

University of California Undocumented Legal Services Center (“Center”) New Presidential Administration Frequently Asked Questions (FAQ)

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

Deferred Action for Childhood Arrivals (“DACA”)

1. Will I still be able to work with my current, unexpired DACA Employment Authorization Document (“EAD”) card after the Presidential Inauguration?

It depends on whether President Trump repeals DACA. If DACA is repealed, you will no longer be able to work with your EAD card even if it has not expired. If DACA is phased out or “sunsetting,” you will only be able to work until your Employment Authorization Card expires. That expiration date is listed on the card. If DACA is left untouched, you may continue to work as long as you maintain DACA.

2. If DACA is revoked, can I work with the social security number I got through DACA?

No, unfortunately you cannot. While your social security number is permanently yours and can be used to file income tax returns, the work authorization allowed for on the social security card might be temporary. The social security card received through DACA only allows for work authorization in conjunction with a valid grant of DACA, or some other valid immigration status.

3. What will happen to my job if my Employment Authorization Document expires or is revoked?

If you are employed with work authorization, you will mostly likely be unable to keep your job. Lawyers and nonprofit organizations are looking for alternatives relating to on- and off-campus jobs.

4. What will happen to my tuition at UC?

Undocumented students are ineligible for Federal financial aid. However, the following California-based programs should not change regardless of what happens with DACA:*

- The California DREAM Act: California law that makes qualifying undocumented students eligible for state-based grants and institutional scholarships.
- The California DREAM Loan Program: Establishes state-based educational loans for undocumented students attending California public universities.
- AB 540: A California law that allows a qualifying student who would otherwise not be eligible for in-state tuition to pay in-state tuition fees at any UC, CSU, or CA community college.

**Check with the financial aid office at your school for policies specific to your campus, especially if you think you have been received funding based on being a DACA recipient.*

5. I currently have DACA. Should I file a DACA renewal application in the future?

No, if DACA is repealed or sunsetted, you should NOT file a DACA renewal application in the future. You will risk losing the filing fee and you will be giving updated information to the government, which could be used against you. If DACA has not been revoked and you would like to renew, please contact a Center attorney as soon as you can.

6. I have not yet applied for DACA. Should I apply now?

No, you should not apply for an initial DACA application. Applying for DACA provides your contact information, immigration history, and other important information to DHS, which can then use that information to go after you or your family members that reside at your address.

Even though the original DACA program promised that information would not be shared with ICE we don't know if the new administration will keep that promise.

Advance Parole

7. I received Advance Parole to be abroad after January 20, 2017 (for example, study abroad). Should I go on my trip?

No, you should not leave or be outside of the country now that the new president has been sworn into office. This is because if President Trump repeals DACA while you are abroad, it is very likely that you will not be permitted to re-enter the United States upon return, with or without Advance Parole. If you want to remain in the United States, you should NOT leave the United States if you are undocumented or DACAmented.

8. I want to visit my family in my country of birth, because my grandmother is there and very sick. Should I apply for Advance Parole to visit her?

No, you should not apply for advance parole or emergency Advance Parole. If you seek emergency Advance Parole, and if you travel now that the new president has been sworn into office, it is possible that you will not be permitted to re-enter the United States.

9. I applied for Advance Parole and my application is pending. Should I withdraw the application? What will happen to my pending DACA Renewal?

No, it is not necessary to withdraw your application if they already cashed your check. Even if your Advance Parole application is approved before your travel date, you should not travel outside of the United States.

What will happen to pending DACA Renewals is still uncertain. We will provide more information as soon as we receive it.

Crimes and Contact with Law Enforcement

10. If I am charged with a crime will it affect my immigration status?

It may and you may be required to appear in immigration court and be at risk of being deported. Under the new Executive Order issued on 1/25/2017, President Trump made a priority for enforcement those who have been charged with a crime but not yet convicted. Please see a Center attorney if you find yourself in that situation.

11. Can I be referred to immigration if I get arrested?

Yes, you may. Under the Executive Order issued on 1/25/2017, you may be referred to immigration court even if you haven't been charged for the crime. Please see a Center attorney if you find yourself in that situation.

