National Immigrant Justice Center

Deferred Action for Childhood Arrivals (DACA)
Frequently Asked Questions

Latest DACA development: On August 13, 2026, the Board of Immigration Appeals issued a decision that affects a DACA recipient's ability to travel on an ancillary benefit known as advance parole. This decision may also impact a DACA recipient's ability to apply for their lawful permanent residence based on a parole entry.

This advisory provides answers to questions about:

- The impact of BIA decision on advance parole and adjustment of status
- The impact of Texas v. U.S. decision
- The status of Biden's DACA regulation
- The status of DACA renewal and initial applications
- The DACA and employment authorization renewal process

This advisory is not intended as legal advice but rather to provide information on the status of the DACA program. Individuals should seek a legal consultation from a qualified immigration attorney or DOJ accredited representative for a full assessment of their individual case. Please check our website or NIJC's social media channels for future updates about DACA.

The August 2026 Board of Immigration Appeals decision in *Matter of Delcarmen-Lara* and Travel for DACA Recipients

1. Can DACA recipients still apply for special permission to travel ("advance parole")?

USCIS continues to accept and adjudicate requests for advance parole for current DACA beneficiaries who can establish that their travel abroad is for employment, educational, or humanitarian reasons.

However, a recent decision from the Board of Immigration Appeals ("BIA") makes travel on an advance parole more dangerous for individuals who have accumulated unlawful presence in the United States. Unlawful presence accrues when an individual is in the United States without permission. Individuals who accrue more than 180 days, but less than one year, of unlawful presence are barred from being re-admitted or re-entering the United States for three years. Individuals who accrue more than one year of unlawful presence are barred for ten years. Importantly, DACA recipients do not accrue unlawful presence during active DACA grants. If DACA status lapses or renewal is delayed, any time spent in the United States during gaps in benefits will count towards calculating unlawful presence.

In *Matter of Delcarmen-Lara*, 29 I&N Dec. 830 (BIA 2026), the BIA overturned a prior board decision that protected individuals traveling on advance parole from triggering an unlawful presence bar ("10-year bar") upon departing the United States. The BIA's decision is prospective, meaning it does not apply to prior returns to the United States on advance parole. However, an individual with unlawful presence who departs the United States after August 13, 2026, on advance parole can be found inadmissible to the United States upon their return and U.S. Customs and Border Protection can deny the individual entry into the United States.

If you have a pending or approved advance parole document, we strongly recommend that you schedule a consultation with a licensed attorney or DOJ recognized organization as it may no longer be safe for you to travel on that advance parole document, even if it is approved. To request assistance from NIJC, you can use the NIJC Assistant chatbot in the bottom right corner of our website at any time or call 312-660-1370 on Tuesday, Wednesday and Thursday from 8:30 a.m. to 4:30 p.m. Central Time.

2. How does *Matter of Delcarmen-Lara* affect my pending or future application for adjustment of status?

Entering the United States using a parole document, like DACA advance parole, makes some individuals eligible to apply for their lawful permanent residence in the United States through a process known as adjustment of status.

Whether or not you remain eligible for your pending or future adjustment of status application will likely depend on when you departed/returned to the United States using your advance parole document, whether that activity triggered any inadmissibility, and when you filed your application for adjustment of status. This requires a very nuanced assessment of your individual facts and circumstances.

If you have a pending application for adjustment of status or want to know if you are eligible to file for adjustment of status, we strongly recommend that you schedule a consultation with a licensed attorney or DOJ recognized organization as it may no longer be safe for you to travel on that advance parole document. To request assistance from NIJC, you can use the NIJC Assistant chatbot in the bottom right corner of our website at any time or call 312-660-1370 on Tuesday, Wednesday and Thursday from 8:30 a.m. to 4:30 p.m. Central Time.

The impact of the Texas v. U.S. decision, most recently considered in 2025

3. What did the court decide in Texas v. U.S.?

In 2021, U.S. District Court Judge Andrew Hanen found that the DACA program is illegal. His decision was appealed to the Fifth Circuit Court of Appeals. Meanwhile, the Biden administration published DACA regulations. In 2022, the Fifth Circuit Court of Appeals agreed with Judge Hanen's holding that DACA is illegal, reasoning that the statute does not authorize the Department of Homeland Security to create such a program. However, the appellate court sent the case back to Judge Hanen for further proceedings. On September 13, 2023, Judge Hanen again found the DACA program, this time as implemented through the DACA regulation, was illegal. This decision was once again appealed to the Fifth Circuit.

