

Northwest Immigrant Rights Project - Community Advisory – 03/05/2018
Advisory Regarding Status of DACA Program

Basics: Deferred Action for Childhood Arrivals (DACA) has been a program established by President Obama in 2012 that granted a form of temporary protection from deportation known as “deferred action” to undocumented immigrants who came to the U.S. before the age of 16, resided in the U.S. since June 2007 and met other requirements. On September 5, 2017, the Trump Administration [announced](#) that it would be ending the program effective as of March 5, 2018. In January 2018, a federal court in San Francisco [issued a decision](#) that blocked the government from ending the program as to people who had already received DACA protection. Another court in New York [issued a similar ruling](#) in February 2018. The Trump Administration has moved to appeal those decisions but those appeals remain pending. On February 26, 2018, the U.S. Supreme Court [rejected a request](#) from the Trump Administration to immediately review these cases, which means the appeals will continue for at least several more months.

What do these court decisions mean? The court decisions require the Department of Homeland Security (DHS) to continue to process DACA applications for individuals who have been approved for DACA status in the past, even if their work permits have expired. The court rulings do **NOT** require DHS to accept new applications for DACA status from individuals who have never had DACA in the past.

I am a current DACA recipient or have had it in the past, what should I do now? If your current DACA status and work permit expire in less than 150 days or have already expired, we recommend that you consider filing a renewal of your DACA status, while keeping in mind the following considerations:

- We always recommend that you consult with an attorney or accredited representative before submitting an immigration application, but we think this is particularly important if you have had any contact with the police or immigration officials, or have left the United States since your last DACA application was approved;
- The Trump Administration is seeking to overturn the rulings that are requiring DHS to accept these renewal applications. When submitting your application, please be aware that there is a risk that the court rulings could be blocked while your renewal application is pending and that you may lose your application fee.

Please note that if you were approved for DACA before but your last work permit expired before September 5, 2016, you will have to submit a full “initial” application in order to get your DACA status reinstated.

We recommend that you consult with an immigration attorney or accredited representative to explore whether you might qualify for an immigration status that has a path to citizenship. It is particularly important you do this if you:

- Are married to a U.S. citizen or lawful permanent resident;
- Have been the victim of a crime such as domestic violence, sexual assault or others in the US; or
- Are under 21 years of age.

If you cannot afford to have a consultation with a private immigration attorney, please visit www.nwirp.org/daca for resources.

I never applied for DACA but think I qualify, what should I do? If you have never applied to the DACA program, you should not apply to the program at this point, as no new applications are being accepted and the recent court decisions do not require DHS to consider new applications. Our recommendation is that you consult with an attorney or accredited representative to understand if you have any other options under immigration law. If you cannot afford to hire a private attorney, please visit www.nwirp.org/daca for resources.

What about the March 5 deadline, I thought the DACA program was ending then? The court decisions described above mean that DACA recipients can continue to renew their work permits even after this date, at least for the time being while the legal challenges are resolved.

I have DACA and am currently working, should I tell my employer about my status? We do not recommend that DACA recipients tell their employers that they have DACA status. You are not required to tell your employer that you have DACA even if your work permit expires. It is the employer that is required to re-verify your work authorization status and the employer should not take adverse action against you as long as your work permit remains valid. Also, the fact that you have a valid social security number will not mean that you will have permission to work if your work authorization has expired.

I applied for DACA for the first time but my application is still pending, what should I do? If you are represented by an attorney, you should consult with your attorney. The Department of Homeland Security (DHS) stated that they will continue to consider initial applications for DACA that were pending as of September 5, 2017, so if you submitted your initial DACA application before that date, it should still be considered.

I am in removal (deportation) proceedings, what should I do? If you are represented by an attorney, you should contact that attorney. If you are not, you should consult with an attorney or accredited representative as soon as possible. If you cannot afford an attorney, you can contact NWIRP's offices at the numbers listed below.

I am a current DACA recipient and was planning to travel outside the U.S. under advance parole, what should I do? We urge those considering traveling outside the U.S. under advance parole to talk to an attorney or accredited representative before doing so. If you have not already applied for advance parole, DHS stated that they will not grant advance parole under DACA after September 5, 2017 and the recent court decisions do not require DHS to approve advance parole to DACA recipients. If you leave the U.S. without advance parole you may not be able to return to the U.S. and you will most likely not be eligible to renew your DACA status.

I am a current DACA recipient, is there a risk that I will be deported if my DACA status ends? If the program ends and current DACA recipients lose their status, they will again be subject to immigration enforcement like they were before being granted DACA. The highest risk will be for any DACA recipients who had a deportation order on their record before obtaining DACA or who have been arrested (or are arrested in the future) by the police, even for minor offenses. If a DACA recipient is detained or questioned by immigration authorities, we recommend that they do not answer any questions and seek legal assistance as soon as possible.

Do these court decisions mean that we no longer need the DREAM Act? We absolutely still need Congress to enact the DREAM Act or similar legislation that will provide a path to citizenship for DACA recipients and other undocumented individuals. The fact that DACA recipients are able to renew their status at this time is only because of the initial court rulings referenced above and the Trump Administration is trying to overturn them. So there is a significant risk that the Administration can still end the DACA program and, if legislation is not approved, DACA recipients will lose their status and their work permits and be at risk of deportation.



**NWIRP offices: Seattle – (206) 587-4009
Tacoma (for those detained at the NWDC Only) – (253) 383-0519
Yakima Valley (Granger) – (888) 756-3641
Wenatchee – (866) 271-2084
www.nwirp.org**

For a searchable database of private attorneys, please visit www.ailalawyer.org

In Seattle area, schedule an appointment for DACA clinics by calling 1 (855) 313-7326