

FREQUENTLY ASKED QUESTIONS

Deferred Action for Childhood Arrivals Renewal Process

JANUARY 2014

U.S. Citizenship and Immigration Services (USCIS) has released a draft application and instructions for renewing Deferred Action for Childhood Arrivals (DACA). The following answers to frequently asked questions regarding the DACA renewal process are intended primarily for *legal service providers* and *organizers*. The immigrant youth–led organization United We Dream (UWD) has created a fact sheet for people who currently have DACA titled “The DACA Renewal Process: The Facts So Far,” which is available from UWD’s website.¹

The information in this FAQ is based on what we know about the renewal process so far, which in turn is based on the new DACA application instructions that USCIS has proposed. The answers presented here may change once USCIS has finalized the process.

This document is a work in progress and will be updated as USCIS releases more details about the deferred action process. Sign up for updates at https://org.salsalabs.com/o/371/signup_page/daca-dream.

NOTE: This FAQ contains general information and is not legal advice.
Every person’s case is different.

Do not take advice from a notary public or an immigration consultant.
People who have DACA or want to apply for it are advised to consult with a qualified immigration lawyer or an accredited representative for advice about their case.

■ Who may submit a DACA renewal request?

A person who was *granted* DACA and who *continues to meet the guidelines* for DACA may submit a DACA renewal request.² The person must also meet the following requirements in order to qualify for DACA renewal:

- The person must *not* have departed the U.S. on or after August 15, 2012, without first having been granted *advance parole*.³
- The person must have resided continuously in the U.S. from the time he or she submitted the initial request for DACA up until the present time.

¹ See <http://unitedwedream.org/wp-content/uploads/2013/12/UWD-DACA-Renewal-Fact-Sheet.pdf>.

² The guidelines for DACA are available at www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process.

³ A person with DACA can apply for advance parole with Form I-131. USCIS will grant advance parole only if the travel abroad is for educational, employment, or humanitarian purposes. See www.uscis.gov/i-131.

LOS ANGELES (Headquarters)
3435 Wilshire Blvd., Suite 2850
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax



WASHINGTON, DC
1121 14th Street, NW, Suite 200
Washington, DC 20005
202 216-0261
202 216-0266 fax

- If the person qualified for DACA based on demonstrating that he or she was “in school” when he or she submitted the initial request, then the person must have satisfied the *education guideline* for the renewal request. (An explanation about how to meet this guideline is provided below).

■ When should a person with DACA apply for renewal?

A person who has DACA may apply for DACA renewal beginning 120 days before the date his or her current DACA and employment authorization document (EAD) expire. To find the expiration date, do either of the following:

- Look at the I-797 Notice of Action under “Notice Type”
- Look at the EAD under “Card Expires”

We do not know yet when USCIS will start accepting renewal applications.

■ How does a person with DACA request renewal?

The initial request for DACA and the renewal request are made by filling out and submitting the same forms: **Form I-821D**, **Form I-765 Application for Employment Authorization**, and **Form I-765WS Worksheet**. Note that an *updated version* of Form-821D must be used; it should be available sometime in the next few months. The person with DACA must fill out all the forms’ sections and answer all the questions except those designated “For Initial Requests Only.” The completed forms must be submitted to USCIS.

- NOTE: If the person’s DACA was granted initially by U.S. Immigration and Customs Enforcement (ICE) and not USCIS, then the person must fill out *all* the sections and answer *all* the questions on the forms and submit *all supporting documentation* as if he or she were filing an initial request. The completed forms and supporting documentation must then be submitted to USCIS.

■ What are the fees associated with the DACA renewal application?

The renewal request costs the same as the initial request: \$465. The cost includes a \$380 application fee for the Form I-765 and an \$85 fee for biometrics (fingerprints). DACA renewal applicants are required to submit new biometrics. In very limited circumstances, applicants may be exempted from having to pay the fees.

■ What should a person with DACA do to prepare for renewal?

To prepare to apply for DACA renewal:

- It’s important that the information in the renewal request be *consistent* with the information provided in the initial request. Therefore, we recommend that people with DACA make sure they have a *copy of their initial application* for DACA. If they don’t already have a copy of their own and they initially applied for DACA with the help of an attorney, the attorney’s office is likely to have a copy of their application.

Another option is to file a Freedom of Information Act (FOIA) request for a copy of the initial application.⁴

- Applicants must have put aside \$465 to pay the renewal application fees.
- Applicants whose initial application for DACA was based on being in school must gather evidence that they are currently enrolled in school or that they have completed high school or a GED program.
- Applicants who have received citations, been arrested, or been criminally charged or convicted since they initially received DACA must gather evidence of these contacts with law enforcement or the courts.

■ **If a person initially received DACA based on being “currently in school” but has *since received a high school diploma, GED, or equivalent, how does he or she state this in the renewal application?***

On page 3 of the application form, the applicant must mark the box that applies to his or her situation and submit evidence, such as a copy of his or her diploma, GED certificate, or a transcript.

