



PRACTICE ADVISORY¹

April 2016

DACA Renewal and Advance Parole

By the Immigrant Legal Resource Center and United We Dream

What is the purpose of this advisory?

This advisory provides information about Deferred Action for Childhood Arrivals (DACA) renewal applicants who received permission to travel outside of the United States. This permission to travel and return to the same status is called “advance parole.” We also discuss best practices for DACA recipients filing for renewal who previously traveled with advance parole or who hope to do so in the future.

Recently, the Immigrant Legal Resource Center (ILRC) and United We Dream (UWD) received reports of DACA recipients who had problems with their DACA renewal requests based on issues related to advance parole. In these cases, the DACA recipients obtained advance parole and:

1. Traveled **inside** the dates of the grant (e.g. they **left after** the issue date of the grant and **re-entered before** the end date);
2. Traveled **outside** the dates of the grant (e.g. they **left before** the issue date or **re-entered after** the end date); or
3. **Did not travel** outside the country during their grant of DACA.

Categories 1 and 3 are clearly erroneous decisions, and USCIS is working to address these cases. Category 2 issues are more problematic because, in the DACA context, USCIS considers these individuals to have traveled without advance parole as a result of leaving before or re-entering after their grant. USCIS is working to address a small subset of category 2 cases for DACA recipients who left before their grant. Unfortunately, DACA recipients in all categories suffered delays, lapses in deferred action and employment authorization; and frustration as a result of these issues.

¹ The Immigrant Legal Resource Center is a national, non-profit resource center that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The mission of the ILRC is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. United We Dream is the largest immigrant youth-led organization in the nation and made up of over 100,000 immigrant youth and allies and 55 affiliate organizations in 26 states. UWD organizes and advocates for the dignity and fair treatment of immigrant youth and families, regardless of immigration status. For the latest version of this practice advisory, please visit <http://www.ilrc.org> or <http://www.unitedwedream.org>. For questions regarding the content of this advisory, please contact Jose Magana-Salgado at jmagana@ilrc.org. Special thanks to Bárbara Gómez for her assistance in translating this advisory.

What is advance parole?

Advance parole² is a travel document that allows individuals to temporarily leave and re-enter the United States. For DACA recipients, advance parole must be based on humanitarian, educational, or employment purposes.³ Individuals must receive DACA *before* requesting advance parole.⁴

What are the problems renewal applicants encounter related to travel with advance parole?

USCIS has responded to these particular DACA renewal applications with Requests for Evidence (RFEs), Notices of Intent to Deny (NOIDs), and denials.

There are several reasons for these problems, including:

- U.S. Department of Homeland Security (DHS) subcomponents not communicating with each other about valid grants of advance parole;
- DACA beneficiaries traveling outside the dates authorized by their advance parole;;
- Unclear guidance regarding what constitutes travel with advance parole;
- Incorrect or incomplete information on advance parole documents; and
- DACA renewal requestors not providing documentation related to their advance parole.

Another cause for confusion is that USCIS also sent many outdated NOID templates meant for initial DACA requests in response to requests for renewal of DACA that stated “Because your departure occurred on or after August 15, 2012, but before USCIS had determined whether to defer action in your case, you have not established that you may be considered for deferred action under this process.”⁵ In many cases, USCIS sent these outdated RFEs to DACA recipients who traveled with a grant of advance parole but who left or returned after the grant dates.

How is advance parole under DACA different than other forms of advance parole?

Advance Parole is granted for people with different types of status, and each status has its own rules about travel. For DACA, USCIS will only grant advance parole for travel that is based on educational, employment, or humanitarian reasons. This is different than advance parole requirements for other immigration statuses or classifications. In other contexts, advance parole might be granted for longer periods of time, where individuals may leave and re-enter the country multiple times during the period. However, sometimes advance parole provides a much shorter window of travel and usually is only for a single instance of travel. DACA advance parole is almost always of the shorter, single purpose and single trip variety. Finally, DACA has a residence requirement for renewal that may not apply to other individuals travelling with advance parole.

