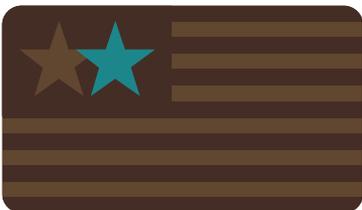


GOT DACA, NOW WHAT?

WHAT TO KNOW WHEN YOUR DEFERRED ACTION FOR CHILDHOOD ARRIVALS REQUEST IS APPROVED



EDUCATORS FOR FAIR CONSIDERATION

CURRAN & BERGER LLP
IMMIGRATION LAW OFFICES

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TRAVEL WITH DACA

QUESTIONS	ANSWERS
<p>Now that I have DACA, can I travel internationally and what is the process?</p>	<p>You may submit an I-131 Application for Travel Document with United States Citizenship & Immigration Services (USCIS) <u>after</u> you have been approved for DACA if your reason to travel is for “humanitarian, education or work purposes.” If approved, you will receive a travel or Advance Parole (AP) document. This process can take up to 90 days. Please note that currently USCIS is drafting new instructions specific to DACA beneficiaries seeking to travel internationally. Be sure to monitor the USCIS web page for the latest updates.</p> <p>WARNING! DO NOT travel abroad before being granted Advance Parole as this will cause you to lose Deferred Action.</p> <p>Depending on your situation, there could be serious risks associated with traveling abroad. A DACA recipient <u>must</u> apply for Advance Parole, but even if you are approved, seek advice from an attorney <u>before</u> traveling. <i>Because the timing of the Advance Parole is hard to predict, we recommend not making travel plans until your AP application is approved and you have consulted with an attorney about the situation at that point in time.</i></p> <p>As a DACA beneficiary, if you would like to travel internationally and you have previously been ordered deported, excluded, or removed from the United States, you must reopen your case with the Executive Office of Immigration Review in order to ask for administrative closure of your removal proceedings.</p> <p>If you depart the United States on Advance Parole before your deportation order/removal proceedings have been administratively closed, you may be barred from re-entering the country. If you have been in removal proceedings or have a final order of deportation, it is <u>very</u> important that you consult an attorney before attempting to travel internationally.</p>

QUESTIONS

ANSWERS

Have there been any Advance Parole approvals for DACA beneficiaries who wish to travel abroad?

There has been a few approvals for Advance Parole for individuals with Deferred Action. The cases we know of have been for school-related activities (i.e. sports team traveling, studying abroad, etc.)

*Note that the dates on the Advance Parole document are VERY restrictive (i.e. if you ask for 4 days for a sports trip, you will get 4 days. If the returning flight is canceled or delayed to the next day, the individual will be at risk of not being able to return).

Also, all the approvals we've seen have been for a single entry. If someone has various trips that require multiple entries (e.g. 4 soccer trips this year), it might be worth trying to apply for all in one request.

While the Advance Parole notice states that leaving the U.S. on Advance Parole with DACA is not a departure for 3/10 year bar purposes, we suggest that individuals consult with an attorney before leaving the U.S.

We recommend that anyone thinking of applying for Advance Parole should do so, and then consult an attorney when it is approved and in hand. Processing times, and the changing landscape of DACA, and the various other complexities, grounds of inadmissibility, possible need to close out deportation proceedings, etc. should be evaluated.

Lastly, if some form of Immigration Reform passes while the individual is abroad, it is possible they would not be eligible for legalization. Some previous programs such as 245i, TPS, and even DACA, required physical presence in the US on the date the program was authorized.

What type of information do I have to include when applying for Advance Parole (AP)?

You should submit a letter that explains your reason to travel along with supporting documents. For example, if your reason to travel is for work purposes, you should submit a letter from your employer explaining the need to travel along with the \$360 filing fee (no biometrics fee required), copy of your I-821D approval notice, copy of your work card, and 2 passport style photos.

Again, be sure to monitor the USCIS web page for the latest updates. USCIS is finalizing the instructions for Advance Parole for individuals with Deferred Action.

QUESTIONS

ANSWERS

For what length of time can I be out of the country with an Advance Parole (AP) document?

You can be out of the country for as long as your individual Advance Parole document is valid, but it must still be valid when you re-enter. Since the grant of Advance Parole for individuals with DACA is a new process, you may only be granted a limited period and a single entry depending on your reason for travel. For example, if you need to travel for a school program that lasts 2 weeks, your Advance Parole document may only be valid for two weeks and allow only one entry. We suggest that you ask for the maximum amount of time and multiple entries but you may only be granted a limited amount of time and only a single entry. You should make sure you double check the validity period of your AP document before you decide to travel abroad.

