

On September 5, 2017, Attorney General Sessions announced that the Trump administration will be phasing out the Deferred Action for Childhood Arrivals (DACA) Program by March 5, 2018. Several lawsuits were filed against the Trump administration after this rescission announcement was made. On January 9, 2018, the Federal District Court in the Northern District of California issued a Preliminary Injunction requiring the federal government “to maintain the DACA program on a nationwide basis on the same terms and conditions as were in effect before the rescission on September 5, 2017.” This advisory is not intended as legal advice but rather to clarify information arising out of the administration’s rescission announcement and subsequent federal court orders. Individuals should seek a legal consultation from a qualified immigration attorney or DOJ accredited representative for a full assessment of their individual case.

1. Who can file a request to renew their DACA?

If your DACA expired on or after September 5, 2016 you can submit a DACA renewal application. Individuals interested in attending one of our upcoming, free DACA renewal clinics can register [here](#). We will have several clinics scheduled in the upcoming months.

If your DACA expired before September 5, 2016 or was previously terminated, you can submit a new initial DACA application. Individuals with expired DACA who are interested in filing a new initial DACA application can schedule a DACA consultation by calling 312-660-1370 or emailing nijcild@heartlandalliance.org.

2. Can I file an initial DACA request if I have never before applied for DACA?

USCIS will not accept requests for initial DACA from individuals who have never before been granted DACA.

3. Do I have to wait until 150 days before my DACA expires to file a renewal application?

USCIS has previously recommended filing a DACA renewal request between 150 days and 120 days before the expiration of your current DACA period. However, if you file a renewal request in advance of this period, USCIS will accept your request. USCIS has been accepting DACA renewal applications even from individuals whose DACA expires in 2019.

4. How long will USCIS continue to accept DACA renewal applications?

USCIS must continue to accept DACA renewal applications and requests for initial DACA from prior DACA recipients until, and if, the preliminary injunction is reversed by a higher court, but this date is unknown. An appeal of the preliminary injunction is currently pending before the Ninth Circuit Court of Appeals. The opportunity to file a DACA renewal may be very short and it may be in the legal interest of DACA recipients to file renewals in the very near future.

5. What does the March 5th deadline mean for me?

March 5th was the original deadline set on September 5, 2017 on which the DACA program would begin to phase out. Previously, the administration announced that an individual with DACA that expires on or after March 6, 2018 would not be able to file a request to renew their DACA benefits. However, because of the court injunction, DACA renewals will continue to be accepted until, and if, a higher court reverses this decision.

6. If the court order is reversed, what is going to happen to current DACA recipients?

Per the September 5, 2017 rescission announcement, current DACA recipients will be permitted to retain both the period of deferred action and their employment authorization documents (EADs/“work permits”) until they expire, unless terminated or revoked for reasons beyond the rescission announcement.

7. What happens to individuals who currently have a DACA application (initial or renewal) pending prior to the September 5, 2017 announcement?

USCIS will continue to adjudicate all properly filed DACA initial and renewal requests that were pending prior to the rescission announcement made on September 5, 2017.

8. What if an individual has a pending application, but USCIS has not issued a decision?

If an individual’s renewal request has been pending for more than 105 days, the individual or his/her legal representative can submit a status inquiry via phone by calling 1-800-375-5283 or online via U.S.

Citizenship and Immigration Service’s (“USCIS”) inquiry submission platform: <https://egov.uscis.gov/e-request>.

If that does not yield a result, the individual or his/her legal representative may wish to consider seeking congressional assistance. In Illinois, Senators [Duckworth](#) and [Durbin](#) each have the request process located on their congressional website.

9. What if an individual’s application is denied? Will the individual be deported?

A denial will not automatically cause USCIS to refer an individual to Immigration and Customs Enforcement (“ICE”) to initiate removal proceedings (the court process to deport an individual). USCIS will apply its existing Notice to Appear guidance to decide whether the agency deems the referral warranted.

10. Once an individual’s DACA expires, will their case be referred to ICE for enforcement purposes?

Information provided to USCIS in DACA requests will not be proactively provided to ICE and Customs and Border Protection (“CBP”) for the purpose of immigration enforcement, unless the requestor meets the criteria for the issuance of a Notice to Appear. USCIS will review its guidance to decide whether the agency deems the referral warranted.

11. Can DACA recipients whose valid EAD is lost, stolen or destroyed request a new, replacement EAD?

If an individual has a period of DACA that is currently valid, he/she may apply to replace a lost, stolen, or destroyed EAD/work permit by filing a new Form I-765 and paying the \$495.00 filing fee.

12. Can a current DACA recipient still apply for special permission to travel (“advance parole”)?

Effective September 5, 2017, USCIS will no longer approve any new requests for DACA Advance Parole.

13. What happens to a DACA recipient who has a pending request for advance parole to travel outside of the United States?

Effective September 5, 2017, USCIS will administratively close all pending requests for DACA Advance Parole and will refund all associated fees.

14. Can a DACA recipient with approved advance parole still travel outside of the country?

Those with a current DACA advance parole validity period from a previously-approved advance parole application will generally retain the benefit until it expires. However, CBP retains the authority to refuse entry to an individual – even one that has the approved advance parole document. Individuals with approved DACA Advance Parole **should** speak to a qualified legal representative to fully understand the significant risks associated with travel.

15. Can a DACA recipient continue to use his/her Social Security Number (SSN) after their DACA expires?

The SSN that a DACA recipient received pursuant to their DACA grant will belong to that individual for life. In fact, the individual can continue using the SSN for various matters (banking, housing, education, etc.). In terms of lawful employment, the individual will need to present a valid EAD/work permit to use the SSN for employment.

16. Can a DACA recipient continue working lawfully?

The administration clarified that it will not request return of EADs/work permits pursuant to the rescission announcement; as such, a DACA recipient can continue working lawfully until their EAD expires. DACA recipients are not legally obligated to notify their employer that their EAD is close to or has expired. If the expiration date is nearing, an employer can ask for an updated EAD; however, the employer cannot take action against the DACA recipient until the EAD expires. A DACA recipient can continue seeking employment until their EAD expires. During the job search, an employer cannot ask if the individual is a DACA recipient or how the individual obtained his/her work permit.

17. What happens to a DACA recipient's driver's license when his/her DACA expires?

In most states, a DACA recipient's driver's license may expire when his/her work authorization ends. People need to be cautious. Illinois law allows non-visa status individuals to obtain a Temporary Visitor Driver's License (TVDL). We encourage individuals to apply for these licenses.

18. What can DACA recipients do now?

We highly encourage DACAmented individuals and individuals previously granted DACA to consult with a legal service provider about the possibility of renewing their DACA. We also encourage DACAmented individuals and their families to seek a legal consultation to explore other potential forms of immigration relief. NIJC has found that 14.3% of individuals screened for DACA eligibility were potentially eligible for more permanent forms of immigration relief. To schedule a legal consultation with NIJC, individuals can call 312.660.1370 or email nijcild@heartlandalliance.org.