² INA § 212(d)(5) establish general parole authority and allows DHS to parole individuals into the United States “for urgent humanitarian reasons” or “significant public benefit.” See 8 U.S.C. § 1182(d)(5) (West 2015). USCIS derived advance parole from this general parole authority. See 8 C.F.R. § 212.5 (West 2015).

³ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Frequently Asked Questions (June 15, 2015), available at <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions> (“Generally, USCIS will only grant advance parole if your travel abroad will be in furtherance of: humanitarian purposes, including travel to obtain medical treatment, attending funeral services for a family member, or visiting an ailing relative; educational purposes, such as semester-abroad programs and academic research, or; employment purposes such as overseas assignments, interviews, conferences or, training, or meetings with clients overseas.”) [hereinafter “DACA FAQ”].

⁴ *Id.*

⁵ See Appendix A for a redacted example NOID.

What are the consequences for initial DACA or renewal of DACA if a person leaves the United States without advance parole?

Individuals who travel outside the country after August 15, 2012 without advance parole are not eligible for initial DACA.⁶ Likewise, after a person has received DACA, if she travels outside the country after August 15, 2012 without advance parole, she will not be eligible to renew DACA.⁷ Finally, USCIS may terminate a person’s DACA if she leaves the U.S. without advance parole, although it is more likely that the person will be denied DACA at the time of renewal.

However, USCIS has not clearly defined what constitutes travel outside the country “without” a grant of advance parole. Based on conversations with USCIS and internal guidance, USCIS requires that DACA recipients with advance parole:

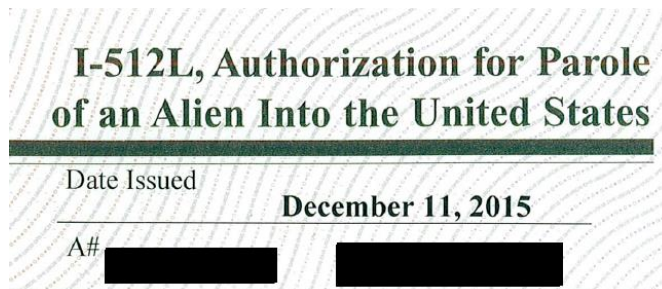
1. Leave the country **on or after** the **issue date** of the advance parole grant; **and**
2. Re-enter the country **on or before** the **end date** of the advance parole grant.

These requirements are different from other immigrants who travel with advance parole. Ordinarily, USCIS does not care exactly when they depart, so long as they *return* with a valid advance parole document. But in the DACA context, USCIS has denied DACA renewal requests where the applicant receives advance parole but leaves the U.S. before the issue date or re-enters the U.S. after the grant expires.

Where are the start and end dates located on an advance parole document?

After approving a request for advance parole, USCIS will issue two identical copies of an advance parole document, commonly known as Form I-512L, *Authorization for Parole of an Alien Into the United States*, to the applicant. Upon returning to the country, immigration officers will stamp both copies and keep a copy for themselves. The information within an advance parole document can be difficult to understand. Accordingly, you should make sure you fully comprehend the information in the form before traveling.

The start date of your advance parole or issuance date is located at the top right of the form and is referred to as “Date Issued.” Here is an example:



In this case, the start date or date issued of this advance parole document is December 11, 2015. The individual who had this advance parole document should not leave the country before December 11, 2015.

⁶ See DACA FAQ, *supra* note 3.

⁷ See *id.* (requiring that an individual did “not depart the United States on or after Aug. 15, 2012, without advance parole” to be eligible for renewal of DACA).

The end date of your advance parole document is located around the center of the document under the section titled "PAROLE." Here is an example:

PAROLE: The named bearer of this authorization is an individual whose removal has been deferred under the Secretary of Homeland Security's June 15, 2012, memorandum authorizing Deferred Action for Childhood Arrivals (DACA). The named bearer departed the United States temporarily and intends to return to the United States. Presentation of the original of this document prior to January 15, 2016 allows a Customs and Border Protection (CBP) Inspector at a port-of-entry to parole the named bearer, whose photograph appears on this authorization, into the United States based on the parole authority contained in INA 212(d)(5)(A). **This authorization is valid for one request for parole during the validity period noted above.** Each parole period shall not exceed one day from the date of parole at the port-of-entry. **Please note:** this document does not guarantee that a person will be paroled into the United States. CBP has discretion to deny a request for parole.

