

Recent Immigration Actions: Memorandum to Rescind & Phase Out DACA

Friday, September 8, 2017 • 3:30 pm • B&L 106



UR Community

Information – accurate, up-to-date

Planning – personal decisions

Concerns – anxiety, separation, uncertainty

You are not alone! Find support & take advantage of campus/community resources!



Background on DACA

Deferred Action for Childhood Arrivals

- Department of Homeland Security (DHS) memo under Obama Administration – June 15, 2012
- Program launched August 15, 2012, authority of US Citizenship & Immigration Services (USCIS)
 - 2 years of deferred removal action; Renewable
 - Eligibility for US work authorization
 - Option to apply for qualified travel permissions



DACA Eligibility

- Arrival to US prior to 16th birthday
- Under age 31 on June 15, 2012 (born after 6/15/81)
- Present in US without lawful status on 6/15/2012, and continuously present since 6/15/2007
- Enrollment in school, completion of high school or GED, or honorable discharge from armed forces
- No threat to national security or public safety (no conviction of felony, serious misdemeanor, 3 offenses)



Current Figures from USCIS

- Applications pending as of August 20th
 - 34,487 initial requests
 - 71,854 renewal requests
- Individuals with DACA benefits set to expire
 - 2017 (Aug-Dec): 201,678; with 55,258 apps.
 - 2018: 275,344; with 7,271 renewal applications
 - 2019: 321,920; with 8 renewal applications



Rescission & Phase Out

- Effective September 5, 2017
 - DHS Memo from June 15, 2012 is rescinded
 - Steps to “wind down DACA in an orderly and minimally disruptive manner” by March 5, 2018
- Current DACA approvals & benefits remain intact
- Pending applications as of 9/5 will be processed
- Future petitions subject to specific restrictions
- Travel permissions will no longer be granted



Restricted Timeframe

- Petitions received 9/5 or earlier are eligible for approval, whether an initial or renewal request
- Renewal petitions will be accepted through 10/5, if current benefits expire between 9/5/17 & 3/5/18
- *Note:* Permissions will still be granted for 2 years
- Other petitions will be rejected, returned w/ fee
 - Initial petitions after 9/5; Advance parole



What happens after March 5th?

- DACA approvals & associated employment authorizations remain valid through expiration
- Upon expiration, there is no grace period
 - Deferred action postpones any formal removal proceedings, but does not grant legal status
- Per DHS, info about DACA recipients will not be “proactively provided” to enforcement agencies
- *Political pressure for Congressional legislation?*



What happens now?

- If you already have DACA approval:
 - Check the validity of your current designation
 - Consider filing a renewal petition by 10/5, if your benefits expire in the next 6 months
 - Caution if planning travel with advance parole
- If you are undocumented without DACA:
 - Wait on any recently filed/pending petition
 - No change, unless new legislation is made ...

High Risk: Criminal Charges

- Under DACA, a higher threshold for offenses
 - No conviction of a single felony or serious misdemeanor; 3 or more other misdemeanors
- Executive Order #13768 (1/25/2017) is more strict to prioritize removal based on, among others:
 - Conviction or charges of any criminal offense, or commission of criminal acts even without a charge
 - Fraud or willful misrepresentation to government
 - Pose a risk to public safety or national security



University Resources

- International Services Office
585-275-2866, www.iso.rochester.edu
- University Counseling Center
585-275-3113, www.rochester.edu/ucc
- CARE Referral, for students of concern (incl. yourself)
www.rochester.edu/care/reports.html
- Center for Excellence in Teaching & Learning
585-275-9049, www.rochester.edu/college/cetl/
- Academic Advisers, Molly Jolliff in CCAS (UGs)



Community Support

- Peer groups & UR student organizations (i.e. UR DREAMERS)
- Interfaith Chapel & local faith communities
- Legal Aid Society: Wedade Abdullah, Esq.
 - DACA Clinics: Thurs. 9/14 & Mon. 9/18, 9am to 2pm, Room 305 Douglass Commons
- New York Civil Liberties Union, Genesee Valley Chapter, 585-454-4334





Immigration Action Summary:

Memo to rescind Deferred Action for Childhood Arrivals (DACA) program

On September 5, 2017, President Trump issued a statement regarding plans to rescind the Obama Administration program known as Deferred Action for Childhood Arrivals, or DACA. This action is formalized in a memorandum, published the same date, from the Department of Homeland Security (DHS) entitled [Rescission of the June 15, 2012 Memorandum Entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children"](#). The purpose of the memo is to instruct various government agencies about the rationale, mechanisms, and timeline associated with discontinuing the DACA program. The main provisions of the memo and related guidance are summarized below.

