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The Department of Homeland Security DACA Memorandum: Frequently Asked Questions

(7/28/2020)

What does the Department of Homeland Security (DHS) DACA Memorandum say?

DHS issued a memorandum on July 28, 2020 that directs USCIS to reject any initial application for DACA. Any initial DACA application that is filed with USCIS will be returned to the applicant along with the filing fee. This only applies to new applicants that have not been granted deferred action under DACA.

I currently have DACA, and I had submitted a renewal application. Do I need to do anything more to obtain the renewal?

No. Your DACA renewal application should be processed normally. Recently, renewal applications have been processed within about three to four months. However, any pending applications to renew DACA or any new renewal applications will now only be granted for **one** year.

I currently have DACA. When should I submit my renewal application?

If your DACA status expires within the next 6 months, you should submit a renewal application as soon as possible. Please contact ILCM at 651-641-1011 on Mondays, Tuesdays, and Wednesdays from 9am to 4pm and on Thursdays from 1pm to 7:30pm for assistance.

I submitted an initial application for DACA after the Supreme Court decision in June. What will happen to my application?

According to the DHS memorandum, USCIS will reject new initial DACA applications. Your application and filing fee will be returned to you by mail. Do not send an initial DACA application without consulting first with a qualified immigration attorney.

I do not have DACA, but I may have been eligible for DACA if the program had not ended in 2017. Can I apply for DACA now?

At this time, no. We are still monitoring whether you can file new initial DACA applications and the potential risks of applying. Please consult a qualified immigration attorney about your situation. Collect the documents you need to file an initial DACA application so you have them if and when you are able to file since the timeframe to file could be very short. To be eligible for DACA you must prove that you:

- came to the U.S. before turning 16 and were under age 31 as of 6/15/2012;
- have continuously resided in the United States since 6/15/2007;
- are a current student, or had completed high school, or were honorably discharged veterans;
- have not been convicted of a felony, significant misdemeanor, or 3 or more other misdemeanors; and
- do not threaten national security or public safety.

I previously had DACA, but I did not renew it. Can I renew it now?

We believe so. These applications have been accepted in the past, and the DHS memorandum does not say anything about a change. The process will depend on how long ago your DACA expired. If your DACA status expired less than a year ago, you can file a basic renewal packet. If your DACA status expired more than a year ago, you will need to file a new “initial” application, which means you must file all the documentation to show you are eligible for DACA.

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I previously had DACA, but I was later denied renewal. Can I renew now?

That depends on why your renewal was denied. The requirements for DACA have not changed. If, for example, you were denied because you were convicted of a significant misdemeanor, then you are still not eligible to renew. If you were denied for a technical problem such as missing your fingerprint appointment, then yes, you can renew.

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Can I apply for advance parole?

The DHS memorandum says that USCIS will reject all pending and future applications for advance parole absent exceptional circumstances. If you filed a form I-131 for advance parole but it is still pending, the application will be rejected and the filing fee will be refunded. If you were already granted advance parole, it will remain

Will DACA be rescinded?

DHS states in the memorandum that they are carefully considering whether to maintain, rescind, or modify DACA. However, in the meantime DHS will refrain from terminating any grants of DACA and work permits for the duration of their validity periods. If you have DACA and continue to be eligible for DACA (i.e. no criminal problems), your DACA will remain valid.

Is there now a pathway to citizenship for DACA recipients?

Unfortunately, no. The June 18, 2020 Supreme Court decision means that the administration’s 2017 attempt to end DACA was invalid, but it does not create a pathway to citizenship. Today’s DHS memorandum further indicates that DHS will continue to review DACA and could still rescind the program. To create a pathway to citizenship for DACA recipients requires that Congress pass and the President sign new legislation such as the Dream and Promise Act. Please consult ILCM’s webpage at www.ilcm.org for the latest developments on these types of immigration reforms.

Where can I call if I have DACA and want to file to renew?

Please contact ILCM at 651-641-1011 on Mondays, Tuesdays, and Wednesdays from 9am to 4pm and on Thursdays from 1pm to 7:30pm for assistance.