



AALDEF Update: Deferred Action for Childhood Arrivals (DACA)

January 2019

On Jan. 22, 2019, the U.S. Supreme Court decided not to take up the challenges in three lower courts to the Trump administration's attempt to end the Deferred Action for Childhood Arrivals (DACA) program. In January and February, 2018, federal judges in California and New York, respectively, temporarily blocked the administration's termination of DACA in Sept. 2017.¹ In April 2018, another federal judge in Washington, D.C. ruled against the Department of Homeland Security (DHS)'s decision to rescind DACA, finding that DHS was not required to accept and process initial DACA requests but must continue to process renewals. Following the government's appeal of the California district court's decision, on Nov. 8, 2018, the U.S. Court of Appeals for the Ninth Circuit [unanimously upheld](#) the lower court's injunction against the administration's decision to end DACA.

Following the California and New York federal court orders in January and February 2018, U.S. Citizenship and Immigration Services (USCIS) announced that it would comply with these orders and allow DACA recipients to renew their deferred action and employment authorization.² With the Supreme Court declining to take up these DACA cases for the remainder of its current term (ending in June 2019), those who are currently protected by, or have ever had, DACA should file their renewal requests as soon as possible.

As USCIS is still accepting DACA renewal applications, the Asian American Legal Defense and Education Fund (AALDEF) is providing the following guidance:

- Individuals whose DACA and employment authorization expired before September 5, 2016 (one year before the administration's announcement to end DACA) can file an initial application, not a renewal.
- Individuals whose DACA and employment authorization expired on or after September 5, 2016, or will expire within 180 days from now, can file a renewal application.
- Individuals who have never applied for DACA cannot apply.
- DACA recipients still cannot file applications to travel outside the U.S. on advance parole (advance permission to travel overseas).

¹https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Deferred%20Action%20for%20Childhood%20Arrivals/234_Order_Entering_Preliminary_Injunction.pdf;

https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Deferred%20Action%20for%20Childhood%20Arrivals/255_EDNY_AMENDED_Order_Entering_Preliminary_Injunction.pdf

²<https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>

- Because we are uncertain about the window of time available for submitting DACA renewal applications while the lower courts' decisions go through the appeals process, we recommend that you contact an attorney or a Board of Immigration Appeals (BIA)-accredited representative immediately to assess whether you are eligible for renewal.

Documents to prepare for a renewal request*:

- A copy of your prior application
- Current passport
- Two (2) color passport photos
- New address(es) since your previous DACA application
- Employment Authorization Document
- Most recent I-821D approval notice (as well as the I-765 approval notice if you received one)
- Certificates of disposition for any new arrests or criminal/juvenile court proceedings since your previous DACA application
- Order of removal (deportation) since your previous DACA application
- Advance parole document and approval notice if you have traveled outside the country since your previous DACA application
- Check or money order for \$495 payable to "U.S. Department of Homeland Security"

***If you need to submit an initial application, you are required to submit additional evidence, including documents to prove continuous residence beginning from the time period of your last application's approval.**

NOTE: This guidance does not constitute legal advice. For specific questions about individual circumstances, please consult with an immigration attorney or a BIA-accredited representative.

BEWARE of any potential scams and fraud! You do not have to pay anyone to help with your applications. Many organizations are offering free legal services.

For additional information or to schedule a legal consultation, contact AALDEF's community organizer at 212.966.5932 x 223 or spark@aaldef.org. You can also contact RAISE (Revolutionizing Asian American Immigrant Stories on the East Coast), the pan-Asian undocumented youth group affiliated with AALDEF, at raise@aaldef.org. RAISE aims to create safe spaces in communities while advocating for humane immigration policies.