



Immigrant Legal Services Center

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University of California Immigrant Legal Services Center (“Center”) New Presidential Administration Frequently Asked Questions (FAQ)

The FAQs below are informational and do not constitute legal advice. Each individual case is different, and advice may vary depending on the situation. Further, the information is changing on a daily basis. If you have any questions about your case, please contact a Center attorney for a consultation as soon as possible.

DEFERRED ACTION FOR CHILDHOOD ARRIVALS (“DACA”)

1. What should first-time DACA applicants consider?

The future of the DACA program and the related privacy provisions are uncertain at this time. The form required for first-time DACA applications asks for an applicant’s contact information, residential address, immigration history, and other important information. Information included in filed DACA applications will be provided to the Department of Homeland Security (“DHS”).

If you have had any prior criminal contacts (including arrests) or issues with gang affiliation, have been ordered deported at any time, and/or have had any issues with fraud, you may be an enforcement priority. If this is the case, please talk to a Center attorney.

If the DACA program is revoked while your application is still being processed, your filing fee may not be returned to you.

If you would like to discuss your options, please contact our Center attorneys about your individual case.

2. I am a current DACA recipient. What will happen to the information I provided on my DACA application(s)?

Even though the original DACA program promised that information would not be shared with ICE, we do not know if the new administration will maintain that promise.

3. What should DACA renewal applicants consider?

As of this update, the DACA program has not been repealed and U.S. Citizenship and Immigration Services (“USCIS”) is continuing to accept and process DACA applications. Thus, you can continue applying for DACA Renewal until further notice. However, if DACA is revoked while your renewal application is pending with USCIS you may lose your filing fee.

Please consult with an attorney first if any of the following applies to you:

- You have had any contact with law enforcement, including arrests, convictions, or any other criminal issues;
- You have had any contact with immigration authorities, including detention, deportation, or removal from the United States; or
- You have moved and changed your address.

The circumstances listed in the bullet points above could trigger enforcement action.

4. What will happen to my job if my Employment Authorization Document (“EAD”) expires or is revoked? If DACA is revoked, can I work with the social security number (SSN) I got through DACA?

If you are employed through DACA work authorization, you will mostly likely be unable to keep your job if DACA is revoked. Lawyers and nonprofit organizations are looking for alternatives relating to on- and off-campus jobs.

Unfortunately you cannot use your SSN for employment once you are no longer authorized to work. While your SSN is permanently yours and can be used to file income tax returns, the work authorization allowed for on the social security card might be temporary. The social security card you received as a result of having a valid grant of DACA only allows for work authorization in conjunction with a valid grant of DACA.

5. What will happen to my tuition at UC if the DACA program ends?

Undocumented students are ineligible for Federal financial aid. However, the following California-based programs should not change regardless of what happens with DACA:*

- The California DREAM Act: California law that makes qualifying undocumented students eligible for state-based grants and institutional scholarships.
- The California DREAM Loan Program: Establishes state-based educational loans for undocumented students attending California public universities.
- AB 540: A California law that allows a qualifying student who would otherwise not be eligible for in-state tuition to pay in-state tuition fees at any UC, CSU, or CA community college.

**Check with the financial aid office at your school for policies specific to your campus, especially if you think you have been received funding based on your status as a DACA recipient.*

TRAVEL

6. I am a current DACA recipient. Should I apply to Advance Parole to travel abroad?

Generally you should not leave or be outside of the country under this new administration. If President Trump repeals DACA while you are abroad, it is very likely that you will not be permitted to re-enter the U.S. upon return, with or without Advance Parole. If you have more questions, please talk with a Center attorney.

If you are seeking Advance Parole due to an emergency issue, you should speak to a Center attorney as well.

7. What is important to know when considering travel within the U.S.?

While flying, you could be asked by airport security to provide proof of your immigration status. Airports are “ports of entry” into the U.S. – there are Customs and Border Protection (CBP) officers at airports, and constitutional protections are limited at ports of entry. U.S. domestic flight security is governed by the Transportation Safety Administration (“TSA”), which is part of the Department of Homeland Security.

If you currently have DACA and it has not expired, you should be able to travel within the U.S. via plane or other forms of transportation. You may be stopped and asked about your immigration status. You may be asked questions about your immigration status if you use a document that shows your country of citizenship (such as a non-U.S. passport or EAD card).

