



END OF DACA FREQUENTLY ASKED QUESTIONS (FAQs)

On September 5, 2017 President Trump [announced](#) that the Deferred Action for Childhood Arrivals (DACA) program would be phased out over two and a half years. This means that, as of September 5, 2017:

- All pending INITIAL DACA applications ACCEPTED as of September 5, 2017 will be processed.
- All other new INITIAL DACA applications will be rejected.
- All pending RENEWAL DACA applications ACCEPTED as of September 5, 2017 will be processed.
- RENEWAL DACA applications received by October 5, 2017 will be accepted and processed only for cases where DACA expires between September 5, 2017 and March 5, 2018, inclusive.
- DACA recipients whose DACA already expired before September 5, 2017 are no longer eligible to renew.
- All DACA recipients may still file to replace (not renew) a lost, stolen, or destroyed EAD by filing Form I-765.
- All INITIAL and RENEWAL DACA applications received after October 5, 2017 will be rejected.

More details are available in an [ILRC community advisory](#), [DHS's memorandum](#), and [DHS's Frequently Asked Questions \(FAQ\)](#) document on the end of DACA.

On September 7, 2017, the ILRC held a [webinar](#) explaining the effect of the new announcement. This community advisory contains the Frequently Asked Questions from that webinar.

I. DACA that Expired Before September 5, 2017

If my DACA expired before September 5, 2017 and I haven't filed a renewal application yet, am I still eligible to renew by October 5, 2017?

Unfortunately, no. If your DACA expired before September 5, 2017 and your renewal application was not received by USCIS by that date, you are *ineligible* to renew. According to DHS, only people with DACA that expires between September 5, 2017 and March 5, 2018 are eligible to renew. This includes individuals whose DACA expired on or after September 5, 2017 and on or before March 5, 2018.

Previously, DHS's policy was that individuals could apply to renew their DACA within one year of the expiration date. The new change in policy was unexpected, abrupt, and not clearly communicated by DHS. Therefore, numerous groups are advocating that DHS revert to its previous policy and allow people with DACA that had expired before September 5, 2017 to renew. Advocacy continues on this topic, but DHS has not yet announced a policy change. In the meantime, continue collecting the documents you might need for renewal, save money for the filing fees, and continue to check reliable sources of information like the [ILRC's website](#) for updates.

If my DACA expired before September 5, 2017, and I apply to renew anyway, what is likely to happen to my application?

The most likely result is that your renewal application will be rejected and your filing fees will be refunded. Or, it is possible that your renewal application will be denied and you will not receive a refund of your filing fees.

However, please see the question above for ongoing advocacy to hopefully make it possible for those with DACA that expired less than a year ago to possibly file for renewal.

My DACA expired before September 5, 2017, but I had already filed for renewal. My renewal application was pending as of the announcement on September 5, 2017. What will happen to my application?

If your DACA renewal application was properly filed and accepted by USCIS before or as of September 5, 2017, USCIS should process your application even if your DACA already expired by that date.

II. DACA that Expires Between September 5, 2017 and March 5, 2018

My DACA has already expired but it expired after September 5, 2017. Am I still eligible to renew even though I currently don't have it DACA?

Yes, you should still be able to renew your DACA status as long as USCIS accepts your DACA renewal application by October 5, 2017.

Example: Floriberto's DACA expired September 7, 2017. He has not yet filed a DACA renewal application. Even though he currently does not have DACA since it expired, because his DACA expired between September 5, 2017 and March 5, 2018, he can still file a renewal application as long he properly files it in time for USCIS to accept it by October 5, 2017.

USCIS says my DACA renewal application needs to be "accepted" by October 5, 2017. What does "accepted" versus "received" mean?

The answer to this is not entirely clear, but it appears to mean that USCIS must have the properly filed renewal application by October 5, 2017. *Simply sending the application by October 5, 2017 or having the application postmarked by that date is most likely NOT sufficient.* Make sure to send the renewal application as early as possible so that USCIS will have it by October 5, 2017 with all of the required documentation, signatures, and filing fee. You should mail your application with some sort of delivery confirmation or certified mail receipt so you have proof that USCIS received your application on or before October 5, 2017.

If my DACA renewal is approved, will my work permit be valid for two years or only until March 5, 2018?

Your work permit should be valid for a two-year period beginning on the date USCIS approves your renewal. The two-year period runs from the date of approval and not the date your previous grant of deferred action ends, as a result there may be several weeks of overlap between the two grants.