In this case, the end date of this advance parole document is January 15, 2016. The individual who had this advance parole document should not leave the country before January 15, 2016

IMPORTANT: Sometimes instead of a date, an advance parole document will provide a specific number of days, e.g. "30 days, 45 days, etc." These documents give no date because the individual probably requested a period of advance parole without specifying preferred dates. In this case, to identify the end date of your advance parole document you must add the number of days specific to the original start date. If our example above with an issue date of January 11, 2015 had an end date "60 days" instead of "January 15, 2016," then the end date for this document would be February 15, 2016, 60 days after January 11, 2015.

For an example of a complete advance parole document, please see Appendix B.

If U.S. Customs and Border Protection (CBP) allows a person to re-enter the U.S. even after their grant of advance parole expired, why would USCIS deny that person's request for renewal of DACA?

A person should make every effort to re-enter the U.S. before the expiration date of her advance parole grant. In some narrow circumstances, CBP agents *may* parole a person in the U.S. even if she attempts to re-enter after the expiration of her advance parole grant. However, CBP would likely, in its discretion, deny re-entry, especially if the person's DACA has expired or if she is attempting to re-enter a long period of time after the expiration of her advance parole grant.

Even if CBP allows a person to re-enter the country, eligibility for DACA renewal is a *separate* determination made by USCIS on a case-by-case basis. Re-entry into the country does not mean a person will remain eligible for renewal of DACA. For a broad overview of the impact of travel with advance parole, consult the following chart:

If you . . .	Will USCIS renew my DACA?	Will CBP let me re-enter? ⁸
Left without advance parole	No	No
Left before advance parole began	No	Maybe
Left after advance parole ended	No	Maybe
Attempted to re-enter without advance parole	No	No
Attempted to re-enter before advance parole ended	Yes	Yes ⁹
Attempted to re-enter after advance parole ended	No	Maybe

What should a person who has received DACA and advance parole do, if she traveled (or will travel) on advance parole, and wants to renew her DACA successfully?

Apply to Renew DACA Early. Travel with advance parole will likely mean that it will take longer for USCIS to decide whether or not to renew a person’s DACA request. It also may lead to requests for additional information from USCIS. Therefore, DACA recipients who traveled (or will travel) on advance parole should apply for renewal of DACA as early as possible, preferably before 150 days before the expiration of their DACA grant. Recently, USCIS updated its DACA FAQ and stated it would accept requests for DACA renewal submitted before 150 days prior to expiration of DACA.¹⁰ Applicants, however, should be aware that USCIS issues the start date for a work permit on the day the work permit is approved and *not* when a person’s previous work permit expires. This means that a person who applies early may lose anywhere from a couple of weeks or months of employment authorization due to overlaps between the new and old work permit.

Maintain Copies of Advance Parole Notice and Supporting Documentation. USCIS will likely request documentation related to the applicant’s travel. For this reason, DACA recipients should keep originals or copies of: (a) Form I-512L, *Authorization for Parole of an Alien into the United States*; (b) Form I-94, *Arrival or Departure Record* (if issued by CBP); (c) Form I-131, *Application for Travel Document*; (d) Form I-797, *Notice of Action* or document from ICE granting deferred action; (e) passport stamps; and (f) plane, bus, or other travel documentation.

DACA recipients should take photographs or make copies of all of the above documents as **soon as they receive them** because CBP may take these documents when the DACA recipient leaves or re-enters the country. When requesting renewal, DACA recipients should submit as much of the above documentation as possible with their request, *especially* Form I-512L.

⁸ Please note that this does not cover collateral consequences that may prevent you from re-entering the country, including executed removal orders and grounds of inadmissibility.

⁹ CBP always has discretion to deny entry, even when someone is in within their advance parole grant and has a current DACA approval. However, most people who travel with advance parole and return before expiration of an advance parole grant do not have a problem re-entering.

¹⁰ See DACA FAQ, *supra* note 3 (“Requests received earlier than 150 days in advance will be accepted; however, this could result in an overlap between your current DACA and your renewal.”).