Do I need a new Advance Parole (AP) document each time that I travel?

You may need to apply for a new Advance Parole (AP) document if the validity period of your AP allows only for a single entry. You do not need to apply for a new AP if you are granted multiple entries and your AP is still valid.

Will a reentry under Advance Parole count as a lawful admission into the U.S.? Why is this important?

Although this has not yet been verified by United States Citizenship & Immigration Services, entry to the United States on Advance Parole could be considered a lawful admission to the United States because you will have been inspected and admitted to the country by an immigration officer. This is important if you later become eligible to apply for a green card based on a qualifying relationship to a United States citizen. In addition to asking about risks, talk with an attorney about how traveling abroad could actually improve your ability to qualify for permanent immigration status.

Does a valid Advance Parole document guarantee reentry into the U.S.?

There is no absolute guarantee that you will be able to re-enter the U.S. when traveling on Advance Parole. You will be inspected by a U.S. Customs & Border Protection (USCBP) officer when you re-enter the U.S. Although rare, USCBP could find you inadmissible even with a valid Advance Parole document. To avoid issues with travel, speak to an attorney before you travel outside the U.S.

QUESTIONS

ANSWERS

Do I need an Advance Parole document if I travel domestically but outside the continental U.S.?

You do not need Advance Parole in order to travel within the U.S. states, this includes Alaska and Hawaii.

You also do not need an Advance Parole document in order to travel to any U.S. territories including Puerto Rico, Guam, U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands so long as you do not make any layover in another country before reaching your final destination.

However, we recommend against travel to U.S. territories unless absolutely necessary because the DACA program is quite new, and those returning from U.S. territories may be subject to so-called “grounds of inadmissibility” per federal regulations. As a result, detailed questions about previous immigration history may come up, which is complicated for any DACA applicant.

Always keep in mind that whenever you travel, especially if you are near a border or at an international airport, there will be Customs & Border Patrol officers present and you could be questioned. However, as a Deferred Action beneficiary, you can show the officer your DACA approval notice indicating that United States Citizenship & Immigration Services (USICS) and Immigration & Customs Enforcement (ICE) is not pursuing your deportation.

As long as Deferred Action is in effect, you are considered to be lawfully present in the U.S.

*Note that accidentally crossing the border outside of U.S. territory without Advance Parole could jeopardize your DACA grant.

Do I need an Advance Parole (AP) document to go on a cruise?

Maybe. This depends on whether the cruise enters international waters and/or makes stops in other countries – if so then you will need an Advance Parole (AP) document to be able to re-enter the U.S.

More information on cruises can be found here:

USCIS: Documents needed to take a cruise

RENEWING DACA

QUESTIONS	ANSWERS
<p>How far in advance should I request a renewal of DACA and a work card? When I apply for DACA renewal, will I have to pay the \$465 again?</p>	<p>At this time there are no instructions for the renewal of the DACA program. However, you should keep track of your DACA/ work card expiration and check uscis.gov for updates on renewal at least 6 months prior to your card's expiration date.</p> <p>There will probably be a renewal fee for DACA.</p>
<p>Will I be able to request a renewal of DACA if I am over 31 years old?</p>	<p>Yes. You will be able to apply for a <i>renewal</i> of DACA even if you are over 31 years old at the time of the renewal. However, if you were 31 or older on June 15, 2012, you are ineligible for the DACA program.</p>
<p>I re-enrolled in an educational program to become eligible for DACA. What happens if I do not complete my program by the time I have to renew my DACA?</p>	<p>If you were eligible for DACA based on attending an educational, literacy or a career training program you will need to show that you have either enrolled in post-secondary education, have a job related to your training, or have made “substantial measurable progress” toward completing the program. Failure to show completion of the program or continued enrollment will likely jeopardize your continued eligibility for DACA during your renewal period.</p> <p>For more information on this issue, visit USCIS's FAQ:</p> <p>USCIS: Deferred Action for Childhood Arrivals (DACA) FAQ</p>
<p>If I commit a crime, am I ineligible to renew DACA? Will I face deportation?</p>	<p>Possibly. Deferred Action is discretionary and criminal activities could result in the termination of Deferred Action. You risk deportation if you commit a criminal offense including fraud or if you are found to be a threat to national security or public safety. Sometimes the government can pursue deportation even without a final conviction. Therefore, if you face any new allegations of criminal activity, even if they did not result in jail time or a conviction, talk with an immigration attorney before renewing DACA.</p> <p>For more detailed information on the deportation policy, visit these links:</p> <p>USCIS: Guidance for Issuance of Notices to Appear</p> <p>USCIS: DACA Brochure (read second page)</p>

