



## Immigrant Legal Services Center

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**University of California Immigrant Legal Services Center (“Center”)  
Deferred Action for Childhood Arrivals (“DACA”)  
Post-Northern District of California Injunction Frequently Asked Questions (FAQ)  
Current as of January 16, 2018**

*These FAQs are informational and do not constitute legal advice. Each individual case is different, and advice may vary depending on the situation. Further, the information is changing daily. If you have any questions about your case, please contact a Center attorney for a consultation as soon as possible.*

**1. I thought DACA was rescinded. What happened in Court?**

On January 9, 2018, District Court Judge Alsup in the Northern District of California ruled that the DACA program will continue in the same way as prior to the rescission announcement on September 5, 2017. The Court also directed that United States Citizenship and Immigration Services (“USCIS”) post a notice publicly that it will resume receiving DACA renewal applications and processing them. The Court Order applies nationwide.

**2. Does this mean I can apply for DACA Renewal now if I meet eligibility requirements? If so, how do I apply?**

**Yes.** On January 13, 2018 [USCIS updated its website](#), posting guidance on the process for renewing DACA applications after the Court Order. USCIS will again accept the same forms and filing fees as prior to September 5<sup>th</sup>, 2017 – to file for a DACA Renewal you will need submit the following:

- [Form I-821D](#)
- [Form I-765](#)
- [Form I-765WS](#)
- A front and back copy your current Employment Authorization Document
- Check or money order for \$495 made to "U.S. Department of Homeland Security"<sup>1</sup>
- 2 passport-style photos

**3. Does this mean I can apply for DACA now if I have never applied before? If so, how do I apply?**

**No.** In its newly posted guidance, USCIS has stated that it will not accept initial DACA application from potential first-time applicants.<sup>2</sup>

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<sup>1</sup> See <https://www.uscis.gov/forms/our-fees>. Note that the total DACA filing fees are \$495: \$410 for Form I-765 and \$85 for the Biometric Services fee.

<sup>2</sup> See <https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>.

**4. Does this mean I can apply for DACA now if it has been more than one year since my last DACA period expired? If so, how do I apply?**

**Yes.** If you have received DACA before but did not renew and more than one year has passed since your most recent DACA expiration date, then you may renew your expired DACA by filing an initial DACA application with supporting documents that establish you are eligible for DACA. Please consult with a Center attorney for support with your DACA application.

**5. Can I apply for DACA if it expires more than 150 days from now?**

**Maybe.** The USCIS guidelines posted on January 13, 2018 do not mention whether or not they will process DACA Renewal applications from individuals with DACA expiration dates more than 150 days after the date of submission. It is possible that USCIS may prioritize DACA renewals for those with less than 150 days remaining on their DACA grants. The National Immigration Law Center advises that individuals who wish to renew their DACA more than 150 days in advance be aware 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."<sup>3</sup>

**6. Have the DACA eligibility requirements as Ordered by the Court changed in any way?**

**No.** Based on the Court's Order, the eligibility requirements for DACA have not changed. As discussed below, USCIS has updated its website, which confirms that the eligibility requirements have not changed. If you believe you are eligible for DACA, please make an appointment with a Center attorney.

As a reminder, to be eligible for DACA, you must:

1. Have been under the age of 31 as of June 15, 2012;
2. Came to the United States before reaching your 16th birthday;
3. Have continuously resided in the United States since June 15, 2007 up to the present time;
4. Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
5. Had no lawful status on June 15, 2012;
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

The circumstances listed in the bullet points below could trigger enforcement action - it is very important to consult with an attorney if any of the following applies to you:

- You have had any contact with law enforcement, including arrests, convictions, or any other criminal issues;
- You have had any contact with immigration authorities, including detention, deportation, or removal from the United States; or
- You have moved and changed your address since your last DACA application.

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<sup>3</sup> National Immigration Law Center. Frequently Asked Questions: USCIS Is Now Accepting DACA Renewal Applications. <https://www.nilc.org/issues/daca/faq-uscis-accepting-daca-renewal-applications/>.

## **7. Can I apply for Advance Parole?**

**No.** In its newly posted guidance, USCIS states that it will not accept or approve requests for advance parole. If you apply for Advance Parole now, your application will be rejected and you may lose your filing fee.<sup>4</sup>

## **8. Can I get funding for my DACA application fees?**

**Yes!** The Mission Asset Fund (MAF) is again providing financial support for DACA Renewal applications. Please visit <http://lc4daca.org/> to apply for assistance with the filing fees. If you are seeking coverage of the DACA filing fees, **we highly encourage you to apply with MAF as soon as possible.**

## **9. Can I get help with filing for my DACA Renewal?**

**Yes!** The Center will be hosting free DACA Renewal workshops at all of the UC campuses. To find out the dates and times for the workshops being offered at your campus and to sign up, please use our RSVP link: [goo.gl/rnaKhn](http://goo.gl/rnaKhn).

## **10. I am a current DACA recipient. What will happen to the information I provided on my DACA application(s)?**

Even though the original DACA program promised that information would not be shared with ICE, we do not know if the new administration will maintain that promise.

### **CONTACT WITH IMMIGRATION ENFORCEMENT**

## **11. What can I do if I come in contact with ICE?**

The U.S. Constitution guarantees rights to all people in the U.S., regardless of citizenship status, which includes the right to be free from unlawful searches and seizures. In practical terms, that means that during a police or immigration officer encounter:

- You have the right to remain silent;
- You should stay calm and be polite;
- You should not lie about your citizenship status or provide fake documents;
- You do not have to sign anything (if you sign, you may be giving up your opportunity to stay in the U.S.);
- If immigration comes to your home, you do not have to open your door unless an officer has certain kinds of warrants and you should ask the officer to slip the warrant under the door or hold it up to a window so you can inspect it;
- If you are taken into immigration custody, you have the right to a lawyer (however, please note that the government does not have to provide one for you); and
- Additionally, if you are in immigration custody, you have the right to contact your consulate.

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<sup>4</sup> See <https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>.

You can carry the UC Know Your Rights card and/or the Immigrant Legal Resource Center's "red card" with you to read your rights in case of contact with ICE.<sup>5</sup> To read more about your rights, please see the National Immigration Law Center's resources.<sup>6</sup>

## 12. What can I do to keep my family safe?

You can help them develop a safety plan, as well as inform them of their rights. Please see the Immigrant Legal Resource Center's family preparedness plan.<sup>7</sup>

### **How to Contact the UC Immigrant Legal Services Center:**

E-Mail: [ucimm@law.ucdavis.edu](mailto:ucimm@law.ucdavis.edu)

Office Phone: 530.752.7996

Website: <http://law.ucdavis.edu/ucimm>

\*You may also contact the attorney assigned to your campus if you have his or her information.

*Please note that this FAQ is updated regularly as we get more information. We are working to address issues as they come up.*

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<sup>5</sup> Available in English and Spanish at <https://www.ilrc.org/red-cards>.

<sup>6</sup> Available at <https://www.nilc.org/issues/immigration-enforcement/everyone-has-certain-basic-rights/>. For multi-lingual Know Your Rights materials please see: <http://www.immdefense.org/ice-home-and-community-arrests/>.

<sup>7</sup> Available at <https://www.ilrc.org/family-preparedness-plan>.