Background Information

Under direction of President Obama, the Department of Homeland Security had issued the [previous memorandum](#) on June 15, 2012. This memo instructed US Citizenship and Immigration Services (USCIS) to develop a process to identify individuals under established criteria who would be deemed eligible for deferred removal action based on their undocumented status. In August 2012, USCIS began accepting applications for DACA. To date, approval has included deferred action for a period of two years, eligibility for work authorization, and the option to apply for specific travel permissions. Recipients have been able to renew this designation, subject to approval. DACA eligibility criteria include:

- Arrival to the US prior to applicant's 16th birthday and under age 31 as of June 15, 2012 (born after 6/15/1981)
- Present in the US without lawful status as of June 15, 2012 and continuous presence since June 15, 2007
- Enrollment in school, completion of high school or GED, or honorable discharge from US armed forces
- No threat to national security or public safety; No conviction of a felony, serious misdemeanor, or 3 other offenses

Action to rescind & phase out DACA

Recently, legal challenges have been threatened against the Deferred Action for Childhood Arrivals program, based on a lack of Congressional approval and implementation under administrative action only. In addition to rescinding the June 2012 memo, the Trump Administration intends to phase out the program over 6 months. Specifically, DACA will remain operational until March 5, 2018, to allow Congress to pursue legislation that could replace the DACA program during that timeframe. The following provisions will apply to new initial or renewal applications filed prior to March 2018:

- Individuals already approved for DACA will retain their current permissions throughout their authorization period. Previously filed and pending renewal applications will continue to be processed. For recipients whose benefits expire between September 5th 2017 and March 5th 2018, USCIS will accept and process renewal applications filed prior to October 5, 2017. Current eligibility criteria remain in place.
- USCIS will no longer accept initial requests for DACA from individuals who had not previously secured or applied for DACA approval. Applications received on or prior to September 5th will continue to be processed. Applications received after this date will be rejected and relevant filing fees will be returned.
- Following the expiration of their approved benefits, DACA recipients will no longer be subject to deferred removal action; there is no grace period following the expiration of an individual's DACA benefits. However, DHS indicates that information will not be proactively shared between its agencies (USCIS, Immigration and Customs Enforcement, or Customs and Border Protection) for removal purposes.
- USCIS will no longer approve any new applications for advance parole travel permissions under DACA standards. DHS indicates that travel permissions already approved may continue to be valid, but cautions that agencies retain the ability to deny admissibility at a US border and/or to revoke advance parole, as deemed appropriate. Petitions currently pending will be administratively closed and relevant filing fees will be returned.

Resources for DACA recipients

Consideration for DACA: www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca

FAQs: www.dhs.gov/news/2017/09/05/frequently-asked-questions-rescission-deferred-action-childhood-arrivals-daca

ISO resources on recent Immigration Actions & Policies: www.iso.rochester.edu/immigration/actions.html



WHAT DO I NEED TO KNOW ABOUT THE END OF DACA?

Allison Davenport, Lena Graber, Sally Kinoshita

I. Initial and Renewal Applications

On September 5, 2017, President Trump directed the U.S. Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) to phase out and eventually end Deferred Action for Childhood Arrivals (DACA) over two and half years. This means that, as of September 5, 2017:

- USCIS will continue to process all pending **INITIAL** applications **ACCEPTED** as of September 5, 2017.
- USCIS will reject all other new **INITIAL** applications.
- USCIS will continue to process all pending **RENEWAL** applications that have already been filed.
- USCIS will continue to accept and process **RENEWAL** applications until October 5, 2017 from applicants whose DACA expires between September 5, 2017 and March 5, 2018. DACA recipients whose DACA has already expired are no longer eligible to renew.
- USCIS will reject all **INITIAL** and **RENEWAL** applications received after October 5, 2017.

IMPORTANT: Individuals with a current, unexpired grant of DACA will continue to hold DACA until it expires. This means that current DACA recipients maintain their protection from deportation and work permit until their current expiration date. USCIS will not refer DACA recipients and applicants to U.S. Immigration and Customs Enforcement (ICE) for deportation unless they meet USCIS' Notice to Appear guidance or pose a risk to national security or public safety. Applicants with currently pending and processing applications should attend biometrics appointments and respond to any requests for additional evidence they receive from USCIS.

If you are eligible to renew under the above guidelines, you should do so immediately and file with enough time for your application to be delivered to and accepted by USCIS by October 5, 2017. Renewal applications must be accepted (and not just postmarked) by October 5, 2017 to ensure that your application is processed. For more information, see the government's [Frequently Asked Questions](#) and [memorandum](#) on the end of DACA.

II. Work Permits

Employment Authorization Documents (EADs), also known as work permits, for current DACA recipients remain valid until they expire or the government terminates your DACA.

- If you currently have an unexpired work permit under DACA, you are allowed to keep your work permit and have the right to work legally until your work permit's expiration date.
- You have no obligation to inform your employer that DACA has ended. Your employer does not have the right to ask you whether you are a DACA recipient or how you got your work permit.

- Even though DACA is winding down, your employer does not have the right to fire you, put you on leave, or change your work status until after your work permit has expired. If your expiration date is nearing, your employer may ask you for an updated work permit but cannot take any action against you until after it is expired.
- You still have the right to apply for a new job or change jobs until your work permit expires.
- For more information about your rights as an employee see this advisory by the National Immigration Law Center: <https://www.nilc.org/issues/daca/daca-and-workplace-rights/>.