III. DACA that Will Expire After March 5, 2018

My DACA currently does not expire until 2019. Based on President Trump's announcement, does this mean that now my DACA ends on March 5, 2018 or will it continue until 2019?

Your deferred action and work permit under DACA will remain valid until the expiration date on your work permit, even if that date is after March 5, 2018.

If my DACA expires after March 5, 2018, am I still eligible to renew by October 5, 2017?

Unfortunately, no. However, you will remain protected from deportation and legally authorized to work until whenever your work permit is set to expire.

If my DACA expires after March 5, 2018, what should I do?

Your DACA continues to be valid until its expiration date, even if that is after March 5, 2018. Until your DACA's expiration date, you should still have protection from deportation and the ability to work legally. So you can continue with your life as it has been under DACA until that expiration date.

In the meantime, you should also explore what other immigration legal options may be available to you and practice exercising your legal rights.

Go to a trusted legal services provider to get an immigration screening (you can find them on the [National Immigration Legal Services Directory](#)) or do an [online screening yourself](#).

Also, everyone – both documented and undocumented persons – have rights in this country. Get to know your rights if you encounter ICE and practice exercising those rights. At all times, carry a [red card](#) to exercise your right to remain silent in case you are stopped or questioned by ICE. Know Your Rights red cards contain reminders of our rights on one side and on the other side they contain the statements exercising those rights in English to communicate with ICE.

Usted tiene derechos constitucionales:

- **NO ABRA LA PUERTA** si un agente de inmigración está tocando la puerta.
- **NO CONTESTE NINGUNA PREGUNTA** de un agente de inmigración si el trata de hablar con usted. Usted tiene el derecho de mantenerse callado.
- **NO FIRME NADA** sin antes hablar con un abogado. Usted tiene el derecho de hablar con un abogado.
- Si usted está afuera de su casa, pregunte al agente si es libre para irse y si dice que sí, váyase con tranquilidad.
- **ENTREGUE ESTA TARJETA AL AGENTE.** Si usted está dentro de su casa, muéstrele la tarjeta por la ventana o pásela debajo de la puerta.

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*

My DACA expires after March 5, 2018 but I had already submitted a renewal application before September 5, 2017. How will my renewal application be treated?

DHS stated in their FAQs that they would adjudicate all properly filed DACA renewal requests that they had accepted as of September 5, 2017. It appears cases accepted as of that date will be processed normally, under the old rules.

If USCIS receives my renewal application by October 5, 2017, will USCIS automatically approve my renewal application?

No. Filing on or before October 5, 2017 merely ensures that USCIS will adjudicate and process your application, but does not guarantee that USCIS will approve your application. USCIS will apply existing DACA guidelines to determine whether to renew your application and closely examine any disqualifying criminal or other criteria.

Regardless of whether I am eligible to renew, can USCIS still terminate my DACA?

Yes, USCIS retains the discretion to terminate your DACA, particularly if new criminal issues arise before the expiration of your DACA.

IV. Other DACA Questions

I am probably eligible for DACA, but I never applied. Can I still apply?

No, unfortunately USCIS will no longer accept initial (new) applications for DACA from those who have never applied before. If you submit an application, USCIS will likely reject the form and refund your filing fee or possibly deny it and keep your filing fees.

My DACA has already been renewed for another two years. Should I still locate an attorney to help me?

Yes. You will continue to be protected from deportation under DACA and work legally until your DACA work permit's expiration date. Nonetheless, you should also speak with an immigration attorney or accredited representative to understand your legal options and find out if you qualify for other immigration benefits. If you do, you may want to start the process soon, before your DACA expires.

I filed for DACA and have a biometrics appointment coming up. Should I go? Is it best to go with an attorney?

In order for your pending DACA case to be processed, whether initial or renewal, biometrics are required. It is important to attend your biometrics appointment so your fingerprints and photo can be taken. If you fail to attend, your case can be denied.

Generally, it is not necessary to have an attorney with you at a biometrics appointment. If anyone encounters problems at the biometrics appointments, please let the ILRC know at aod@ilrc.org.

I received a three-year DACA work permit that will expire within the window of time that makes me eligible to renew. Is it safe for me to file a renewal application?

In 2015, USCIS erroneously issued some three-year DACA permits. Some people were allowed to keep them, and some people had to return them. See [information about this on the USCIS website](#).

