



WHAT IS THE DACA RULE AND HOW DOES IT IMPACT ME?

A refresher about the current state of DACA and what the Biden administration's 2022 rule does for the program

JUNE 2024

On August 30, 2022, the Biden Administration issued a new rule on Deferred Action for Childhood Arrivals (DACA) that incorporates DACA into the Federal Regulations. Since its announcement, there have been several questions around who can access DACA now and what it means for all those first-time applicants who are waiting to obtain DACA.

Below are a few key points for you to keep in mind as you navigate access to DACA now:

- ▶ The DACA rule was set to go into effect on October 31, 2022, but pending litigation stopped its full implementation. **This means there is a current lawsuit that remains in motion keeping it from rolling out.**
- ▶ On September 13, 2023, the U.S. Southern District of Texas issued a decision finding the DACA Regulation unlawful and expanded the original July 16, 2021 injunction and order to cover the final rule. **In other words, this federal court decided that DACA was unlawful and extended the stop of granting initial, or first-time, DACAs while the lawsuit continues to higher courts and put a stop to a decision as it relates to DACA renewals.**
- ▶ Currently, **U.S. Citizenship & Immigration Services (USCIS) is processing DACA renewals and employment authorization** under the final rule but are limited by this court decision.

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WHAT IS THE IMPACT OF THE RULE FOR CURRENT DACA RECIPIENTS?

Nothing has changed for DACA recipients and those seeking to obtain DACA. **Currently, only those who are eligible to renew can continue to renew.** This includes:

- ↳ Individuals who currently have DACA; AND
- ↳ Individuals whose DACA expired **less than a year ago.**

Those whose DACA was approved prior to the rule's implementation do not have to reapply. All current and future requests are decided based on the new rule. While the rule does not change things for who can access DACA now, litigation can change who can access DACA.

Currently, the Texas court injunction blocking initial DACA applications remains in effect, so USCIS will continue to process DACA renewals, but not initial DACA applications from first-time DACA requestors and people whose DACA expired more than a year ago while this injunction remains in place.

WHO CAN REQUEST DACA NOW?

Current DACA recipients can continue to renew and should continue to renew. If you are wondering when you should submit your renewal in light of the pending case, consider the following:

- If your DACA expires in less than 6 months from now, **you should renew now.**
- If your DACA expires within 6 months to 1 year, **you may want to renew early.**
- If your DACA expires more than 1 year from today, you should speak to a trusted legal service provider to see if there are benefits in applying early.

NOTE

*IF YOUR DACA HAS ALREADY EXPIRED, YOU CAN RENEW IF 1 YEAR HAS NOT PASSED SINCE YOUR DACA EXPIRED. **IF YOUR DACA EXPIRED OVER 1 YEAR AGO, IT WILL NOT BE PROCESSED OR GRANTED.***

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As of April 1, 2024, the filing fee for DACA increased to **\$555, for applicants who renew online**, and to **\$605, for applicants who renew via mail**. This fee includes the \$85 fee for the I-821D ***Consideration of Deferred Action for Childhood Arrivals*** form and \$470 (online filing) or \$520 (paper filing) for the I-765 ***Application for Employment Authorization***.

In addition, **DACA recipients can continue to request Advanced Parole**. To qualify for Advance Parole, DACA recipients must show that their reason for travel is related to humanitarian, employment, or education reasons. The fee for Advance Parole has also increased to \$630.

DOES THIS RULE CHANGE ANYTHING FOR DACA?

No, the rule does not change anything for DACA at this time. The requirements remain the same as they were since June 2012. The new rule replaces the DACA 2012 Napolitano memorandum, which produced the original DACA program.

The rule formalizes the DACA policy by incorporating it into the federal regulation. Among other things, the new rule:

- Requires the Department of Homeland Security (DHS) to provide notice before terminating DACA in most cases.
- Clarifies that expunged convictions, juvenile delinquency adjudications, and certain immigration-related offenses will not automatically bar someone from getting DACA.
- Clarifies that DHS will not use information from DACA requests for enforcement purposes (e.g., relaying the data to ICE) unless there is fraud, a threat to national security, or public safety.

WHAT SHOULD I BE AWARE OF?

- 👉 First, community members should be aware that there is still a stop on initial

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DACA requests due to a case from a Federal District Court in Texas challenging the legality of DACA. This case is currently at the 5th Circuit Court of Appeals, and it is not clear what will happen with the case. Only if the stop on initial DACA applications is lifted can new DACA requests be processed and granted under the new DACA rule. Potential DACA applicants and current recipients should continue monitoring the news and trusted websites for new developments on DACA.

- ✎ Second, DACA recipients and undocumented youth should seek a full immigration consultation. **It is possible that you may qualify for other forms of immigration relief that could lead to permanent lawful residence.** You can visit <https://ilrc.me/findhelp> to find a free or low-cost trusted legal services provider in your area.
- ✎ Lastly, we must continue advocating for permanent legislative protections for all undocumented immigrants regardless of race, gender, socioeconomic status, and criminal history. Find your elected representative [here](#) and make your voice heard!

Are you a California Community College (CCC) or a California State University (CSU) student? If so, you qualify for **FREE** immigration legal services!

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