COMMUNITY ALERT

FAQ: DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

Frequently Asked Questions related to the DACA program following a recent court decision out of Texas

SEPTEMBER 2023

On September 13, 2023, a Federal District Court in Texas issued a ruling in *Texas v. United States* declaring that the Deferred Action for Childhood Arrivals (DACA) rule is unlawful. It is important to note that while this judge once again found DACA to be unlawful, the decision does not change the current status of who is eligible to apply.

WHAT WAS THE TEXAS DACA COURT DECISION ABOUT—AND WHAT WAS THE RULING?

The Texas DACA case has been ongoing since 2018. In 2021, Judge Andrew Hanen ruled that DACA was unlawful, and after his decision was appealed to the Fifth Circuit Court of Appeals, the court affirmed his decision.

However, in the summer of 2022, the Biden Administration announced a new DACA rule with the intent of further protecting DACA from legal challenges. This new DACA rule brought the case back to the Texas Federal District Court to consider if the DACA rule was lawful. The Texas judge found that, like the DACA policy, the DACA rule was also unlawful.

WHAT WILL HAPPEN NEXT?

This decision is not the end of the DACA litigation, and it will be appealed. It is important to note that there is still a long road ahead of this litigation and it will most likely reach the Supreme Court.

WHAT DOES THIS DECISION MEAN FOR DACA RECIPIENTS?

Nothing has changed for current DACA recipients. Current DACA cases remain valid. People who currently have DACA keep their DACA protection and work permit.

DACA renewals continue. People who have DACA now or had DACA in the past are still eligible to renew their case. **Pending renewals will be processed normally.**

➡ DACA recipients whose deferred action expires in the next 6 months should renew as soon as possible.

➡ DACA recipients whose deferred action expires 6 months to a year from now, should consult a legal representative to discuss the benefits of renewing early. **Note:** U.S. Citizenship & Naturalization Services (USCIS) will grant a new two-year period of DACA from the day they approve a request, not from the day the current DACA period expires.

➡ If your DACA expires more than a year from now, consult an immigration expert to discuss the benefits of renewing early.

CAN DACA RECIPIENTS STILL APPLY AND TRAVEL ON ADVANCE PAROLE?

Yes. DACA recipients can continue to request advance parole so long as they meet the requirements. Individuals who are interested in applying for advance parole should contact a trusted legal representative to discuss eligibility and assess any risks associated with traveling.

I HAD DACA, BUT MY DACA EXPIRED. HOW DOES THIS DECISION AFFECT ME?

DACA recipients with DACA cases that expired less than one year ago can still submit a renewal application and should submit their renewal as soon as possible. USCIS will not approve any DACA requests from individuals who never had DACA or whose DACA

was not granted before July 16, 2021, AND DACA renewals who expired more than one year ago.

WHAT IMPACT DOES THIS TEXAS FEDERAL DISTRICT COURT DECISION HAVE ON INITIAL DACA APPLICATIONS?

First-time DACA applications continue to be on hold. No new, or initial, DACA application will be approved at this time. The Court decision has blocked USCIS from approving any new DACA cases. This means that all people who have submitted a DACA initial application (i.e., those that never had DACA and are applying for the first time) and have not received an approval from USCIS will have their application held. This remains the same as it has been since July 16, 2021.

WHAT COMES NEXT AFTER THIS COURT DECISION?

We will likely hear more about DACA in the future. People will continue to fight to protect DACA and the legal case will continue in the courts. The Biden administration may make additional announcements about DACA in the future. Legal experts expect this decision to be appealed to the Fifth Circuit and may ultimately head to the Supreme Court.

Although the timeline is unclear, experts predict this fight will continue for months and maybe even years. It is important to stay informed and to speak with a trusted legal service provider about your specific case!

WHAT CAN I DO NOW?

✓ Stay informed about the most recent updates about DACA here: **ilrc.org/daca**

✓ Talk with a legal service provider to better understand how this decision may impact your case. Find a legal expert in your area here: **ilrc.me/gethelp**

✓ If you are eligible to renew your DACA, **renew your case now!** Speak with a legal service provider to get screened and informed about your options. Local

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nonprofit organizations may have funds to pay the $495 renewal filing fees. Connect with them and ask about possible funding opportunities.

NOTE

*IF YOU LIVE IN CALIFORNIA AND NEED TO RENEW YOUR DACA, YOU MAY QUALIFY FOR FILING FEE SUPPORT IF YOU CURRENTLY FACE FINANCIAL CHALLENGES. CONTACT PARTICIPATING LEGAL SERVICES PROVIDERS HERE: **ILRC.ME/DACAFEES***

✓ If you are a student at any California Community College or California State University, you can get **free immigration legal services, including filing fee support!** Book your appointment at **findyourally.com** if you attend California Community Colleges and **findyourally.com/csu** if you attend a CSU.

✓ Stay involved and raise your voice- DACA recipients and their allies must demand that the Biden administration protect DACA, and Congress finally provides a permanent and inclusive solution for all undocumented immigrants. Find your elected federal representative here: **https://www.house.gov/representatives/find-your-representative**.

Are you a California Community College (CCC) or a California State University (CSU) student? If so, you qualify for **FREE** immigration legal services!

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