



DEFERRED ACTION FOR CHILDHOOD ARRIVALS

What Practitioners Need to Know Now

By ILRC Attorneys

The fate of Deferred Action for Childhood Arrivals (DACA) continues to be uncertain, due to the ongoing litigation and the increase in anti-immigrant policies being implemented each day by the Trump Administration. With the increase of attacks on immigrants including DACA holders and the uncertainty of the future of the benefit, it is crucial that DACA advocates stay informed of ongoing DACA trends and policy announcements that are impacting DACA holders. Moreover, it is important that advocates discuss changes with DACA holders so they can create a strategy, plan for the future, and are prepared for possible changes.

This practice advisory will highlight some trends, policy changes, and what could happen with the future of DACA.

I. Current Status of DACA

Currently, only DACA holders who have a valid, unexpired grant of DACA or whose DACA expired less than a year ago can renew and get a decision in their case. While USCIS is accepting requests from eligible individuals who never were granted DACA or from individuals whose DACA expired more than a year ago, they are not adjudicating these cases while the litigation continues.

Eligible DACA holders should continue to renew their DACA. Prior to filing an application to renew, an applicant should discuss their case with a qualified legal representative to assess any potential problems with their case or how recent policy changes may affect them.

Generally, DACA holders are encouraged to renew as follows:

- If the DACA expires in less than six months: File to renew as soon as possible!
- If the DACA expires within 6 months to a year: Consider renewing now. USCIS is currently accepting early DACA renewals.
- If the DACA expires more than 1 year from today: It may not be worth renewing now as the DACA holder could reduce the overall time of their DACA

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 if they apply for renewal too early.

For the time being, processing times of cases continue to be the same. Advocates have noted that cases are taking two to five months to get an approval, though there are cases that have been renewed quicker. It has also been noted that cases appear to be approved quicker when they are filed electronically.

II. The Status of the Litigation

To date, the fate of DACA is subject to litigation which continues before the Southern District of Texas with Judge Hanen.¹ While this case began many years ago before this court, it is once again before Judge Hanen so that he can issue an order implementing the January 17, 2025, order from the U.S. Court of Appeals for the Fifth Circuit.²

In January 2025, the Fifth Circuit held that major parts of the Biden Administration's DACA rule to be unlawful. While the court acknowledged that the federal government retained the power to grant deferred action, providing protection from deportation, it found that the government did not have the authority to grant work authorization to DACA holders. However, the Fifth Circuit limited the scope of their decision to DACA holders living in Texas. The Court noted that Texas was the only state that was able to demonstrate harm, so it would limit their order of eliminating work authorization to DACA holders living in Texas. The Court also kept the status quo for DACA in place, allowing renewals to continue in all 50 states, pending an appeal to the U.S. Supreme Court. Since no appeal was filed in the case, the case was returned to the district court in Texas for Judge Hanen to determine how to implement the Fifth Circuit's decision in Texas. For more information on the history of the litigation and DACA rule³, and the Fifth Circuit's latest decision⁴, visit ILRC's DACA page at <https://www.ilrc.org/daca>.

To date, the litigation has not changed who can access DACA, and all DACA holders who are eligible to renew can continue to obtain work authorization, regardless of where they live. This will not always be the case as Judge Hanen is expected to issue a ruling on the future of DACA in Texas. As of November 24, 2025, all briefings have been submitted to the court. While the timing and content of a decision is unknown, it is expected that the order will outline how the work authorization and deferred action will be severed for DACA holders in Texas. Additionally, it is expected that there will be some information from the Trump administration on what will happen to the pending DACA initial applications that have been held at USCIS since 2021 when the current litigation began. Third, there will potentially be information on who will be able to access DACA in the future in the other 49 states. It is important to note that some of the unanswered questions will be resolved by the litigation, but others will need to be addressed by the administration and USCIS should release guidance.

¹ *State of Texas, et al., v. United States of America, et al.*, 1:18-CV-00068, (S.D. Texas September 13, 2023).

