

DACA FAQs



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Basics

What is DACA?

DACA or Deferred Action for Childhood Arrivals is an immigration policy that protects immigrants who came to the United States as children, granting them deportation protection and a work permit for a renewable 2-year period. The program does not grant beneficiaries an official legal status or pathway to citizenship but allows for the opportunity to obtain a driver's license and social security number.

What are the requirements for DACA?

The requirements for DACA as per the U.S Citizenship and Immigration Services (USCIS) are:

- Were under the age of 31 as of June 15, 2012
- Came to the United States before reaching your 16th birthday
- Have continuously resided in the United States since June 15, 2007, up to the present time
- Were physically present in the United States on June 15, 2012, and at the time of making the request for consideration of deferred action with USCIS
- Have never had lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole that you obtained prior to June 15, 2012, has expired as of June 15, 2012
- 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
- 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 U.S Department of Homeland Security (DHS) is currently accepting DACA renewal requests however, they are prohibited from granting initial DACA requests.

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What does the term DREAMers mean?

The term “DREAMers” was coined from the Development, Relief and Education for Alien Minors Act (DREAM Act) which planned to give a pathway to citizenship for undocumented immigrants who were brought to the United States as minors.

DREAMers represent the undocumented immigrants who were brought to the United States as children and are now DACA recipients, roughly around 600,000 individuals. The term also typically includes the eligible population.

What is the difference between DACAdmented and undocumented people?

Undocumented people are foreign-born individuals who do not have a valid visa or other immigration documentation. DACAdmented people are DACA recipients who are protected from deportation and are granted a work permit which must be renewed every two years. DACA beneficiaries are considered undocumented.

What is the legal status of DACA recipients?

DACA recipients do not have permanent legal status and are not U.S. citizens. The DACA program does not grant beneficiaries official legal status or a pathway to citizenship but grants protection from deportation and a work permit. USCIS does not state that DACA recipients are unlawfully present.

What is DAPA?

DAPA, also known as Deferred Action for Parents of Americans and Lawful Permanent Residents, is a program that was announced by the Obama administration in 2014. It is aimed to allow certain parents of U.S. citizens and lawful permanent residents to apply for protection from deportation and work permits for a three-year period, subject to renewal. The policy never passed the U.S. Congress and currently remains stuck in the Supreme Court.

What is the DREAM Act?

The DREAM Act (Development, Relief, and Education for Alien Minors Act) proposed to create a system for immigrants which would lead to permanent residency based on their age at the time of entry to the United States. Despite various attempts, the DREAM Act has failed to pass.

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What is the current status of DACA?

On July 16, 2021, a federal court in Texas issued a permanent injunction preventing the USCIS from accepting new DACA applications. Current DACA recipients are still able to apply for renewals every two years. However, the U.S Department of Homeland Security (DHS) is currently prohibited from granting initial DACA requests for new applicants. On October 5, 2022 the DACA program was ruled unlawful by the U.S. Court of Appeals for the 5th Circuit in *Texas v. United States*. The case has been sent back to the Federal District Court in Houston to consider the preservation and fortification of the DACA program which was outlined in a new administration policy back in August. Current or past DACA beneficiaries whose status expired less than a year ago can still file for renewal of DACA and their work permits but new applicants are not being processed at this time.

Is the DACA program currently open?

The DACA program is currently accepting renewal applications for those who currently or formerly had DACA but is not accepting first-time applications for the program.

How much does the DACA application cost?

To file a DACA application costs \$495 for first-time applicants and renewals.

What does DACA provide to beneficiaries?

DACA provides a two-year renewable period of deferred action from deportation. DACA recipients typically receive a social security number, work authorization, access to a driver's license, and access to apply for advance parole.

What is the legal status of DACA recipients?

The DACA program does not grant recipients legal status but recipients are granted protection from deportation and a work permit for a renewable two-year period. Essentially, DACA beneficiaries are still considered undocumented.

Is DACA a pathway to citizenship?

No, DACA is not a pathway to citizenship. The DACA program does not provide a pathway for recipients to become permanent residents or U.S. citizens.

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What is the age range of DACA beneficiaries?

According to the New York Times, in 2017, the average age of DACA recipients ranged from 16 to 35 years old. The median age of entry into the United States was 6 years old.

First time requests (initials)

What is considered an “initial” or first-time DACA request?

Initial requests for DACA include:

- A first-time request for DACA.
- A request filed by an individual who previously had DACA but did not request renewal within one year of the expiration date.
- A request filed by an individual whose recent DACA grant was terminated.

Is the DACA program currently open to new applicants?

The DACA program is accepting the filing of initial DACA requests **but is prohibited from granting these initial requests** meaning, if you submit a DACA application, it will **not** be granted.

What happens to me if I have a first-time DACA application currently pending with USCIS?

While the court order from the Southern District of Texas remains in effect, the USCIS is not permitted to approve initial DACA requests. If you filed an initial DACA request, the USCIS will put your request on hold in compliance with the court order.