III. Social Security Numbers (SSNs)

Your SSN is a valid SSN number for life, even once your work permit and DACA grant expires.

- If you have not done so already, apply for an SSN while your DACA and work permit are still valid.
- You can and should continue to use the SSN you got under DACA as your SSN even after your work permit expires. You can use your SSN for education, banking, housing and other purposes.
- Your SSN contains a condition on it that requires a valid work permit to use it for employment purposes.

IV. Driver's Licenses and Other Identification Cards

Eligibility and requirements for a driver's license depend on the state in which you live. If you have not already done so, you can still apply for a driver's license or state identification card if your DACA is still valid and your DACA makes you eligible for a driver's license or state-issued identification card in your state.

V. Travel With Advance Parole

The government's September 5 announcement also made important changes to DACA recipients' ability to travel outside the country, also known as advance parole. Specifically:

- USCIS will reject all new applications for advance parole.
- USCIS will administratively close all pending applications for advance parole and refund the filing fee.
- USCIS states that previously approved grants of advance parole remain valid and that individuals retain the ability to exit and return the country within the dates provided in the travel document. Individuals with a valid grant of advance parole, however, should consult with an experienced immigration service provider before leaving the country.
- USCIS states that DACA recipients currently outside the country traveling with a valid grant of advance parole should be able to return to the country as long as they do so before their grant of advance parole expires.
- Even though USCIS states that grants of advance parole remain valid, U.S. Customs and Border Protection retains the discretion to deny you re-entry into the country and it is not guaranteed that DACA recipients traveling with advance parole will be allowed to re-enter the country.
- If you travel on advance parole or are currently abroad, make sure to return to the United States before the deadline.

If you have been granted advance parole under DACA but have not yet left the United States, or are interested in applying for advance parole, speak with an attorney to determine potential risks before doing anything.

VI. Other Immigration Options

Many DACA recipients may be eligible for another immigration option to get a work permit or even a green card.

- Talk to an immigration services provider to understand your legal options and if you might be eligible for another immigration benefit. Find low-cost immigration legal services: <https://www.immigrationlawhelp.org>

- Avoid fraudulent service providers: confirm their credentials, ask for a written contract and a receipt for any payments, and if you have doubts, get a second opinion.

VII. Criminal Issues

Any criminal arrest, charge, or conviction can put you at risk with immigration authorities.

- Avoid contact with law enforcement that may result in a criminal arrest. If you end up being arrested, make sure to consult an expert immigration attorney.
- If you have a criminal conviction, see an attorney to find out if it can be changed to lessen the impact on a future immigration case you may have.

VIII. Know Your Rights

Everyone – both documented and undocumented persons have rights in this country. At all times, carry a red card to exercise your right to remain silent in case you are stopped or questioned by ICE (<https://www.ilrc.org/red-cards>).

You have constitutional rights:

- **DO NOT OPEN THE DOOR** if an immigration agent is knocking on the door.
- **DO NOT ANSWER ANY QUESTIONS** from an immigration agent if they try to talk to you. You have the right to remain silent.
- **DO NOT SIGN ANYTHING** without first speaking to a lawyer. You have the right to speak with a lawyer.
- If you are outside of your home, ask the agent if you are free to leave and if they say yes, leave calmly.
- **GIVE THIS CARD TO THE AGENT.** If you are inside of your home, show the card through the window or slide it under the door.

I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.

I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it that you slide under the door.

I do not give you permission to search any of my belongings based on my 4th Amendment rights.

I choose to exercise my constitutional rights.

These cards are available to citizens and noncitizens alike

IX. Updates and Information

Follow the news carefully and go to reliable sources for information on the status of the DACA and other immigration programs. Don't fall for scams about new fees or false information about your DACA work permit. Good sources of information include www.unitedwedream.org, www.informedimmigrant.com, www.defenddaca.com, www.ilrc.org, www.nilc.org and www.weareheretostay.org.



The Legal Aid Society
of ROCHESTER, NEW YORK



VOLUNTEER
LEGAL SERVICES
PROJECT
OF MONROE COUNTY, INC.

Deferred Action for Childhood Arrivals (DACA) Immigration Clinic

Meet with an Attorney for Assistance with Your Renewal Application!

On September 5, 2017 President Trump announced the repeal of the DACA program.

If you have DACA and your work permit expires on or **before March 5, 2018**, you **can** apply for renewal.

If you want to apply for renewal of your DACA status, your application must be filed **on or before October 5, 2017**

Attorneys will be available on the following dates and times to assist you with your application:

DATES: Thursday, September 14, 2017 & Monday, September 18, 2017

TIME: 9 AM – 2PM

PLACE: University of Rochester
Burgett Intercultural Center
3rd Floor Douglas Commons – Room 305

*Assistance with DACA Renewals is **Free of Charge** through The Legal Aid Society of Rochester.**

Please call us at 585-232-4090 to sign up!

*Applicants are responsible for fees associated with the filing of the renewal application.

Carla M. Palumbo, Esq., President & CEO