Marriage to a U.S. Citizen or Lawful Permanent Resident (“LPR” or “Greencard” Holder)

12. I am planning to marry my United States Citizen or Lawful Permanent Resident partner – how does that affect my status?

It may affect it positively, but it depends on your specific situation and a variety of other factors. It is very important that your marriage is a “real” or “bona fide” marriage, which means that your marriage cannot be fraudulent. There are many factors that may preclude an applicant from gaining lawful permanent residency through marriage, such as the manner in which the applicant entered the United States and complex laws known as “grounds of inadmissibility.” Please see a Center attorney for a consultation to assess whether this is the right option for you and your partner.

General Questions

13. What should 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;
- the right to refuse consent to a search of your person, your vehicle, or your home without a valid warrant; and
- the right to calmly leave the interaction if you are not under arrest, and the right to ask to speak to an attorney if you are arrested.

You should carry around the Immigrant Legal Resource Center’s “red card” to read your rights in case of contact with ICE: <https://www.ilrc.org/red-cards> (available in English and Spanish).

To read more about your rights, please see the National Immigration Law Center's resources: <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/>

14. 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.

To read more about developing a family preparedness plan, please see: <https://www.ilrc.org/family-preparedness-plan>

15. Is it ok for me to travel to another state within the U.S.?

In the U.S., domestic flight security is governed by the Transportation Safety Administration, which is part of the Department of Homeland Security. There is risk of travelling on a domestic flight, because you could be asked about your immigration status by security. If you currently have DACA and it has not expired, you should be able to travel within the U.S via plane or other forms of transportation. If you are travelling by plane, you should make sure that you can provide the Transportation and Security Administration Agents with acceptable identification. TSA Acceptable IDs: <https://www.tsa.gov/travel/security-screening/identification>. If DACA is repealed, you should not use your EAD card, and there may be a greater risk of travelling within the U.S.

If you are undocumented without DACA, it is not recommended that you use an AB60 license as identification for travel: https://www.ilrc.org/sites/default/files/resources/ab_60_4_27_15.pdf.

Please also see the American Civil Liberties Union's (ACLU) fact sheet on risks associated with travel within the “100-mile border zone”: <https://www.aclu.org/other/constitution-100-mile-border-zone?redirect=constitution-100-mile-border-zone>.

16. Is the University of California a sanctuary campus?

The terms “sanctuary city” and “sanctuary campus” have no clear definition and can refer to a wide variety of policies. While the University of California does not use the term “sanctuary campus,” it is committed to ensuring the safety of its undocumented students, staff, faculty, and

others who are a valued part of the UC community. The UC Office of the President has issued a set of principles in support of undocumented members of the UC community here:

<https://www.universityofcalifornia.edu/sites/default/files/Statement-of-Principles-in-Support-of-Undocumented-Members-of-UC.pdf>.

Part of this includes having the Center attorneys available to you to answer any questions you might have. Do not hesitate to contact the Center attorneys with questions via the contact information below.

17. Donald Trump promised to take federal funding away from “sanctuary jurisdictions.” Does this mean that the University of California will no longer stand by President Napolitano’s Principles?

For now, it appears that UC will stand by its commitment to not turn over records, not allow campus police to enforce immigration laws, and to severely restrict any ICE enforcement on any campus: <https://www.linkedin.com/pulse/what-president-trump-can-do-young-immigrants-janet-napolitano?articleId=6229781495943434240#comments-6229781495943434240&trk=prof-post>

Miscellaneous issues

18. California just legalized marijuana for recreational use. If I buy marijuana and am caught with it, can that affect my DACA renewal application or any future immigration applications?

Yes, it can. Immigration is governed by federal, not state law, and marijuana is still unlawful to possess under federal law. Furthermore, it is important not to post images on social media of you engaging in marijuana use. If you have an arrest, citation, or conviction for any crime related to marijuana, or are generally concerned about how marijuana possession can impact your immigration status please contact a Center attorney as soon as possible.

19. What other issues might affect me?

We are working to address issues as they come up. We will be updating this FAQ when we have more information.

How to Contact the UC Undocumented Legal Services Center:

E-Mail: ucimm@law.ucdavis.edu

Office Phone: 530.752.7996

Website: <http://law.ucdavis.edu/uc-undocumented>

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