USCIS has stated that individuals whose DACA expires between September 5, 2017 and March 5, 2018 are eligible to renew. USCIS has given no indication that this policy does not apply to individuals with three-year grants of DACA. Thus, if you have a three-year DACA that expires between September 5, 2017 and March 5, 2018, you should ensure USCIS receives your application by October 5, 2017. You should consult an attorney if you are unsure or have questions about your three-year DACA grant.

How long does it take for a renewal application to be approved?

Generally, USCIS processes DACA applications between 120 and 150 days after receipt. However, the processing time for renewals DACA applications has varied over the years and has ranged from a few weeks to many months, depending on USCIS capacity and priorities. You can [check the processing times at the USCIS Service Center where you sent your application](#) (scroll to the bottom, select the service center to which you sent your application, and then look for I-765 processing times). You can also [check the status of your case](#) with your receipt number. Keep in mind, if USCIS receives many applications by the October 5, 2017 deadline it may slow down their processing times.

I lost my DACA work permit but it was still valid, what should I do?

You can apply to replace your work permit using Form I-765 if your work permit was lost, stolen or mutilated. Once your replacement work permit is issued, it should have the same expiration date your previous work permit.

Example: Bartholomew's DACA does not expire until January 15, 2019. He is therefore not eligible to renew under the announcement because his expiration date does not fall between September 5, 2017 and March 5, 2018. However, he would like a replacement work permit so he can prove he is still legally authorized to work until January 15, 2019. He should apply for a replacement work permit (not a DACA renewal) now using Form I-765.

I want to file my renewal application, but I can't afford the \$495 filing fee. What can I do?

There are a number of options that may help with the filing fees. [Mission Asset Fund](#) and [Self-Help Federal Credit Union](#) both have zero-interest loans that can cover DACA filing fees. Some consulates also offer assistance with filing fees. You may want to contact your country's consulate in the United States. To do this, you can Google your country's name and "consulate" to get contact information. Additionally, FWD.us maintains a [list of funding sources for DACA renewal](#): *Support Resources for Urgent DACA Renewals*.

I received a Request for Additional Evidence (RFE), what should I do?

You must reply to any RFE, whether for a new or renewal application, by the deadline indicated or your case could be denied. If you are renewing your DACA under the new rules, you may receive an RFE issued after October 5, 2017. You should still respond by the deadline given in order for your case to be processed.

If you are not sure how to respond, contact a legal services provider for help right away. A directory of nonprofit immigration legal services providers that provide free or low-cost services is available on the [National Immigration Legal Services Directory](#).

If USCIS receives my application on or before October 5, 2017 but rejects it because of an administrative issue (e.g. no signature, incorrect fee) is my application considered timely filed?

Likely no. Even if your application arrives at the USCIS lockbox before October 5, 2017, if USCIS subsequently rejects your application because of a technical error, USCIS will likely not consider the application timely filed. Rejected applications must be refiled and accepted by USCIS before October 5, 2017. Double and triple check your application to make sure your application is complete, including verifying that you have signed all forms and included the correct fee amount.

V. Advance Parole

What is advance parole?

Advance parole is a travel permit that allows a non-citizen to travel outside the United States and re-enter the United States within a specified period of time. It must be approved before the person leaves the United States. There are various ways to be eligible for advance parole. Previously people with DACA could be granted permission to travel outside the United States for family, work or educational purposes, but that is no longer possible under President Trump's announcement to end DACA.

Can I still travel outside the United States if my DACA advance parole was approved?

If your DACA advance parole was approved on or before September 5, 2017 and you have not yet left the United States, you may still be able to travel outside the country. However, we strongly recommend you consult with an immigration attorney before leaving the country to discuss the risks and benefits of traveling. A directory of nonprofit immigration legal services providers that provide free or low-cost services is available on the [National Immigration Legal Services Directory](#).

I applied for DACA advance parole before September 5, 2017 but haven't heard a decision on it yet. What will happen to my application?

According to the DHS memorandum, any DACA advance parole application that has not already been decided will be administratively closed at this time. You should, however, receive a refund of the application filing fee.

Can I apply for DACA advance parole now?

No. USCIS had stated that DACA recipients are no longer eligible to apply for advance parole. Any applications filed after September 5, 2017 will likely lead to a rejection or denial and the possible loss of the filing fee.

If I'm already outside the United States on DACA advance parole, can I and should I return to the United States?