² *State of Texas, et al. v. U.S.A, et al.*, 23-40653 (5th Cir. 2025).

³ See ILRC's and NILC's Practice Alert, *Recent Developments in the DACA Litigation*, Sept. 2023, <https://www.ilrc.org/sites/default/files/2023-09/09-23%20recent%20developments%20in%20the%20DACA%20litigation.pdf>.

⁴ See ILRC's Community Alert, *DACA and Advance Parole: Updates and Considerations During the Trump Administration*, Feb. 2025 <https://www.ilrc.org/sites/default/files/2025-03/DACA-and-AP-Community-Alert-Feb-2025.pdf>.

III. Increase Enforcement Threats toward DACA Holders

Though DACA continues to give protection from removal to those who have a valid grant of deferred action, in recent months there has been news of more enforcement action being taken against DACA holders. Most notably among these developments are the arrest of DACA holders by the Trump administration, the rescheduling of cases before immigration judges, and the general increase of points of contact where DACA holders could end up in removal proceedings and detention.

A. Arrest of DACA holders

In late summer 2025, advocates began to report instances of DACA holders being detained by Immigration and Customs Enforcement (ICE). While the total number of DACA holders being detained is unknown, some tracking sites estimate that over 20 DACA holders had been detained as of September 2025.⁵ Reports noted that DACA holders were being arrested at different locations and there was no known factor as to why holders with valid DACA were being detained. Some DACA holders were detained at traffic stops,⁶ others traveling via domestic air travel,⁷ and others caught in workplace raids in California and Texas.⁸ This increase of arrests coincides with the increase in enforcement and ICE presence in cities across the United States.

These detentions raise alarm bells, especially because many of the DACA holders who were arrested, were detained for prolonged periods of time and there were news reports that the Department of Homeland Security (DHS) did not see DACA as a form of protection from detention and removal. This is contrary to the purpose of DACA, as the essence of the policy is to give protection to those who meet policy requirements. According to the USCIS DACA Frequently Asked Questions, deferred action is a “discretionary determination to defer removal

⁵ See Home is Here site tracking the abduction of DACA holders and other immigrant youth: <https://homeishere.us/stop-abducting-immigrant-youth/>.

⁶ Nicole Acevedo, *College student's immigration detention highlights Dreamers' growing deportation risks*, NBC News, June 4, 2025, https://www.nbcnews.com/news/latino/dreamers-deportation-risks-georgia-college-student-rcna209802?utm_source=NBC&utm_medium=iframely (“Two weeks ago, Arias-Cristobal was released on the minimal amount of bond possible under the law, \$1,500. The Dalton police officer who arrested Arias-Cristobal resigned on May 23, two days after she was released from immigration detention.”); Alexandra Rangel, *Recent arrests of two DACA recipients in Yuma area spark concern*, Arizona’s Family, Aug. 12, 2025, <https://www.azfamily.com/2025/08/13/recent-arrests-two-daca-recipients-yuma-area-spark-concern/>.

⁷ Uriel J. Garcia, *ICE complies with judge’s order and quickly releases El Paso DACA recipient*, Texas Tribune, Oct. 1, 2025, <https://www.texastribune.org/2025/10/01/texas-daca-deportation-el-paso-catalina-xochitl-santiago-court-ruling/>.

⁸ Brittny Mejia, *Deaf, mute and terrified: ICE arrests DACA recipient and ships him to Texas*, LA Times, July 22, 2025, <https://www.latimes.com/california/story/2025-07-22/ice-arrests-daca-recipient-at-california-car-wash>; Brahmami Balarajan, *Texas immigrants with legal status speak out after being detained by ICE*, Chron, March 6, 2025, <https://www.chron.com/news/houston-texas/article/texas-ice-raids-20206657.php>.

of an individual⁹,” and deferring removal should mean that unless someone’s DACA is terminated, DHS should not take enforcement action against a DACA holder.