USCIS is not rejecting or closing cases, instead they are holding cases. These requests will remain pending while they are on hold by the USCIS. Since these cases remain on hold while the court order is in effect, the USCIS is not issuing refunds for initial DACA requests that remain on hold while the court order is in effect.

As the *Texas v. United States* case continues, the USCIS may release further guidance on this topic.

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Can I apply for DACA for the first time? Will they reopen first-time DACA applications?

USCIS is accepting initial DACA requests but is not processing them. You may file an initial DACA request with USCIS where you will receive a receipt notice and the USCIS will process your payment. Unfortunately, USCIS will not make a decision on your request while the Texas v. United States court order remains in effect. It is uncertain whether first-time applications will be processed in the near future or what USCIS will decide to do after the final decision in Texas v. United States.

I applied for DACA for the first time, but it did not get approved before July 16, 2021. Am I at risk of deportation now?

Judge Hanen of the United States District Court for the Southern District of Texas said that this court decision does “not require DHS or Department of Justice to take any immigration, deportation, or criminal action against any DACA recipient, applicant, or any other individual.” Additionally, DHS and President Biden have stated that DACA recipients are not a priority for deportation. However, It is recommended that you consult an immigration attorney or accredited representative if you believe you are under an enforcement and removal priority category.

Renewals

How early should I renew DACA?

The USCIS strongly recommends that DACA recipients file their renewal requests 120 to 150 days (four to five months) before the expiration of their current DACA validity period.

I currently have DACA and it is about to expire. Can I file for renewal?

Yes, individuals can still renew their DACA. USCIS will release updated information to their website if this changes for any reason.

What if I file my renewal before 150 days?

The USCIS will not reject a renewal application if you file before the 150-day mark. However, they may wait until closer to the expiration date to begin the processing of the request.

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Is there a chance USCIS will stop accepting DACA renewals in the future?

As *Texas V. United States* continues in the courts, this could change. Although, currently the court order has not impacted the filing process for DACA renewals.

I had DACA and it expired within the last 12 months. Am I eligible to renew?

Yes, if your DACA has been expired for less than a year, we strongly recommend you consider filling for renewal as soon as possible.

If my DACA has expired for more than 1 year, can I still apply for renewal?

If your DACA has been expired for more than one year, you will need to submit an initial (first-time) request for DACA. While the Texas federal court order remain in effect, USCIS is accepting initial requests but is not permitted to process them. This means you will be issued a receipt notice and payment will be accepted, however, your request will not be processed in compliance with the court order.

My DACA expired while I was waiting for my renewal application to be decided. Will my pending DACA request still be processed?

Yes, USCIS is continuing to process DACA renewal requests. Nonetheless, if your DACA expires before USCIS approves your renewal request, you will not have DACA or employment authorization for the period during your DACA expiration and the start of your new DACA period.

What can affect processing times for my DACA renewal?

USCIS' goal is to process DACA renewal requests within 120 days. If your request has been pending for more than 105 days, you may submit an inquiry about the status of your renewal. Visit egov.uscis.gov/e-request to do so.

Factors that may affect the processing time for DACA renewals:

- Failure to show-up for a scheduled biometrics appointment to obtain fingerprints and photographs.
- National security issues or criminality or public safety discovered during the background check process which may require further investigation.
- Travel abroad issues that may need additional clarification.
- Name and date of birth discrepancies that may need additional clarification.
- The renewal application was incomplete or contained proof that suggests the applicant may not satisfy the DACA renewal requirements. The USCIS must send a request for additional explanation.



Advance parole

What is advanced parole?

Advance Parole is a travel document issued by the USCIS which allows immigrants to leave the U.S. and return lawfully. DACA recipients may apply for advance parole under one of three categories which include humanitarian, educational, or employment purposes.

Can I apply for advance parole?

Yes. Advance parole is still available to DACA recipients and follows the original guidelines of humanitarian, educational, or employment travel only. It is important to keep in mind that anyone who is considering advance parole should speak with an immigration attorney.

How much does the advance parole filing fee cost?

To file for advance parole (types D, E, and F), the filing fee costs \$575.

Is advance parole open for DACA recipients right now? Can I apply for advance parole?

Yes, USCIS continues to accept and process applications for advance parole that are submitted by DACA recipients.

My advance parole application is still pending. Will USCIS process it?

Yes, USCIS continues to accept and process applications for advance parole. USCIS is known to take up to six months to process non-emergency cases.

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I was approved for advance parole. Should I still go on the trip during the court case in the Fifth Circuit?

As stated by informedimmigrant.com, “If your application for advance parole has been approved, you can still travel for the requested dates. If the Fifth Circuit were to order USCIS to discontinue DACA renewals, advance parole would also be made unavailable to DACA recipients going forward.

Please note, all individuals returning to the United States are still subject to immigration inspection at a port of entry. We encourage you to consult with an immigration attorney or DOJ-accredited representative before traveling abroad.”

I have DACA and am currently abroad using advance parole. Can I still return to the United States using my advance parole under DACA?

Yes, if you are abroad using advance parole and currently have DACA, you may return to the United States using your advance parole.