■ **If a person initially received DACA based on being “currently in school” and is *still in school, how does he or she state this in the renewal application?***

Currently enrolled. The applicant must provide evidence that he or she is currently enrolled in a public or private elementary school, junior high or middle school, high school, secondary school, public or private college or university, or community college. The evidence the applicant submits must show that he or she was enrolled during the date(s) and time period(s) the applicant claims to have been enrolled and that he or she has reached the educational or grade level that he or she claims to have reached. USCIS suggests that the following kinds of documents would provide such proof:

- school registration cards
- acceptance or other letters demonstrating enrollment or attendance
- current transcripts, report cards, progress reports, or other documents issued by a school district, or state educational agency, school, or program issuing the record

Enrolled, but classes not yet started. If the applicant has enrolled in school but his or her classes have not yet started, USCIS suggests submitting the following:

- an acceptance letter with evidence that the applicant has registered for classes, or
- any other relevant evidence showing that the applicant is committed to starting classes on a certain date (for example, a copy of a tuition bill, of a class schedule, or of the applicant’s individualized educational program)

⁴ Information about how to file a FOIA request is available at www.foia.gov.

■ **If a person obtained DACA based on enrollment in an educational program designed to lead to placement in postsecondary education, job training, or employment, what does he or she need to show?**

An applicant in this situation must show that she or he:

- is currently enrolled in high school;
- has since enrolled in postsecondary education;
- has completed an education, literacy, or career training program (including vocational training) and has obtained employment;
- has made substantial progress toward completing the program; *or*
- is currently enrolled in a new/different education, career training, or literacy program.

Enrolled in publicly funded educational, literacy, or career training program.⁵ If the applicant is enrolled in a *publicly funded* educational, literacy, or career training program (including vocational training or an English-as-a-second-language, or ESL, course), the applicant must *also* submit evidence that the program is funded in whole or in part by federal, state, local, or municipal funds. This evidence can be a letter or other documentation from an authorized representative of the program that includes information such as

- the applicant's name and date of enrollment,
- the duration of the program and expected completion date,
- the program's source of public funding, and
- the program's authorized representative's contact information.

Enrolled in a not–publicly funded educational, literacy, or career training program.⁶ If the applicant is enrolled in an educational, literacy, or career training program that is *not* publicly funded, the applicant must *also* submit evidence that the program is *of demonstrated effectiveness*. This evidence can be information from an authorized school representative describing

- the duration of the program's existence,
- the program's track record in placing students in employment, job-training or post-secondary education,
- the receipt of awards or other recognition, or
- any other information indicating the program's overall quality.

⁵ This refers to an educational, literacy, or career training program that is designed to lead to placement in post-secondary education, job training, or employment. It also refers to an education program assisting students in obtaining a regular high school diploma or its recognized equivalent under state law (including a certification of completion, certificate of attendance, or alternate award), or in passing a GED exam or other equivalent state-authorized exam.

⁶ *Id.*

■ **If a person with DACA has been arrested or convicted of an offense, or has had other interactions with law enforcement since receiving DACA, what should he or she do?**

Here are suggestions for what a person with DACA who has had interactions with law enforcement since first receiving DACA should do before he or she applies for renewal:

- **Get a background check.** USCIS requires that applicants for DACA renewal submit proof of the disposition of (what has happened with respect to) any criminal arrests, charges or convictions.⁷
- **Complete a “live scan” (electronic fingerprinting),** if it’s available in his or her state. For example, if the applicant has lived only in California and is sure that he or she has not had any arrests or contact with law enforcement in any state other than California, the applicant can complete the California “live scan.” Visit <http://oag.ca.gov/fingerprints> to find locations and information about the California process. Other states may have similar processes.
- **Request an FBI background check.** The instructions for completing and submitting the background check request form can be found at www.fbi.gov/about-us/cjis/background-checks/submitting-an-identification-record-request-to-the-fbi.
- **Request his or her file from the court,** if the person has had to appear in criminal court. WARNING: Applicants with an outstanding warrant may be arrested if they go to the court in person to request their file.

More information about how to obtain criminal records is available from a guide titled “How to Get Your Criminal Record” that’s available from the Own the Dream website, at www.weownthedream.org/library/attachment.244832.⁸

■ **If a person with DACA does not apply for renewal, what will happen?**

People with DACA who don’t apply for and get DACA renewal will no longer be able to work legally in the U.S. after their EAD expires. After their DACA expires, they will be in the same position they were in before applying initially for DACA — facing potential deportation if they are picked up by immigration authorities. We suggest that people with DACA who do not want to apply for renewal consult with an attorney or an accredited representative from a nonprofit organization that specializes in immigration law to see if any other temporary or permanent ways of remaining legally in the U.S. are available to them.

⁷ For a listing of crimes that would make a person ineligible for DACA, please see the “National Security and Public Safety” section of the USCIS DACA FAQs, available at www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions.

⁸ Own the Dream is a national campaign to help aspiring Americans brought to the U.S. as children take advantage of the opportunity to apply for DACA and work authorization. NILC and United We Dream are partners in the campaign, along with many other organizations. More information about Own the Dream is available at www.weownthedream.org/about/.

■ **If a person's DACA renewal request is denied, what will happen? Will the person be placed in deportation proceedings?**

USCIS says that if a person's DACA renewal request is denied, generally USCIS will refer the applicant's case to ICE (the immigration enforcement authorities) only if it involves a criminal offense, fraud, or a threat to national security or public safety.