B. Recalendaring removal proceedings and scheduling ICE check ins for DACA holders

In April 2025, the Executive Office for Immigration Review (EOIR) published a policy memorandum criticizing the practice of administrative closure and accompanying regulations.¹⁰ As a result, ICE’s Office of the Principal Legal Advisor (OPLA) moved to recalendar many cases that had been previously administratively closed. Some of these cases had been administratively closed for many years, sometimes even decades. Cases that are administratively closed are removed from the courts active docket, meaning that no hearings were taking place and no decisions were being entered on the case.¹¹ The practice of recalendaring, or bringing administratively closed cases back to the court’s active docket, put many DACA holders back in active removal proceedings and increased their risk for removal.

The recalendaring of cases could affect DACA holders who once had an open case in court and whose case was administratively closed. DACA as an option was not foreclosed to those in removal proceedings or those with final removal orders or voluntary departure orders including those who could have been deported from the United States. People in these situations were able to apply and obtain DACA. They were also able to administratively close their cases so they could move forward with applying and obtaining a grant of DACA. DACA applicants were also able to ask to get their case administratively closed based on DACA eligibility. For the last thirteen years, these individuals have been able to renew their DACA and did not have to worry about their removal proceedings until they were ready and eligible to explore other forms of relief. With the announcement of this new policy, many DACA holders, or their representatives, have received motions to recalendar their removal cases. This means that many DACA holders saw an attempt from the government to place their cases back on the active docket for a hearing.

While many representatives were able to respond to the motions and maintain the cases administratively closed,¹² there are still a few issues to consider. First, since many DACA holders are not represented and may not have formally changed their address with EOIR as their case was administratively closed, it is possible that some DACA holders did not receive the government’s motion to recalendar their case. Second, if they did not receive the government’s motion to recalendar and the court granted the government’s motion, it is possible that some DACA holders are back in active removal proceedings and do not know it.

⁹ USCIS, *Frequently Asked Questions*, <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca/frequently-asked-questions>.

¹⁰ EOIR OPM 25-29, Cancellation of Director’s Memorandum 22-03 (Apr. 18, 2025), <https://www.justice.gov/eoir/media/1397161/dl?inline>.

¹¹ 8 CFR §§ 1003.18(c), 1003.1(l).

¹² See ILRC Practice Advisory, *Responding to DHS Motions to Recalendar: Administratively Closed Proceedings*, July 2025 <https://www.ilrc.org/sites/default/files/2025-07/07.01%20Responding%20to%20DHS%20Motions%20to%20Recalendar.pdf>, for more information on this practice and strategies for responding.

It is difficult to keep track of this trend since many DACA holders are unrepresented and we do not know how many cases the government has attempted to reopen.

There were also reports that ICE was scheduling some DACA holders for check ins at ICE offices. A few advocates reported that DACA holders, with prior removal orders, were being scheduled for what appeared to be regular check ins. To date, there appear to be no arrests from these check ins, but it is important to track in case that changes.

C. The termination of DACA for unlawful attempts to purchase a firearm memorandum

On September 26, 2025, USCIS issued a policy memorandum on when it would terminate DACA based on a DACA holders' unlawful attempts to purchase a firearm.¹³ Though this memorandum is centered on termination based on the unlawful attempt to purchase a firearm, it offers a general discussion on USCIS's discretion to terminate DACA and when it needs to notify DACA holders of termination.

The memorandum states that individuals who are here without lawful status cannot own firearms per regulations. This would apply to DACA holders since DACA holders are not in valid immigrant, nonimmigrant, or parole status, and cannot possess or receive firearms.¹⁴ This policy states that USCIS will complete post-adjudicative actions to ensure that DACA is properly terminated when a DACA holder engages in certain unlawful acts, like the purchase of a firearm and will use the power given to them to make a discretionary determination on the matter. USCIS noted that they will review for a "significant negative discretionary factor... when USCIS becomes aware, via notification from U.S. Immigration and Customs Enforcement (ICE) or any other means including the results of security screening and vetting, that a DACA holder attempted to unlawfully purchase a firearm."¹⁵ If this happens, then as stated in the regulations, USCIS will issue a Notice of Intent to Terminate (NOIT) citing this ground as the significant negative discretionary factor.