You should still be able to return to the United States if your DACA and advance parole have not expired. The safest course of action would be to return to the United States as soon as possible within your advance parole validity period and while your DACA approval is still valid. However, if you have a compelling or emergency reason preventing you from returning as soon as possible, you should speak with an immigration legal services provider to assess the risks and benefits in remaining outside the country the maximum amount of time allowed by your advance parole. A directory of nonprofit immigration legal services providers that provide free or low-cost services is available on the [National Immigration Legal Services Directory](#).

VI. Employment Issues

Can my employer fire me now that the end of DACA has been announced?

No. The announcement that the DACA program is being phased out is not a legal basis to fire an employee. Employers may have other legitimate reasons for firing an employee, but the DACA announcement is not one of them if the employee's work permit is still valid.

Can my employer fire me while my DACA renewal is pending?

If your DACA has expired but you have a renewal pending, then you are not authorized to work until your DACA renewal is approved. Therefore, your employer can potentially fire you, put you on leave, or change or employment status once your work permit has expired.

For more information on work and entrepreneurship opportunities for all immigrants regardless of legal status, check out [Immigrants Rising](#).

What should I do if my employer asks me about my DACA status now?

If your work permit expires or has expired, then your employer may ask to re-verify your authorization to work. Shortly before your work permit's expiration date, your employer may remind you that they will need to re-verify your work authorization soon.

But if your DACA work permit is not close to expiring and your employer wants to re-verify it simply based on President Trump's announcement ending DACA, your employer may be engaging in illegal reverification of your legal ability to work. For more information see "[About DACA and Employment](#)" by United We Dream, National Immigration Law Center, and Advancing Justice – ALC.

What can I do if my employer is discriminating against me and threatening to fire me or asking me to re-verify my work permit even though it remains valid for a long time?

You can call the free worker hotline at the [Immigrant and Employee Rights Section](#) of the Department of Justice at 1-800-255-7688.

In California, the State of California Labor & Workforce Development Agency issued a [news release](#) explaining to employers that work re-verification is not required by the DACA announcement alone. You can show your employer the news release. Also, workers in California with work-related questions or complaints may contact the Department of Industrial Relations' Call Center in English or Spanish at 844-LABOR-DIR (844-522-6734).

VII. Driver's Licenses

Will I be able to keep my driver's license when my DACA expires?

Eligibility for a driver's license varies state by state. All fifty states and the District of Columbia have or had provisions to allow people with DACA to get a driver's licenses, but the eligibility to get or keep a driver's license with or without DACA varies. You should consult your state's Department of Motor Vehicles (DMV) and immigrant rights organizations for more information.

For information about California driver's licenses for people with DACA, the ILRC has a [fact sheet](#).

VIII. Deportation Risks

My initial DACA application is pending, and I have not yet been approved for DACA. Will the information from my pending DACA application be used by Immigration and Customs Enforcement (ICE) to arrest, detain or deport me?

According to DHS' FAQs the information you provided in your DACA application will not be used for immigration enforcement (arrest, detention, deportation) purposes unless you pose "a risk to national security or public safety" or meet deportation criteria under DHS "Notice to Appear" guidance (see more below).

Once my DACA expires, will Immigration and Customs Enforcement (ICE) try to arrest and deport me?

According to [DHS' FAQs](#) they will not proactively provide ICE with information provided in a DACA application for immigration enforcement (arrest, detention, deportation) purposes unless the person meets deportation criteria under DHS "Notice to Appear" guidance (see more below). However, if ICE happens to encounter you during a raid or an arrest, ICE may place you in deportation proceedings.

I've heard that being a priority under the "Notice to Appear" guidance can make me a priority for enforcement. What does that guidance say generally and where can I find it?

The "Notice to Appear" guidance is a memorandum (also known as the "NTA memo") is [available on the USCIS website](#). It lays out who is a priority for removal (deportation) from the United States. Some successful DACA applicants may have been approved for DACA after revealing some crimes that could make them removable once their DACA expires.

Under the NTA memo, the first priority for removal are people who present "egregious public safety" concerns because they are investigated for, charged with, or convicted of an **aggravated felony that is directed at persons rather than property** (for example, murder, rape, sexual abuse of a minor, trafficking or other serious offenses relating to firearms or bombs, human trafficking, smuggling, child pornography, ransom, or some "crimes of violence") or are **suspected of being gang members**. People in this category may be at high risk for removal.

