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**COMMUNITY
ALERT**

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Cornell Law School
Path2Papers Project

DACA AND ADVANCE PAROLE

Updates and Considerations During the
Trump Administration

FEBRUARY 2025

On January 17th, 2025, the Fifth Circuit Court of Appeals issued its latest decision in the ongoing DACA litigation. While nothing has changed, and current DACA recipients can continue to renew their DACA and obtain both protection from deportation and work authorization, it is important to understand what the current state of DACA is and what can change in the future.

WHAT DOES THE COURT DECISION SAY?

The Court ruled that certain aspects of the DACA rule, particularly the federal government's authority to grant work authorization, was unlawful. However, the Court acknowledged that the federal government retains the power to grant deferred action, providing protection from deportation. While the case is still pending, the Court has decided to pause its decision, meaning everything remains the same for now for DACA holders.

DOES DACA PROTECT ME FROM DEPORTATION—AND WHAT SHOULD I DO IF I ENCOUNTER AN IMMIGRATION OFFICER?

Yes, a current and valid grant of deferred action protects you from deportation. Remember, if you encounter an immigration official, **you have the right to assert your constitutional rights and remain silent.** You **do not** have to present any documentation to them or respond to their questions.

If they are attempting to detain you, remember that you are protected from deportation during the validity of your deferred action. You can inform them of your

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DACA status and carry a copy of your current DACA approval or work permit as proof. However, it's essential to stay informed about any updates to DACA policies.

WHO CAN RENEW AND WHEN SHOULD THEY RENEW?

Currently, **only DACA recipients who have a valid grant of DACA or whose DACA expired less than a year ago** can renew their DACA.

WHEN SHOULD THEY SUBMIT THEIR RENEWAL?

- **If your DACA expires in less than six months:** File to renew as soon as possible!
- **If your DACA expires within 6 months to a year:** Consider renewing now. USCIS is currently accepting early DACA renewals.

NOTE

*DACA RENEWALS ARE GRANTED FROM **DATE OF APPROVAL**, NOT FROM THE DATE OF THE PRIOR DACA GRANT EXPIRING. THIS MEANS THAT SOME MAY LOSE WEEKS OR MONTHS FROM THEIR CURRENT DACA DEPENDING ON WHEN THE RENEWAL IS GRANTED AND WHEN THEIR CURRENT DACA EXPIRES. SPEAK TO A TRUSTED LEGAL SERVICE PROVIDER TO DISCUSS THE BENEFITS OF RENEWING EARLY.*



- **If your DACA expires more than 1 year from today:** It may not be worth renewing now. Speak to a trusted legal service provider to understand your options. If you renew too early, it might not gain you a lot of time on your DACA. USCIS will grant your DACA from the date of approval not from the time of expiration.

CAN PEOPLE WHO NEVER HAD DACA OR WHOSE DACA EXPIRED MORE THAN A YEAR AGO APPLY?

Unfortunately, initial DACA requests are not being granted right now. This includes

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DACA requests from people who have never had DACA and from people whose DACA has been expired for more than a year. Current USCIS guidance treats DACAs that expired more than a year ago as initial DACA request, which are not being granted at this moment.

IS ADVANCE PAROLE STILL AVAILABLE FOR DACA RECIPIENTS?

Currently advance parole is available for DACA recipients who have a reason to travel for humanitarian, employment, or educational reasons. Although the Trump administration issued an executive order to more heavily scrutinize other parole programs, U.S. Customs and Border Protection (CBP) released guidance confirming that advance parole for DACA recipients remains unaffected by the executive order. This was confirmed during a recent local San Francisco CBP meeting. However, **it is highly recommended that DACA recipients speak and work with a legal service provider before applying and traveling on advance parole in case policies change while the person is abroad.**

As of now, access to DACA advance parole remains an option, and DACA recipients have been approved for advance parole and have been able to return successfully during the first few weeks of the Trump administration, but this could change in the future.

To ensure DACA recipients are prepared to travel and access advance parole, it is recommended that they:

- Consult with a legal service provider before leaving the country, even if they have already been approved for advance parole, especially if a person has a removal (deportation order), arrests, or other complex issues.

► **ALERT:** It is important to discuss the impact that any **arrests or convictions** can have on someone seeking to travel in light of the Laken Riley Act. If you have been charged with, arrested for, convicted of,

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or have admitted committing an act with elements of burglary, theft, larceny, shoplifting, assault of a law enforcement officer offense, or any crime that resulted in the death or serious bodily injury to another, consider not traveling.

- ▶ Work with their legal representative to request advance parole and to prepare documents for travel, which should include the representative's contact information in case it is needed.
- ▶ Prepare to be sent to secondary inspection upon return. This is a normal process whereby DACA recipients are likely to be sent to secondary inspection upon re-entry for CBP to verify the validity of the advance parole. For more information on secondary inspection and how to prepare, see ILRC's [Preparing for Re-Entry After Traveling on Advance Parole](#) guide.
- ▶ Seek emergency advance parole, if possible. Emergency advance parole is available to those who have an urgent or critical need to travel abroad within 15 days from the date of their advance parole application. This will allow DACA recipients to obtain a decision of their advance parole application more quickly instead of waiting months. For more information on emergency advance parole and how you can request it, see [Informed Immigrant's guide](#).

As noted, for now, DACA recipients can continue to seek advance parole but should first consult with a trusted legal representative to discuss the benefits and risks of using advance parole under the Trump administration.

WHAT CHANGES CAN THE TRUMP ADMINISTRATION MAKE TO DACA AND ADVANCE PAROLE?

While we're unable to predict the future, advocates believe that because of the pending litigation, it is not expected that the Trump administration will make any changes to the DACA program or advance parole requests until the litigation is

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resolved. It is expected that the Trump administration will wait for a decision from the court before making any official changes to DACA.

While the general access to DACA and advance parole has not changed, USCIS, under the Trump administration, **could** take actions that can affect DACA recipients. For example:

- ▶ Application processing may slow DACA renewal and advance parole processing;
- ▶ There may be more scrutiny for DACA recipients who travel on advance parole and have arrests, deportation orders, or other serious immigration violations; or
- ▶ There may be an increase in requests for evidence for advance parole because adjudicators are instructed to find reasons to deny applications.

These changes have not happened and may never happen but, given the rapid changes that are occurring in immigration now, it is important to stay informed and connect with a trusted legal service provider to understand any changes or announcements and their impact on your case.

*This Community Alert was produced in partnership with the Cornell Law School **Path2Papers** Project.*

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