DACA holders are not eligible to purchase firearms except in very specific circumstances. Knowing this, it is important to tell DACA holders they should not attempt to purchase a firearm. With that said, it is unclear how this check will be triggered. It is possible that USCIS will review for "criminal hits" and that will trigger a deeper dive into certain DACA cases. The purchasing of guns usually results in an individual having a certain background check completed.

Generally, per regulations, USCIS needs to provide a DACA holder with a written notice and an opportunity to respond if they move to terminate the DACA. USCIS can terminate a DACA at any time in its discretion but when it does this, USCIS "will provide a Notice of Intent to Terminate and an opportunity to respond prior to terminated a grant."¹⁶ The only time that

¹³ USCIS Policy Memorandum, *Termination of Consideration of Deferred Action for Childhood Arrivals (DACA) Based on DACA Recipients' Unlawful Attempts to Purchase a Firearm Under 18 U.S.C. 922(g)(5)*, September 26, 2025 available at https://www.uscis.gov/sites/default/files/document/memos/PM-602-0191-DACARevocation_AttemptedFirearmsPurchase_20250926.pdf.

¹⁴ 18 U.S.C. 922(g)(5).

¹⁵ *Id.*, 13.

¹⁶ 8 CFR § 236.23(d)(1).

USCIS can terminate without notice and an opportunity to respond is if the DACA holder is convicted of a national security-related offense involving conduct described in 8 U.S.C. 1182(a)(3)(B)(iii), (iv), or 1227(a)(4)(A)(i), or an egregious public safety offense and in these cases they will provide the individual with a notice of the termination.¹⁷

D. USCIS policy alert clarifying discretionary factors in certain immigration benefits requests

On August 19, 2025, USCIS added two new factors for USCIS to consider when conducting a discretionary analysis.¹⁸ These new factors are 1) whether the applicant has “endorsed, promoted, supported, or otherwise espouses the views of a terrorist organization or group including those who support or promote anti-American ideologies or activities, antisemitic terrorism, antisemitic terrorist organizations, and antisemitic ideologies,” and 2) in the case of a noncitizen “who was admitted or paroled into the United States, whether the application for admission or parole violated the laws, regulations, and policies in place at that time.”¹⁹ Anti-American ideologies and activities are defined at INA § 313(a). To date, it is not clear what constitutes antisemitic ideologies, and the Trump administration has not provided any guidance. The lack of clarifying information provided to the public on these restrictions creates a significant risk for applicants who are being held to a standard that is vague and inadequately articulated by the agency. Practitioners and applicants should be mindful of these factors since they are given “significant negative discretionary weight”²⁰ by the agency in adjudicating benefits applications and could result in denial. Since DACA is a discretionary benefit, it is possible that applicants who are deemed to fall within these two grounds could see denials of their cases.

E. USCIS policy alert clarifying discretionary factors in certain immigration benefits requests

In February 2025, the Trump administration issued a new NTA memorandum²¹ directing USCIS officers to issue an NTA to any applicant who is removable and whose case is denied or withdrawn. Part of those who will be issued an NTA are those who are out of status. While there is language in the NTA to note that this should not apply to DACA per the restrictions at 8 CFR § 236.23(e), which limits how information from a DACA request can be used and 8 CFR §

¹⁷ *Id.* 8 U.S.C. 1182(a)(3)(B)(iii) speaks to terrorist activities and defines terrorist activities as “any activity which is unlawful under the laws of the place where it is committed...” and involves specifically listed activities.

¹⁸ USCIS, *Policy Alert: Clarifying Discretionary Factors in Certain Immigration Benefit Requests* (Aug. 19, 2025), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250819-DiscretionaryFactors.pdf>.

¹⁹ 1 USCIS-PM E.8(C)(2).