Explain Advance Parole Travel in Cover Letter. When applying to renew DACA, the applicant should include a cover letter that clearly explains that she traveled on advance parole. She should state that she applied and received advance parole, left within the periods of advance parole (if applicable), and list the supporting documents she is including in her renewal request verifying the travel. Additionally, applicants should inform a legal representative filing DACA renewal on their behalf of travel on advance parole and provide the relevant dates and supporting documentation.

How should a DACA renewal applicant respond to an RFE, NOID, or denial related to travel on advance parole?

If the applicant receives an RFE or NOID related to valid travel on advance parole, she should respond immediately and include as much evidence supporting her travel, including Form I-512L (if available) and copies of passport stamps. An applicant should provide plane tickets or other travel evidence to demonstrate that she traveled within the valid period of advance parole. If the applicant did *not* travel outside the U.S., but USCIS claims that she did, the applicant should include a cover letter in which she explains that she did not travel outside the country. She should also provide documentation demonstrating that she was inside the U.S. on the dates USCIS indicated she traveled. This documentation can include things like credit card statements and receipts for purchases.

If USCIS denied a DACA renewal request or the request has been pending 105 days or more, the applicant may also file a request with the USCIS Ombudsman at: <http://www.dhs.gov/case-assistance>. Additionally, if the applicant received an RFE, NOID, or denial related to valid travel on advance parole, the applicant may also elevate her case to the ILRC for assistance: <http://www.ilrc.org/ced/DACA>.

For information about how to apply for advance parole, the potential collateral consequences of travel on advance parole, and potential eligibility to adjust status as a parolee, see: [Form I-131 Instructions](#); the [USCIS DACA FAQ](#), [Practice Advisory: Advance Parole for Deferred Action for Childhood Arrivals \(DACA\) Recipients](#) by the Legal Action Center and Catholic Legal Immigration Network, Inc.; [Practice Advisory: Deferred Action for Childhood Arrivals](#) by the American Immigration Council, National Immigration Project of the National Lawyers Guild, and the American Immigration Lawyers Association; and [DACA Recipients Traveling Abroad With Permission \(Advance Parole\) May Make Them Eligible to Get Their Green Cards in the U.S. Through Certain Visa Petitions](#) by ILRC.

APPENDIX A

A # [REDACTED]	Application/Petition I-821D, Consideration of Deferred Action for Childhood Arrivals	
Receipt # [REDACTED]	Applicant/Petitioner [REDACTED]	
Notice Date [REDACTED]	Page 1 of 2	Beneficiary



Request for Evidence

Notice also sent to:
[REDACTED]

RETURN THIS NOTICE ON TOP OF THE REQUESTED INFORMATION LISTED ON THE ATTACHED SHEET.

Note: You are given until July 15, 2015 in which to submit the requested information to the address at the bottom of this notice.

Please note the required deadline for providing a response to this Request for Evidence. The deadline reflects the maximum period for responding to this RFE.

For more information, visit our website at www.uscis.gov

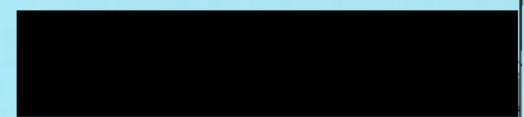
Or call us at **1-800-375-5283**

Telephone service for the hearing impaired: **1-800-767-1833**



You will be notified separately about any other applications or petitions you filed. Save this notice. Please enclose a copy of it if you write to us about this case, or if you file another application based on this decision. Our address is:

USCIS - CALIFORNIA SERVICE CENTER
P.O. BOX 10590
LAGUNA NIGUEL, CA 92607-0590
800-375-5283



NOTICE OF INTENT TO DENY CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS, FORM I-821D

DISQUALIFYING INTERNATIONAL TRAVEL ON OR AFTER 8/15/2012 AND BEFORE USCIS HAS MADE A DACA DETERMINATION (INITIAL DACA ONLY)

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have been residing continuously in the United States since June 15, 2007. Continuous residence is disrupted if you travelled outside the United States on or after August 15, 2012 and before USCIS has determined whether to defer action in your case.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have made numerous departures from United States from June 2008 through April 2015. Because your departure occurred on or after August 15, 2012, but before USCIS had determined whether to defer action in your case, you have not established that you may be considered for deferred action under this process.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