DACA & EMPLOYMENT

QUESTIONS	ANSWERS
<p>How should I approach my current employer if I was using a made-up Social Security Number to work prior to DACA?</p>	<p>Before approaching your employer, you should consult an employment attorney who can provide guidance with regard to your particular situation.</p> <p>If your name is the same but you now have a different Social Security Number, you might tell your employer that you want to update your Form W-4, "Employee's Withholding Allowance Certificate." The Form W-4 itself says that you should consider filling out a new Form W-4 each year, so your employer should let you do so. But if your employer denies or questions your request, don't volunteer that you worked with a Social Security Number that wasn't issued to you, and contact an employment attorney for advice at that point.</p> <p>Another form you might have filled out when you started working is the Form I-9, "Employment Eligibility Verification." The United States Citizenship and Immigration Services (USCIS) has released a Guide for employers of DACA beneficiaries with information regarding updating your Form I-9 with the correct information. The Guide states that your employer must complete a new Form I-9 when there is a change in your Social Security Number, however, this does not follow the USCIS's Handbook for Employers on Completing the Form I-9, which gives other options for this situation. The American Immigration Lawyers Association is working to correct some inconsistencies in the guide with USCIS. Consult an employment attorney before asking to update your Form I-9.</p>

QUESTIONS

ANSWERS

What do I tell my current employer if prior to DACA I was using a made-up Social Security Number (SSN) AND a false name to be able to work?

First, if you have ever used a false name in order to work using someone else's Social Security Number (SSN), make sure that you disclosed that other name in your DACA application. If not, you risk USCIS finding out about the identity in the future and penalizing you for perpetrating fraud.

Second, note that your current employer, who may know you by another name, may try to terminate your employment for having originally provided false information on your employment application if you come forward with your true name and accurate SSN. Please see the next question on immigration and unfair discrimination, which may provide you with some protection. However, your employer may have an independent basis to fire you for providing false information when you were first hired, as long as the employer is not now firing you because you are an immigrant and is fairly apply the policy of firing all employees who gave a false name at the time of hiring.

If you are still unsure about what to do, you may consult a private employment attorney or a nonprofit organization.

I am afraid that an employer will discriminate against me because my Employment Authorization Document (EAD) is only valid for two years. Should I disclose that my status is temporary when I apply to jobs?

You only need to show that you are currently authorized to work. You do not need to disclose your immigration status. See the links below for more information on this topic:

NILC: DACA And Workplace Rights

DOJ: Immigration And Unfair Discrimination

Is having DACA sufficient to practice in my field of specialized study (i.e. as an attorney, general contractor, medical doctor or a nurse)?

It is not clear whether DACA beneficiaries will be able to get a license to be a professional, such as a teacher or social worker. The answer will likely vary state by state and could also vary for different professional licensing boards.

QUESTIONS

Now that I am benefiting from DACA, am I required to file taxes?

Is it possible to transfer credit history to my new Social Security Number (SSN) if I have built credit using an Individual Taxpayer Identification Number (ITIN)?

ANSWERS

Yes. Foreign nationals, whatever their immigration status, are subject to the same tax laws as U.S. Citizens. If you have not been paying your taxes, or you have worked without authorization, you should now get a valid Social Security Number and seek the advice of an accountant who can discuss your tax obligations with you.

The following article is a helpful resource for any formerly undocumented person looking to get back “above the table” and start organizing their personal affairs.

LCLAA: Life After DACA Guide

It may be possible to transfer credit to your Social Security Number, for more information we recommend that you consult with National Immigration Law Center:

NILC: Contact Us

BENEFITS UNDER DACA

QUESTIONS	ANSWERS
What public benefits am I eligible for as a DACA beneficiary?	<p>Public benefits for DACA beneficiaries vary by state. Some states have gradually begun to specify the benefits that are available for DACA beneficiaries.</p> <p>To find out what benefits a DACA beneficiary is generally eligible for, check out the following chart:</p> <p>E4FC: Comparison of Benefits and Rights Based on Immigration Status</p> <p>Currently, DACA beneficiaries <i>cannot</i> benefit from President Obama’s Affordable Care Act for health care. The National Immigration Law Center has provided a fact sheet with information on health care coverage for DACA beneficiaries, found at the following links:</p> <p>NILC: Health Care for DACA Grantees</p> <p>NILC: Exclusion of DACA Grantees from Affordable Health Care</p>
Am I eligible for federal financial aid for educational programs?	<p>No. DACA recipients are not eligible for federal student aid.</p>
Am I eligible for any non-federal financial assistance for educational programs?	<p>If you live in California, New Mexico, or Texas, you may be eligible for state financial aid. You should check whether your state offers assistance.</p> <p>You may also be eligible for private loans, depending on the lender as well as private scholarships</p> <p>Here is more information on how DACA grantees can finance college:</p> <p>NASFAA: DACA Recipients and Financing College</p>

QUESTIONS

Am I eligible for a state driver's license and/or identification card?