²⁰ USCIS, *Policy Alert: Clarifying Discretionary Factors in Certain Immigration Benefit Requests* (Aug. 19, 2025), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250819-DiscretionaryFactors.pdf>.

²¹ USCIS Policy Memorandum, *Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens*, February 28, 2025, https://www.uscis.gov/sites/default/files/document/policy-alerts/NTA_Policy_FINAL_2.28.25_FINAL.pdf.

237(c)(2), which speaks to restrictions on the issuance of an NTA following the denial of DACA, there are still concern that other policies will lead to the issuance of an NTA when a DACA is terminated by USCIS.

USCIS can terminate a DACA in its discretion. As is noted in the regulations, deferred action may only be granted if USCIS determines in their “sole discretion” that the requestor meets the threshold criteria and merits a favorable exercise of discretion.²² Moreover, it states that even if the threshold requirements are met, USCIS “retains the discretion to assess the individual’s circumstances and to determine that any factor specific to that individual makes deferred action inappropriate.”²³ Similarly, USCIS retains broad discretion to terminate a DACA grant and may do so at any time in its discretion.²⁴ With USCIS having the ability to terminate DACA or deny a renewal of a DACA as a matter of discretion, coupled with the increased vetting that is taking place across all applications, there are concerns of how new discretionary policy could impact DACA holders and at what points.

When the DACA is terminated, a DACA holder will be out of “status” and could be issued an NTA for being out of status. This leaves a lot of opportunities for the administration to take adverse action against DACA holders, particularly when it is coupled with the Trump administration’s other enforcement policies.

IV. Limiting Access to Advance Parole

While advance parole continues to be available to DACA holders, there have been a few changes that are impacting DACA holders seeking Advance Parole (AP) under the Trump administration. The two most notable are that the administration is limiting DACA AP to holders who had previously been inspected and admitted to the United States and denying AP to anyone who entered without inspection. Additionally, there has been an implementation of a \$1000 parole fee for DACA AP applicants’ reentering the United States after traveling abroad.

Beginning early April 2025, reports from the field started to be shared that USCIS had changed their policy for who could be granted AP, particularly at a field office via emergency AP. While the policy has not been made public, advocates have reported that clients who sought emergency AP at field offices were told that their “application could not be approved due to their [USCIS] current policy” and advocates noted that these denials were all from clients who had last entered without inspection (EWI). According to practitioner reports, it appears that the USCIS policy of denying AP for EWI entrants is only extended to the field offices working on emergency advance parole. It has not been clarified if this policy is extending to mail in requests for AP. In fact, there have been some reports of advocates successfully getting AP approved for EWI entrants via mail-in applications.

The One Big Beautiful Bill Act, or H.R. 1, which was passed into law in July 2025 imposed a new \$1000 parole fee that went into effect on October 16, 2025.²⁵ The fee is collected when

²² 8 CFR 236.22(b).

²³ 8 CFR 236.22(c).

²⁴ 8 CFR 236.23(d).

²⁵ ONE BIG BEAUTIFUL BILL ACT, PL 119-21, July 4, 2025, 139 Stat 72; 8 U.S.C. § 1804(c)(1).

the DACA holder returns to the United States after traveling abroad.²⁶ This fee is in addition to the USCIS filing fee of \$630 for paper filing or \$580 for online filing of Form I-131. The parole fee applies to any person who seeks to be paroled into the United States on or after October 16, 2025, including DACA holders or others traveling on advance parole, except for those with an exception. This includes those who were granted advance parole and traveled abroad prior to October 16 but returned after October 16. While there are some exceptions for who has to pay, it appears that DACA holders will not be able to meet these exceptions if they travel under a DACA AP request.²⁷ For DACA AP holders, CBP will assess the fee once the person is returning to the United States after traveling and the fee must be paid before they will be granted re-entry. Note that the fee has been adjusted for inflation and anyone granted paroled on or after January 1, 2026 will have to pay \$1,020.²⁸

V. Considerations for the Future of DACA Holders

With the uncertainty of the future of DACA and the increase attacks on DACA holders, it's important for advocates to strategies with DACA holders. Below are some considerations to keep in mind when working with DACA holders.

