





Disclaimer

- This is **not** a legal consultation.
- Individual circumstances may vary.
- Please consult an immigration attorney.
- Any questions you ask here will be kept **confidential**.



Image source: <http://robcorry.com/disclaimer/>



What We Will Cover Today

- Key terms
- What is the court order?
- Who may apply for DACA?
- What are the risks?
- How to apply
- What comes next?



Key Terms

- Department of Homeland Security (DHS)
 - Immigration and Customs Enforcement (ICE)
 - United States Citizenship and Immigration Services (USCIS)
 - Customs and Border Protection (CBP)



Key Terms

- Prosecutorial Discretion
- Deferred Action
- Deferred Action for Childhood Arrivals (DACA)
- Advanced Parole
- Employment Authorization Document (EAD)
- Injunction



DACA Rescission Lawsuit

- September 5, 2017: DACA rescinded by DHS
- The University of California challenges the rescission in court
- January 9, 2018: Judge William Alsup issues a preliminary injunction reinstating DACA nationwide



Image source: <https://assets1.cdn-mw.com/mw/images/article/art-wap-landing-mp-lg/gavel-2456-81d1cb7b4020452704b33d2a9c1ed5ec@1x.jpg>



Effect of the Preliminary Injunction

- DHS *must accept and process DACA applications* under the same policies that were in place prior to the Rescission.
- DHS *does not need to accept* applications from applicants who have *never before received* DACA.
- DHS does not need to approve any requests for Advanced Parole for DACA recipients.
- USCIS must publish guidelines on the DACA application process.



USCIS Response to the Preliminary Injunction

- DACA renewals will be accepted, based on the terms in place before it was rescinded on September 5, 2017.
- Anyone who has previously received DACA may apply.
- If you have *never before received DACA, you may **not** apply.*
- DHS will not grant Advanced Parole to any DACA recipients.



Initial Request or Renewal Request?

- Initial Request
 - DACA expired *before Sept. 5, 2016*
 - DACA was *terminated at any time*
- Renewal Request
 - DACA expired *on or after Sept. 5, 2016*
 - DACA not yet expired



Image source: <http://www.commandpostgames.com/brandywine-options/>



DACA Not Yet Expired

- Expires within 150 days
 - Should be able to renew
- Will not expire for more than 150 days
 - Unknown whether USCIS will process these requests

CAUTION: If you file this request more than 150 days prior to the expiration of your current period of deferred action, USCIS may reject your submission and return it to you with instructions to resubmit your request closer to the expiration date. **USCIS encourages renewal requestors to file as early in the 150-day period as possible - ideally, at least 120 days prior to the DACA expiration date.**

<https://www.uscis.gov/sites/default/files/files/form/i-821dinstr.pdf>



Deciding Whether to Apply

- DACA is not guaranteed to applicants who meet threshold requirements
- New court decisions may affect DACA availability.
 - On appeal, the preliminary injunction may be vacated
- You may lose your \$495 if the government rejects your request after it has been filed
- Your application shares information that you may consider sensitive



Forms You Need for Initial DACA Request

- **G-28 Notice of Entry of Appearance as Attorney or Accredited Representative, if applicable**
- **I-821D Consideration of Deferred Action for Childhood Arrivals**
- **I-765 Application for Employment Authorization**
- **I-765WS Form I-765 Worksheet**
- **Filing fee of \$495 (\$410 for I-765 + \$85 for biometrics)**

Part 1. Information About You *(For Initial and Renewal Requests)*

I am not in immigration detention *and* I have included Form I-765, Application for Employment Authorization, and Form I-765WS, Form I-765 Worksheet; and

I am requesting:

1. **Initial Request** - Consideration of Deferred Action for Childhood Arrivals

OR

2. **Renewal Request** - Consideration of Deferred Action for Childhood Arrivals

AND

For this Renewal request, my most recent period of Deferred Action for Childhood Arrivals expires on

(mm/dd/yyyy) ►



Documentation You Need for Initial DACA Request

- Copy of I-94 Arrival-Departure Record, if available
- 2 glossy 2" x 2" passport photos on white to off-white background
- Copy of last EAD and/or DACA approval notice, front and back
- Evidence that you meet eligibility requirements
- Additional documents if currently in or have been in removal proceedings



Forms You Need for a Renewal Request

- G-28 Notice of Entry of Appearance as Attorney or Accredited Representative, if applicable
- I-821D Consideration of Deferred Action for Childhood Arrivals
- I-765 Application for Employment Authorization
- I-765WS Form I-765 Worksheet
- Filing fee of \$495 (\$410 for I-765 + \$85 for biometrics)



Documentation You Need for a Renewal Request

- Copy of I-94 Arrival-Departure Record, if available
- 2 glossy 2" x 2" passport photos on white to off-white background
- Copy of last EAD and/or DACA approval notice, front and back
- New documents about removal proceedings or criminal history



Screening for Other Relief

- U and T Nonimmigrant Status
- Special Immigrant Juvenile Status
- Asylum
- Adjustment of Status
- Other



What Comes Next

- The administration has filed an appeal to the Ninth Circuit.
- The administration has also filed a petition for a writ of certiorari to the Supreme Court to bypass the Ninth Circuit.
- Other cases are pending in other jurisdictions.
- Legislative reform is the subject of Congressional deliberation.



Thank you!

Questions?

