether your *initial* DACA request 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>18</sup> 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?**

**You’re taking a risk if you apply. Speak with an attorney or an 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 government’s immigration enforcement priorities have changed, so 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?**

**You’re taking a risk if you apply. Speak with an attorney or an 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 government’s immigration enforcement priorities have changed, so if you reapply now you are at risk of being referred to ICE.

■ **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.

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<sup>17</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>18</sup> <http://www.uscis.gov/i-821d-addresses>.

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

We can't know for certain how long it will take USCIS to process your application, but we know from reports by DACA applicants that lately USCIS has been processing cases in a timely manner, within its initial goal of 120 days. If you have submitted your renewal application but are concerned because your DACA and work authorization have expired or will expire before your DACA is renewed, consider following the steps described in the resource **Steps to Take if Your DACA Renewal Is Delayed**.<sup>19</sup>

### IMPORTANT NOTE FROM THE AUTHORS

WE WANT TO EMPHASIZE that, regardless of what happens in the DACA-related court cases, Congress needs to act to provide a permanent solution that is not tied to provisions that would hurt our communities or further fund enforcement agencies like ICE or U.S. Customs and Border Protection (CBP). President Trump's decision to terminate DACA created panic and left millions of immigrant youths' lives in limbo. Former Attorney General Jeff Sessions's announcement about terminating DACA, followed by 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 orders from federal courts in California, New York, and Washington, DC, allowing people to apply for DACA renewal have helped 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 can provide. Congress must pass permanent protections for immigrant youth and defund the agencies of ICE and CBP!

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<sup>19</sup> [www.nilc.org/steps-take-daca-renewal-delayed/](http://www.nilc.org/steps-take-daca-renewal-delayed/).