1. Continue supporting DACA holders to renew their DACA

Those who continue to be eligible to renew their DACA should do so. While DACA continues, DACA holders can still receive work authorization, protection from deportation, seek advance parole to travel internationally, and do not accrue unlawful presence. Having DACA can give an individual some protection as they seek other options and gives them some protection if they are detained by ICE. Also, those DACA holders who were able to travel on advance parole could potentially be eligible for adjustment of status if they are married to United States Citizens or have another pathway to apply for lawful permanent residence.

DACA holders seeking to reapply for DACA should be screened for continued eligibility, any new changes in law, and in their circumstances since their last approval before they submit their DACA renewal request. In addition, DACA holders should be screened for other relief. Also, due to the pending litigation, it is not expected that the Trump administration will make any changes to DACA until the litigation is resolved.

²⁶ Dept. of Homeland Security, Immigration Parole Fee Required by HR-1 Reconciliation Bill, 90 FR 48317 (Oct. 16, 2025).

²⁷ The notice includes a number of exceptions to the \$1000 fee including: Those seeking parole for urgent medical procedures or to attend a funeral or see a relative whose death is imminent; For anyone who is in a contiguous country who needs to enter the United States to attend an immigration court hearing; Those with a pending adjustment application under INA sec. 245 who are returning from authorized travel; o Note: the exception for adjustment of status applicants applies ONLY to those who are adjusting under a provision of section 245 of the INA. Any other adjustment applicants who are returning from authorized travel will be subject to the parole fee. Cuban and Haitian entrants and Anyone who receives parole as the result of a DHS determination that their presence is a significant public benefit. See Dept. of Homeland Security, *Immigration Parole Fee Required by HR-1 Reconciliation Bill*, 90 FR 48317 (Oct. 16, 2025).

²⁸ Federal Register, *Certain DHS Immigration Fees Required by HR-1: Fiscal Year 2026 Adjustments for Inflation*, <https://www.federalregister.gov/documents/2025/11/19/2025-20304/certain-dhs-immigration-fees-required-by-hr-1-fiscal-year-2026-adjustments-for-inflation>.

2. Helping DACA holders placed in removal proceedings or detained

Those who have DACA and are placed in removal proceedings could seek to terminate proceedings and also oppose the recalendaring of their cases when the government files a motion to recalendar.

The EOIR regulations permit seeking termination of proceedings to noncitizens who have been granted deferred action, this includes DACA holders.²⁹ The immigration judge may grant a DACA holder's motion to terminate in their discretion on the basis that they have been granted deferred action.³⁰ A non-detained DACA holder facing a motion to recalendar may oppose the motion. Opposition to a motion to recalendar must be filed within ten days of the motion to recalendar being filed with the court.³¹ Additionally, motions to recalendar can also be opposed if the motion issued is boilerplate and does not specify why the specific case is being recalendar. For more information on opposing motions to recalendar, please see ILRC's practice advisory, *Responding to DHS Motions to Recalendar Administratively Closed Cases*.³²

Additionally, practitioners should assert that DACA explicitly protects DACA holders from detention and removal. Although DACA protection does not confer a permanent status, it does give protection from deportation while in DACA status.³³ A DACA holder cannot be removed from the United States without the termination of their DACA status.³⁴ The DACA holder is entitled to notice of intent to terminate and an opportunity to respond. Advocates should make this argument if they see USCIS move to terminate the DACA without giving notice to the DACA holder. Moreover, they should not be able to issue an NTA until the deferred action is officially terminated.