ANSWERS

You may be eligible to apply for a driver's license or ID using your DACA work card depending on the state where you reside.

DACA beneficiaries are eligible for a Driver's License/ID in the following states: CA, CO, CT, DE, FL, GA, HI, IL, IN, ID, IA, KS, KY, MD, MA, MI, MN, MS, MO, NV, NH, NJ, NY, OK, OR, PA, RI, SC, TN, TX, VA, WI.

You are not eligible if you reside in AZ or NE.

Please refer to the links below for information on various states' requirements for a driver's license and ID:

NILC: Chart of Requirements for Driver's License/ID by State

NILC: Current State Policies on Driver's License/ID

Please note that you will likely need to obtain a Social Security Number from the Social Security Administration before applying for your driver's license and / or state ID.

OTHER DACA TOPICS

QUESTIONS	ANSWERS
What happens if I lose my Employment Authorization Document (work permit card)?	If you lose your Employment Authorization Document you may apply for a replacement card by re-filing the I-765 Employment Authorization Form with a copy of your previous I-765 approval notice, I-821D approval, a new \$380 filing fee and 2 passport photos.
What should I fill out when I am asked to provide my status in applications for schools, financial aid, and scholarships?	<p>You should be honest when filling out applications and write that you are currently a beneficiary of Deferred Action. DO NOT CLAIM TO BE A U.S. CITIZEN as this could have serious negative consequences to your future ability to gain permanent status.</p> <p>Deferred Action is not a status but while Deferred Action is in effect you are considered to be lawfully present in the U.S.</p> <p>USCIS has released a helpful FAQ on this issue:</p> <p>USCIS FAQ: What is deferred action?</p>
What should I do if I had a fake driver's license or identification card from another state? Should I act as though they never existed?	You should not continue using a fake document once you get a real ID card, starting with your DACA Employment Authorization Document (EAD). You should apply for a Social Security Number and, if your state allows it, a valid driver's license and/or Identification Card. You may also use your EAD work card as a valid identification card.
How do I apply for a Social Security Number?	<p>The Social Security website has instructions for DACA beneficiaries at the following link:</p> <p>SSA: Social Security Number</p> <p>To find your local Social Security office, please click here:</p> <p>SSA: Local Office Locator</p>
With Deferred Action, can I purchase a car or a house?	Deferred Action does not prevent you from purchasing a home or a car. However, as an immigrant with only temporary permission to lawfully be in the U.S., you may not be eligible to receive certain loans. It could be difficult to get a mortgage, but this varies depending on your situation and the requirements. You may be able to qualify for certain loans by including a U.S. Citizen or Lawful Permanent Resident co-signer who agrees to share financial responsibility to repay the loan if you default.

QUESTIONS

Now that I have DACA, how can I get involved to ensure that a path towards citizenship is granted for my family and me?

ANSWERS

The DACA program was not a result of an overnight decision. It is highly recognized that DACA occurred as a result of many years of struggle and a movement led by undocumented young people.

This is especially important to recognize when one begins to understand what DACA is. DACA is a temporary solution that is a crucial first step in the right direction. To continue the fight to grant all immigrants a path to citizenship, we encourage individuals to get involved and make sure the passage of a just immigration reform becomes a reality.

The first step to getting involved is to get informed. When you have questions, seek answers. There are numerous news outlets and individual journalists who can provide you with the latest updates on immigration reform.

Secondly, have courageous conversations with those who are not educated about the issue. A conversation with your friends and neighbors can make a huge difference.

Another great way to get involved is by attending local immigrant rights events. In these spaces, you will be able to learn more about the issue, meet individuals with similar values and get connected to organizations working to pass a just immigration reform.