APPENDIX B

I-512L, Authorization for Parole of an Alien Into the United States

(Family Name) _____ (Given Name) _____

(Middle Initial) _____

Date Issued

December 11, 2015

Date of Birth (Month/Day/Year)

Country of Birth

(City or Town)

(State or Province)

(Country)

A# _____

U.S. Address (Apt number and/or in care of)

(Street Number and Name)

(City)

(State or Province)

(Zip/Postal Code)

TRAVEL AUTHORIZATION: Presentation of the original of this document authorizes a transportation line to accept the named bearer on board for travel to the United States without liability under section 273 of the Immigration and Nationality Act (INA) for bringing an alien who does not have a visa.

PAROLE: The named bearer of this authorization is an individual whose removal has been deferred under the Secretary of Homeland Security's June 15, 2012, memorandum authorizing Deferred Action for Childhood Arrivals (DACA). The named bearer departed the United States temporarily and intends to return to the United States. Presentation of the original of this document prior to January 15, 2016 allows a Customs and Border Protection (CBP) Inspector at a port-of-entry to parole the named bearer, whose photograph appears on this authorization, into the United States based on the parole authority contained in INA 212(d)(5)(A). **This authorization is valid for one request for parole during the validity period noted above.** Each parole period shall not exceed one day from the date of parole at the port-of-entry. **Please note:** this document does not guarantee that a person will be paroled into the United States. CBP has discretion to deny a request for parole.

NOTICE - READ BEFORE YOU TRAVEL ABROAD

Parole is not admission into the United States. Presentation of this authorization will allow a CBP Inspector at a port-of-entry to parole you into the United States. If CBP paroles you into the United States, your case will generally continue to be deferred. The deferral will continue until the date specified by USCIS or Immigration and Customs Enforcement (ICE) in your deferral notice or until the decision to defer removal action in your case has been terminated, whichever is earlier. Parole is not an "admission," so even while you are paroled you will remain an "applicant for admission." If you are found inadmissible, you will need to apply and qualify for a waiver of inadmissibility. If your waiver application is denied, you may be subject to removal proceedings as an inadmissible alien under 235(b)(1) or 240 of the Act. **Parole into the United States is not guaranteed.** In all cases, you are still subject to immigration inspection at a port-of-entry to determine whether you are eligible to come into the United States via the terms of this document. Even if you have previously been granted parole, the Department of Homeland Security retains discretion to deny you parole if the Department determines approving your parole application would not serve the public interest of the United States.

DHS can revoke or terminate your advance parole document at any time. If you are outside the United States when you are notified that DHS has revoked or terminated your advance parole document, the revocation or termination of your advance parole document may leave you unable to return to the United States unless you have a valid visa or other document that permits you to travel to the United States and seek admission. If you are in the United States when DHS revokes or terminates your parole, you will return to the status of an unparoled applicant for admission, and you may be subject to removal under INA section 212, rather than INA section 237.

Travel Warnings.

Leaving the United States, even with your advance parole document, may impact your ability to return to the United States.

If you have been ordered deported or removed, departing from the United States without having had your exclusion, deportation, or removal proceedings reopened and administratively closed or terminated will result in your being considered excluded, deported or removed, with potentially serious future immigration consequences, even if USCIS or ICE has deferred action in your case. If you have been unlawfully present in the United States, you may want to ask an immigration attorney or a representative at an immigrant assistance organization accredited by the Board of Immigration Appeals (BIA), whether leaving the United States would make you inadmissible and therefore ineligible for adjustment of status. Under section 212(a)(9)(B)(i) of the Act, aliens who depart the United States after being unlawfully present in the United States for certain periods may become subject to new or additional grounds of inadmissibility because of their travel abroad.

Inadmissibility in general. If you have concerns about admissibility and waivers you should contact an immigration attorney or an immigrant assistance organization accredited by the BIA before making foreign travel plans.

Nebraska Service Center

850 S. Street
Lincoln, NE 68508

(Authorizing Office)

Parole Stamp



Mark Hazuda