Advocates can attempt to fight back proceedings commenced with information provided on the DACA request. As noted, the regulations limit when the information for a DACA request can be used for enforcement purposes. It clearly states that information contained in a request will not be used by DHS for purpose of "of initiating immigration enforcement proceedings against such requestor," and it can only do this if there is a criminal offense, fraud, a threat to national security, or public safety. If a DACA holder is placed in proceedings, who has not previously been in proceedings, and all forms of relief applied for are DACA, advocates should try to push back on how DHS obtained such information. Additionally, DHS should not use the information of family members on a DACA request for enforcement purposes.

Lastly, if advocates have the contact information of DACA holders they helped in the past who had removal orders or were in administratively closed proceedings, it is a good idea to get in contact with them and see if their administratively closed proceeding remains administratively closed. This could also help them ensure that they know how to access information for their

²⁹ 8 CFR §1003.18(d)(1)(ii)(C).

³⁰ 8 CFR §§ 1003.18 (d)(1)(ii)(C).

³¹ Imm. Ct. Prac. Man. Ch. 3.1(b)(1). An opposition template has been created by CLINIC. See CLINIC, Template Opposition to Motion to Recalendar Proceedings (May 21, 2025), <https://www.cliniclegal.org/resources/template-opposition-motion-recalendar-proceedings>.

³² Available at: [https://www.ilrc.org/sites/default/files/2025-](https://www.ilrc.org/sites/default/files/2025-07/07.01%20Responding%20to%20DHS%20Motions%20to%20Recalendar.pdf)

07/07.01%20Responding%20to%20DHS%20Motions%20to%20Recalendar.pdf.

³³ See 8 C.F.R. § 236.23(d)(1).

³⁴ Santiago v. Noem, No. EP-25-CV-361-KC, 2025 WL 2792588, at *1 (W.D. Tex. Oct. 2, 2025).

court cases and keep track of it in case the government attempts to recalendar their administratively closed proceedings.

3. Fighting DACA termination

Advocates can attempt to fight back an attempted termination of DACA by asking USCIS to provide an opportunity for the DACA holder to contest the termination. While USCIS has a lot of discretion to terminate a DACA, in most cases they must provide a NOIT stating the reasons for termination. When they provide this notice, they will need to give the DACA holder an opportunity to respond. The opportunity to respond is allowed per regulations unless the DACA holder is convicted for certain “terrorist” activities. If the DACA is terminated without a NOIT for one of the reasons that requires no notice, advocates should push back and ask for evidence of the conviction that allows for this termination.³⁵

4. Screening for other relief

DACA has always been a short-term immigration option for DACA holders, and it is important that DACA holders explore all alternative options, both short and long-term for other immigration benefits and legal status. DACA holders should be screened and re-screened regularly, as life circumstances often change, causing immigration opportunities to arise or end as well. It is possible that DACA holders are eligible for another form of relief without knowing it. For more information on screening DACA holders, advocates can review ILRC’s advisory, *Advising and Screening DACA Recipients for Present and Future Options*.³⁶

5. Always provide Know Your Rights advisals

It is always good to review the rights people have with them. When creating a strategy with DACA recipients, remind them that they have a right to remain silent and a right to refuse to sign any document presented to them. Remind DACA holders that if they interact with ICE, they should limit the questions they answer and should exercise their right to remain silent. They do not need to provide them with any information about their place of birth, current immigration status, and do not have to sign any documentation provided to them. They should ask to speak to an attorney. If they feel comfortable, they can present their work authorization to show they have DACA. For more KYR information and materials, visit ilrc.me/protect.

VI. Conclusion

As advocates continue to wait for a resolution in the DACA litigation and the attack on immigrants continue to grow, including DACA holders, it is crucial that DACA advocates stay informed and strategies for the future. This will help ensure that DACA holders are ready and prepared for any possible changes and understand how they can fight back attacks brought to them by the administration.

³⁵ 8 CFR § 236.23(d)(1).

³⁶ Available at https://www.ilrc.org/sites/default/files/2023-03/DACA%20Options%20FinalFormatted_0.pdf and *Employment-Based Immigration Visas for DACA Recipients* at <https://www.ilrc.org/resources/employment-based-immigration-visas-daca-recipients>.



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