



DACA: CURRENT STATUS AND OPTIONS

February 24, 2017

As of this writing, the Deferred Action for Childhood Arrivals (DACA) program is still available and the government is still accepting and approving DACA initial and renewal applications.

On February 20, 2017 the Department of Homeland Security (DHS) released a memorandum and Frequently Asked Questions implementing the president's recent immigration executive orders. These materials [state that the DACA program remains unchanged](#). However, President Trump said during his campaign that he would terminate the DACA program. Therefore, the DACA program could end at any time. Also some DACA applicants could be at risk under some of the other deportation priorities outlined in the executive orders. Here are our latest recommendations on what to do now.

Current DACA Recipients – Stay Calm and Stay Out of Trouble

DACA should continue to provide you the same benefits you've enjoyed – protection from deportation for having no papers, work authorization and more. However, under the President Trump's new executive orders, immigration authorities could detain and attempt to deport anyone, including those with a currently valid grant of DACA. In other words, even if you have DACA, immigration authorities may detain you if you:

- are **arrested or convicted** for any criminal offense,
- **admit to any offense** (including minor traffic violations),
- are determined to pose a **threat** to public safety or national security,
- have been **deported** or been ordered deported from the United States before,
- admit to **fraud** in connection with a government agency (such as use of a false social security number),
- admit to **gang affiliation**, or
- in any way come to the attention of local law enforcement.

Initial DACA Applications – Recommended Only With Attorney Representation

If you have not yet applied for DACA for the first time, there are still benefits and risks in applying. You should only apply if you have consulted with an attorney, have considered your personal risks and benefits, and have an attorney help you in applying. We do not recommend that you apply if you have any prior criminal, immigration, fraud or gang issues as outlined above.

Initial applications may take anywhere from a few weeks to several months to be processed. If a new application is not approved before the DACA program is changed or terminated, you may lose your application \$495 fee. Furthermore, you risk exposure to immigration authorities by sending them your personal data.

- If pending federal legislation (the BRIDGE Act) passes to replace DACA, you may be eligible for another, less risky opportunity to get protection from deportation and/or a work permit.
- If you've had prior contact with immigration authorities or have a criminal record, you should consult an experienced immigration attorney or accredited representative before applying. A DACA application may be particularly risky if you have:
 - previous **criminal arrests** or **charges** (even without a conviction);
 - **any type of criminal conviction** (including either misdemeanors or felonies);
 - any history of **fraud related to any official matter** (such as **use of a false social security number**); or
 - been **deported** or been ordered deported from the United States before.

DACA Renewals – Recommended for Certain Applicants

If you currently have DACA and want to renew it, you should renew immediately after consulting with an experienced immigration attorney or accredited representative.

As of this writing, DACA renewal applications are still being accepted and approved which means you *may* receive a new work permit valid for another two years. The main risk is that the DACA program could be changed or terminated suddenly. If your renewal application is not approved before the program is terminated, you may lose the \$495 application fee.

If you have **any prior immigration or criminal issues**, we do not recommend you apply to renew your DACA application unless you **first consult with a trusted legal service provider** to assess your case. Some past criminal or immigration issues could impact your renewal application now even if you were approved for DACA in the past.

You may qualify for a loan or other help with the application costs. Check out Mission Asset Fund if you're in the Bay Area (<http://missionassetfund.org/lending-circles-for-dreamers/>), Self-Help Federal Credit Union (<http://www.self-helpfcu.org/personal/loans/immigration-loans>), your nearest Mexican Consulates, or local DACA service providers for information.

Advance Parole – Not Recommended

Do not apply for or travel under advance parole through DACA at this time.

If you have already been approved for travel outside the United States with advance parole or you need to request emergency advance parole (in person at a USCIS office), do so only after consultation with an experienced immigration attorney or accredited representative.

You should not travel with parole of *any* type if you have:

- previous **criminal arrests** or **charges** (even without a conviction); **any type of criminal conviction** (including either misdemeanors or felonies); any history of **fraud related to any official matter** (such as **use of a false social security number**); or
- been **deported** or been ordered deported from the United States before.

WARNING: Individuals with citizenship or travel documents from the following countries should not, under any circumstances, travel on advance parole because you may not be let back into the country in accordance with President Trump’s ongoing executive actions barring individuals from these countries: **Iraq, Iran, Syria, Yemen, Sudan, Libya and Somalia.**

STEPS TO FOLLOW

Consult with an experienced immigration attorney or accredited representative to understand your legal options and if you might be eligible for a safer, more permanent 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.

- For more information, go to: <https://www.ilrc.org/anti-fraud-flyers>.

Avoid negative contact with law enforcement. Any arrest, charge, or conviction, especially related to gangs, drugs or a DUI can be really bad for your immigration situation and could bring you to the attention of immigration authorities.

If you have a criminal record, consult an expert. Certain convictions can be changed to lessen the impact on a future immigration case you may have.

KNOW YOUR RIGHTS

Everyone, regardless of their status, has constitutional rights before the immigration authorities.

Remain Silent

- Don't respond to the questions of an immigration agent or provide any personal information. They may continue to ask you in a forceful, harassing or intimidating manner. You still have the right to remain silent.

Do Not Open Your Door

- If agents come to your home, ask that a search warrant be passed under your door or shown through a window. Do not open the door for them if they cannot show you a warrant ***signed by a judge***. You lose certain rights by allowing agents in to your home.

Do Not Sign Anything

- Do not sign any document. Ask to speak with an attorney and for a hearing in immigration court before signing away any of your rights.