Here are some links of online news outlets that can help you get informed:

America's Voice
American Immigration Lawyers Association

Here some links of organizations who are working to push for immigration reform:

United We Dream
Dreamactivist
American Civil Liberties Union

ABOUT THE AUTHORS

DAN BERGER

Dan is a frequent speaker at colleges, universities, and nonprofits on immigration issues. As a law student, he won the 1995 American Immigration Lawyers Association (AILA) annual writing competition for an article on INS policies toward international adoptions. Mr. Berger continued researching and writing, including being a Senior Editor of the AILA [Immigration and Nationality Law Handbook](#) for over ten years, Editor-in-Chief of [Immigration Options for Academics and Researchers](#) (2005 and now the new edition 2011), and Editor of the [International Adoption Sourcebook](#) and the [Diplomatic Visas Handbook](#). He currently is Vice Chair of the AILA Healthcare Committee and a member of the AILA Texas Service Center Liaison Committee and the Rome District Chapter Consular Liaison Group, having previously served in many liaison positions working with different branches of the U.S. Citizenship and Immigration Service. Mr. Berger developed his interest in immigration in college, where he studied immigration history and taught English as a Second Language for adult refugees. He is a graduate of Cornell Law School, and a partner with Curran & Berger LLP in Northampton, Massachusetts.

KRSNA AVILA

Krsna is a graduate of the University of California, Davis where he received his Bachelor of Arts Degree in Sociology and Psychology in 2010. Having immigrated to the United States when he was only four months old, Krsna grew up feeling truly American, despite his legal status. Living in Oakland, he was a victim of four gun violence incidents. Education became Krsna's tool for freedom and self-advancement, a way to "level the playing field." Since joining E4FC's Legal Services Team, Krsna has developed an in-depth knowledge of U.S. immigration law and has been able to use his knowledge to pursue and gain lawful permanent residency for himself and to help others in similar situations. Krsna is looking forward to receiving acceptance letters from law schools around the nation in the near future and wants to remind undocumented students that anything is possible!

MASSIELL TERCERO-PARKER, SENIOR PARALEGAL

Massiell Tercero-Parker is the team leader of Curran & Berger's response to DACA, and well as manager of the firm's family and asylum cases, and services for undocumented students. She graduated from Smith College with a B.A. in History with a concentration in Latin American, Portuguese and Brazilian Studies. Massiell was born in Managua, Nicaragua and moved to the East Coast in 1998. She has also been involved in advocacy efforts on immigration reform, and has co-authored an article on the National Visa Center for AILA's Consular Processing Handbook.

CORINNA LOPEZ, PARALEGAL

Corinna Lopez has coordinated most of Curran & Berger's DACA cases, and has had a major role at the firm in planning and serving undocumented students. She also handles a variety of family, employment-based and asylum cases. Corinna graduated from Bowdoin College with a degree in Spanish and Latin American Studies. A native of Western Massachusetts, she has experience working with minority communities in nearby Springfield, as well as outreach to the Navajo reservation.

MARILIA ZELLNER

Marilia Zellner has dedicated her career to humanitarian and public service work. A graduate of Harvard Law School, she was selected as the inaugural Face of American Immigration Lawyers Association (AILA) in 2010. Mari is an immigration attorney who practiced at Community Legal Services in East Palo Alto for four years, during which time she supervised staff and volunteer attorneys, paralegals and law students with a complex caseload of affirmative and defensive immigration cases, primarily for survivors of violent crime and for clients seeking humanitarian-based relief. She was also a public interest career counselor at Stanford Law School for two years, helping law students and recent graduates explore opportunities to make positive impactful change in public service throughout the world. Mari has been licensed to practice law in Minnesota since 2000, and her counsel in California is limited to federal immigration and naturalization law.

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ABOUT EDUCATORS FOR FAIR CONSIDERATION (E4FC)

Founded in 2006, Educators for Fair Consideration supports undocumented young people in realizing their academic and career goals and actively contributing to society. We offer holistic programming that addresses their financial, legal, career, and emotional health needs. Specifically, we provide scholarships, legal services, professional and personal development workshops, and a strong peer network. We also lead presentations and create educational materials to raise awareness and support nationwide. Our programming is designed by and for undocumented young people with support from committed allies. For more information, please visit us online at www.e4fc.org.

ABOUT CURRAN & BERGER LLP

Curran & Berger is a law firm in Northampton, MA specializing in immigration, with a wide range of clients from large corporations to top research universities to individuals. For many years our firm has represented colleges and universities. In the past, there would be individual undocumented students approaching us for advice, but the numbers were relatively small. Trying to help these students involved surveying the gamut of visa categories, from family to business, to look for a possible remedy. As we saw the numbers grow, we became increasingly involved in this issue, teaming with E4FC in 2010 to provide targeted legal services. We currently advise many universities about their policies regarding undocumented students. For more information, visit www.curranberger.com. You can also contact us by email at info@curranberger.com or (413) 584-3232.