

New Questions and Answers About DACA Now That Trump Is President-Elect

NOVEMBER 15, 2016

Many of us are concerned about what could happen to the DACA program—and to DACA recipients—once President-elect Donald Trump takes office in January 2017.¹ During his campaign, Trump said that he intends to end the DACA program. But since the election, he has not yet said exactly if, when, or how he might do this. Nor will we know until after January 20, when the new Trump administration takes power, what his administration's officials might do with the information that DACA applicants have submitted on their applications.

Since DACA was created in 2012, anyone deciding whether or not to apply for it has had to weigh the benefits and risks of applying. When you provide information about yourself to immigration authorities—by submitting the DACA application—you are taking a risk. On the other hand, having DACA has brought many benefits to the people who have it, benefits that are highlighted in the recent report [New Study of DACA Beneficiaries Shows Positive Economic and Educational Outcomes](#).² Over 700,000 people have chosen to apply for and have received DACA. Many of them have, as a result, found better-paying jobs, received driver's licenses, and enjoyed other benefits.

This FAQ provides information and recommendations that may help you decide what to do with respect to DACA now that Trump is the president-elect. However, **the information in this FAQ is *not* legal advice**. Every person's situation is different. To get legal advice about whether you should either apply for DACA for the first time or apply to renew your DACA, you should talk to a **qualified immigration lawyer** or a Board of Immigration Appeals (BIA)—**accredited representative**.

Currently I do not have DACA, but I think I am eligible. Should I apply for it?

If you do *not* currently have DACA and are considering whether to apply for it for the first time, **we recommend that you *not* do so** at this time.

Because no one is certain at this time about what will happen with DACA, and because immigrant communities have legitimate fears about what will happen to them once Trump takes office, we recommend not submitting a first-time application for DACA until we see what happens next year under the Trump administration.

¹ DACA is the acronym for *Deferred Action for Childhood Arrivals*. More information about DACA is available at www.nilc.org/daca/.

² www.americanprogress.org/issues/immigration/news/2016/10/18/146290/new-study-of-daca-beneficiaries-shows-positive-economic-and-educational-outcomes/.

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Also consider this: If you apply for DACA today, it is unlikely that your application will be processed until after January, since it usually takes over three months to process a DACA application. By then, the DACA program may have been terminated. If that happens, not only will your application likely not be approved, but you will lose the \$465 application fee.

If you decide to wait to see what happens next year, in the meantime you can still gather supporting documents and prepare your application, so it will be ready for filing in case the DACA program is not terminated.

I already have DACA and am deciding whether to apply to renew it. Should I submit my renewal application?

If you *already* have DACA and are considering whether to apply to *renew* it, immigration authorities already have the information on your original application, so **there is less risk in submitting the renewal application.**

However, it is possible that if you apply now for renewal, your renewal will not be approved before the Trump administration takes power on January 20.

We don't yet know how the Trump administration, if it terminates the DACA program, will treat DACA and work permits that have already been issued and have not yet expired. It may decide either to revoke all DACA recipients' DACA and work permits immediately, or it may allow people to keep their DACA and work permits until they expire, but just not renew them.

If the new administration allows the DACA program to end simply by not renewing people's DACA, and if you are able to renew your DACA before the new administration stops processing renewal applications, you may have DACA for an additional two years. During that time, you would have authorization to be employed and also protection from deportation.

Another factor to consider is that you may apply to renew your DACA at any time, even if it is not set to expire until late next year. Currently it is taking U.S. Citizenship and Immigration Services (USCIS) about 120 days to process and approve DACA renewal applications.

I have DACA and was planning to take a trip outside the States. Should I still go?

If you have DACA and want to continue living in the U.S., you should never travel abroad unless you have applied for and received *advance parole* from USCIS. Advance parole is permission from USCIS to return to the U.S. after traveling abroad.

If you are planning a trip abroad—and if you receive advance parole—be sure to **return to the U.S. before January 20, 2017**. Even if you've received advance parole, it may be harder to be admitted into the U.S. after Jan. 20 if the law changes, nor is it certain that you would be admitted into the U.S. on or after that date.

What will happen to the information on DACA applications?

Currently, USCIS's policy is that it does not share information about a DACA applicant or the applicant's family members with U.S. Immigration and Customs Enforcement (ICE) for immigration enforcement purposes unless there are serious criminal, fraud, or national

security issues with the case.³ This policy is based on a 2011 USCIS memo which states that USCIS will refer to ICE only cases that raise fraud or “egregious public safety” concerns (such as that the applicant has a serious criminal conviction).⁴ Changing these policies would require that USCIS change its memo and guidance.

If I have DACA, will I be deported if the DACA program is terminated?

People with DACA would not necessarily be automatically at greater risk of being deported than other undocumented immigrants if the DACA program is terminated.

The U.S. Department of Homeland Security (DHS) considers people who, for example, have felony criminal convictions or recent deportation orders as being “enforcement priorities.”⁵ DHS assigns higher priority to detaining and deporting people who it considers enforcement priorities. People with DACA are considered “low priorities” for deportation, based on how long they’ve lived in the U.S., their ties to the U.S., and their not having committed serious crimes.

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Remember that **DACA was an organizing victory won by undocumented immigrant youth**. It took a lot of sacrifice and resilience from a lot of young people for executive action to be announced and implemented, and it will take more from all of us to continue defending it. **Together we can and will fight to keep DACA, and to prevent DACA recipients from being deported.**

Visit www.nilc.org/daca/ for more information and updates about DACA. We also regularly post updates on [Facebook](#) and [Twitter](#).⁶

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³ See USCIS’s DACA FAQ, answers 19 and 20, www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions.

⁴ See USCIS’s memorandum *Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens*, Nov. 7, 2011, www.uscis.gov/NTA.

⁵ See DHS’s memorandum *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants*, Nov. 20, 2014, www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf.

⁶ Facebook: <https://www.facebook.com/NationalImmigrationLawCenter>;
Twitter: https://twitter.com/NILC_org.