The second priority for removal are people with criminal issues that are “non-egregious public safety cases.” This could include crimes related to drugs, theft, prostitution, domestic violence, stalking, child abuse, firearms or bombs, and more. People in this category may also be at high risk for removal.

DUIs are not specifically listed in the NTA memo, but in practice ICE prioritizes individuals with DUIs for removal.

More information about DACA renewals, crimes and immigration enforcement priorities is available from the [ILRC](#).

Who is most at risk of immigration arrest, detention or deportation when our DACA expires?

We do not know if or who the government will target as priorities after the DACA program ends. However, DACA recipients with final orders of removal (those who have been ordered deported in the past) or criminal convictions will likely be at the highest risk.

Anyone who falls into one of the high-risk categories should consult with an immigration attorney as soon as possible.

- If you have a prior removal order, find out if there is any way to reopen your old removal order, and if not, if there is any other immigration option for you with your final order of removal.
- Find out if there is any immigration option you qualify for and prepare your application for that option so that it is ready to be filed in the event you are detained. Preparedness is everything, especially if you have a final order of removal because you may only have hours to get something on file in the event of an ICE arrest.

A directory of nonprofit immigration legal services providers that provide free or low-cost services is available on the [National Immigration Legal Services Directory](#). To find a private immigration attorney, search for referrals on the website of the [American Immigration Lawyers Association](#) and the [National Immigration Project of the National Lawyers Guild](#).

Once my DACA expires, will ICE come to my home target me? Should I move? Is my family at risk for deportation based on my DACA expiration?

Just because your DACA expires, this does not mean that you are a priority for ICE to target or that they have the resources to target you. Therefore, whether or not you and your family move is a very personal decision for which you must take into account many factors. You must balance the cost, convenience and feasibility of moving against the real or perceived risk that ICE will actually target you in your home.

If you or any of your family members or household members fall under any of the priorities for immigration enforcement listed in the NTA memo discussion above, you should immediately speak with an immigration attorney about your risks and how to mitigate those risks. Also, you and every member of your household should [know what to do if ICE comes to you home](#), and should practice what to do.

Is it safe for me to travel within the United States?

If you have a valid driver’s license or passport, you should still be able to travel safely in the United States. You do not need evidence of current DACA status in order to travel domestically.

See the [Advance Parole](#) section above regarding travel abroad.

Could USCIS run a background check on me using the biometrics data they collected from my DACA application?

Yes.

IX. Miscellaneous

How will the expiration of my DACA case impact me?

If your DACA expires and you have no other immigration status, you will lose the ability to work legally. You may also lose any employer-provided health insurance eventually.

However, your social security number (SSN) is a valid SSN number for life, even once your work permit and DACA grant expires.

As a DACA recipient, you were already not eligible for coverage under the ACA or for federal government cash aid such as Temporary Assistance for Needy Families (also known as TANF or welfare), etc.

Some states provide state-funded benefits such as driver's licenses, in-state college tuition, state financial aid for college, medical coverage and more. Some of those state programs are based on having DACA, and some are not. To find out the impact on any state benefits you receive, contact the agency or institution through which you receive those benefits. California has released information about [DACA eligibility for the state's Medi-Cal program](#).

May our organization share this information on our website?

Yes, but please link directly to the [ILRC website](https://www.ilrc.org/daca) at <https://www.ilrc.org/daca>. A lot of our knowledge about the DACA programs is evolving so there are frequent changes. Please make sure to link to our site for the latest updates.

Where can I go for additional help with my case or with my clients' cases?

A directory of nonprofit immigration legal services providers that provide free or low-cost services is available on the [National Immigration Legal Services Directory](#). To find a private immigration attorney, search for referrals on the website of the [American Immigration Lawyers Association](#) and the [National Immigration Project of the National Lawyers Guild](#).

The Immigrant Legal Resource Center (ILRC) also offers [technical assistance](#), [webinars](#), [seminars](#), and [manuals](#). Some nonprofits receive these services at a discount or for free, and we frequently provide other resources for free.



San Francisco
1663 Mission Street, Suite 602
San Francisco, CA 94103
t: 415.255.9499 f: 415.255.9792

ilrc@ilrc.org www.ilrc.org

Washington D.C.
1016 16th Street, NW, Suite 100
Washington, DC 20036
t: 202.777.8999 f: 202.293.2849

About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.