An AB 60 license is not accepted as identification for federal purposes, including as identification for air travel.¹

If you are traveling by air or land within 100 miles of any U.S. border, CBP officers have certain additional powers and can operate immigration checkpoints. Please also see the American Civil Liberties Union's (ACLU) [fact sheet](#) on risks present within the “100-mile border zone.”²

8. What are CBP (Customs and Border Protection) checkpoints and what happens if I encounter one?

CBP is responsible for securing the U.S. border. In order to do so, CBP patrols the border and nearby areas, and conducts checkpoints. These activities typically take place within 100 miles of the U.S. border. Checkpoints can be stationary or temporary.³ When they are operational, generally there will be a stop sign for each lane where a CBP officer will either wave you through (allow you to pass) or ask you questions. The officers are authorized to ask whether you have lawful immigration status, and they are authorized to verify your status. CBP agents can conduct a search of persons and/or vehicles at a checkpoint if they have “particularly probable cause” from their observations, canine sniffs, record checks, or other lawful means, but motorists are not required to consent to a search.⁴

If you have DACA, you can bring a copy of your EAD and your approval notices just in case you are asked questions.

If the officers are unable to verify lawful immigration status, they can take the motorist(s) to the secondary inspection area. If the officers are still unable to verify lawful immigration status, they could either issue a Notice to Appear asking the motorist to go to Immigration Court or let the motorist go. These procedures vary and may change frequently under the current presidential administration.

Fleeing from checkpoints is a felony and that motorists should never lie to an officer. For example, misrepresentation or false claim of U.S. citizenship can have an adverse consequence at a later time if motorists want to petition for permanent residency.

For more information, please see ACLU-Border Litigation Project’s Checkpoint FAQ.⁵

¹ See https://www.ilrc.org/sites/default/files/resources/ab_60_4_27_15.pdf.

² Available at <https://www.aclu.org/other/constitution-100-mile-border-zone?redirect=constitution-100-mile-border-zone>.

³ See https://help.cbp.gov/app/answers/detail/a_id/1084/~/legal-authority-for-the-border-patrol.

⁴ See https://help.cbp.gov/app/answers/detail/a_id/1084/~/legal-authority-for-the-border-patrol.

⁵ Available at <https://www.aclusandiego.org/border-patrol-checkpoint-resources/>

9. What is the current status of the Muslim Ban?

On March 6, 2017 the Trump Administration released a new Executive Order “Protecting the Nation from Foreign Terrorist Entry into the United States” to replace the January 27th, 2017 Executive Order (same title) that was halted in its entirety by the 9th Circuit Appellate Court. The new Executive Order was scheduled to take effect on March 16, 2017 but was blocked by a Hawaii District Court and later by the 4th Circuit Court of Appeals as well as the 9th Circuit Court of Appeals. Therefore, the Muslim Ban is not in effect.

NEW IMMIGRATION ENFORCEMENT PRIORITIES

10. If I have been charged with a crime, how will the new enforcement priorities affect me? If I have been ordered deported in the past but I never left the U.S., will the new enforcement priorities affect me?

If you have been charged with a crime, the new priorities may affect you and you may be required to appear in immigration court and be at risk of being deported. Under the new Executive Order issued on January 25, 2017, President Trump made a priority for enforcement those who have been charged with a crime but not yet convicted (along with those who have been convicted).

Individuals who have been ordered deported (or removed) in the past but did not comply with the order, may fall under DHS’ enforcement priorities.

Please contact a Center attorney if you find yourself in any of these situations.

11. I have received a citation, should I go to court to contest my citation or pay my fine?

We recommend that you speak with a Center attorney before you go to court.

12. Can I be referred to immigration if I get arrested?

Yes, you may be referred. Under the Executive Order issued on January 25, 2017, you may be referred to immigration court even if you have not been charged for the crime.

13. Can DHS reopen my immigration court case if I do not renew my DACA case?

Yes, it is possible that if you do not renew your DACA application in a timely fashion, and you previously were in immigration court proceedings that were administratively closed to allow you to gain DACA benefits, then DHS may reopen your case before the Court. If this happens to you, please contact a Center attorney as soon as possible.

14. California recently legalized marijuana for recreational use. If I buy marijuana and am caught with it, can that affect my DACA renewal application or any future immigration applications?

Yes, it can. Immigration is governed by federal, not state law, and marijuana is still unlawful to possess under federal law. If you have an arrest, citation, or conviction for any crime related to marijuana, or are generally concerned about how marijuana possession can impact your immigration status, please contact a Center attorney as soon as possible.

15. Can ICE access my Social Media profile?

Yes.

CONTACT WITH IMMIGRATION ENFORCEMENT

16. What can I do if I come in contact with ICE?

The U.S. Constitution guarantees rights to all people in the U.S., regardless of citizenship status, which includes the right to be free from unlawful searches and seizures. In practical terms, that means that during a police or immigration officer encounter:

- You have the right to remain silent;
- Stay calm and be polite. Do not lie about your citizenship status or provide fake documents
- You do not have to sign anything. If you sign, you may be giving up your opportunity to stay in the U.S.
- If immigration comes to your home, you do not have to open your door unless an officer has certain kinds of warrants. Ask the officer to slip the warrant under the door or hold it up to a window so you can inspect it.
- If you are taken into immigration custody, you have the right to a lawyer. However, please note that the government does not have to provide one for you.
- Additionally, if you are in immigration custody, you have the right to contact your consulate.

You can carry the Immigrant Legal Resource Center’s “red card” with you to read your rights in case of contact with ICE.⁶ To read more about your rights, please see the National Immigration Law Center’s resources⁷.

17. What can I do to keep my family safe?

You can help them develop a safety plan, as well as inform them of their rights. Please see the Immigrant Legal Resource Center’s family preparedness plan.⁸

OPTIONS FOR IMMIGRATION RELIEF

18. I am planning to marry my U.S. Citizen or Lawful Permanent Resident partner – how does that affect my status?

You may be able to adjust your status, but it depends on your specific situation. It is very important that your marriage is a “real” or “bona fide” marriage, which means that your marriage cannot be fraudulent. There are many factors that may preclude an applicant from gaining lawful permanent residency through marriage, such as the manner in which the applicant entered the United States and complex laws known as “grounds of inadmissibility.” Please contact a Center attorney to assess whether this is the right option for you and your partner.

⁶ Available at <https://www.ilrc.org/red-cards> (available in English and Spanish).

⁷ Available at <https://www.nilc.org/issues/immigration-enforcement/everyone-has-certain-basic-rights/>. For multilingual Know Your Rights materials please see: <http://www.immdefense.org/ice-home-and-community-arrests/>.

⁸ Available at <https://www.ilrc.org/family-preparedness-plan>.

19. Is there any way I can legalize my status besides marrying a U.S. Citizen or Lawful Permanent Resident?

You might be eligible for some form of immigration depending on your individual circumstances. Aside from marriage to someone with lawful status, other options include:

- Family-based petitions
- U Nonimmigrant Visa – for victims of serious crimes
- T Nonimmigrant Visa – for victims of severe forms of human trafficking
- Special Immigrant Juvenile Status – for youth under 21 who have been abused, abandoned, or neglected
- Violence Against Women’s Act (“VAWA”) – for victims of abuse by a U.S. Citizen or Lawful Permanent Resident
- Asylum/Convention Against Torture – for those who fear return to their home country

SANCTUARY

20. Is the University of California a sanctuary campus?

The terms “sanctuary city” and “sanctuary campus” have no clear definition and can refer to a wide variety of policies. While the University of California does not use the term “sanctuary campus,” it is committed to ensuring the safety of its undocumented students, staff, faculty, and others who are a valued part of the UC community. The UC Office of the President has issued a set of principles in support of undocumented members of the UC community.⁹ These principles include statements that:

- “Campus police officers will not contact, detain, question or arrest an individual solely on the basis of suspected undocumented immigration status or to discover the immigration status of an individual, except as required by law.”
- “Campus police officers will not detain an individual in response to an immigration hold request from ICE or any other law enforcement agency enforcing federal immigration law, unless doing so is required by law or unless an individual has been convicted of a serious or violent felony.”

How to Contact the UC Undocumented Legal Services Center:

E-Mail: ucimm@law.ucdavis.edu

Office Phone: 530.752.7996

Website: <http://law.ucdavis.edu/uc-undocumented>

*You may also contact the attorney assigned to your campus if you have his or her information.

Please note that this FAQ is updated regularly as we get more information. We are working to address issues as they come up.

⁹ See <https://www.universityofcalifornia.edu/sites/default/files/Statement-of-Principles-in-Support-of-Undocumented-Members-of-UC.pdf>.