In 2025, the Fifth Circuit Court of Appeals agreed with Judge Hanen in most respects but limited his decision in two important ways. First, while the Fifth Circuit affirmed the finding that DACA violates U.S. immigration laws by giving DACA recipients benefits not authorized by the statute passed by Congress, the Court limited the injunction to the State of Texas. Second, the Fifth Circuit found that a forbearance-only program (meaning one where DACA recipients are protected from removal but do not receive employment authorization or other benefits) may be permissible. The Fifth Circuit stayed ("paused") its ruling as to current DACA beneficiaries, pending another decision by the courts, allowing DACA renewals, including employment authorization, to continue. There have been no additional decisions on the legality of the DACA program since 2025.

4. What will happen next in Texas v. U.S.?

The Fifth Circuit Court of Appeals remanded the case back to Judge Hanen. We do not know what he will do with the case, but the Department of Justice has entered collusive settlements with Texas in other matters. The case should be limited to Texas residents, but it is unclear whether the case will truly maintain that limitation. It may take many months – if not years – to reach resolution. There is a real possibility that renewals may be affected. As such, we continue to recommend that, if eligible, submit your application to renew your DACA benefits without delay.

The status of Biden's DACA regulation

5. How does this Fifth Circuit decision affect the Biden administration's final regulation?

The Fifth Circuit upheld the finding that the DACA regulation was partly illegal. The appeals court distinguished between DACA's protections from deportation (which it calls "forbearance") and DACA's benefits (most significantly, permission to work). It found that while DACA benefits are illegal, the DACA protection against removal is not. The "forbearance" policy remains in place and offers some protection against deportation. The forbearance policy is not nearly as useful as benefits, for most people, but it should reduce any risks from continuing to renew DACA while the appeal is in process. At present, DACA recipients should continue to receive employment authorization in addition to protection from removal since the Fifth Circuit's decision finding employment authorization through DACA to be unlawful is stayed (paused).

Ultimately, the Fifth Circuit also continued to stay ("pause") it ruling allowing current DACA beneficiaries the ability to renew, pending another ruling by the Fifth Circuit Court or the Supreme Court. The ultimate fate of the DACA regulation will be decided by either the court system or by the Trump administration if it takes steps to rescind the regulation.

The Status of DACA renewal and initial applications

6. I have a pending application for initial DACA benefits. What will happen to my pending application?

The government cannot process your initial DACA application. The processing of your application will remain on pause.

This pause will continue until either the litigation resolves (either in favor or against processing new DACA applications) or Congress passes legislation to protect DACA. There is no action to take on your case at this time.

If you have a pending initial DACA application at NIJC and you have further questions, please contact the phone number for the team handling your case. If NIJC is not representing you, please follow our social media channels or website for updated information regarding the status of the DACA program.

7. I am eligible for initial DACA, but never applied; what can I do right now?

If you have never had a legal consultation, we recommend that you speak to a licensed attorney or Department of Justice accredited representative to learn more about all your possible options under our current immigration laws and policies. To request assistance from NIJC, you can use the NIJC Assistant chatbot in the bottom right corner of our website at any time or call 312-660-1370 on Tuesday, Wednesday and Thursday from 8:30 a.m. to 4:30 p.m. Central Time.

8. I have a pending application to renew my DACA benefits. Can it be approved?

The government will continue to adjudicate all properly filed DACA renewal requests. This is true as long as a judicial stay ("pause") remains in place.

If your request has been pending for more than 105 days, you or your legal representative can submit a status inquiry via phone by calling 1-800-375-5283. If that does not solve your case, you or your legal representative may wish to consider seeking congressional assistance. In Illinois, Senators Duckworth and Durbin each have the request process located on their congressional website.

9. My DACA has expired or is close to expiring; can I still apply to renew my DACA?

Yes. The government will continue to adjudicate all properly filed DACA renewal requests. This is true as long as the judicial stay remains in place. It is unknown how long the judicial stay will remain in place, so you should renew your DACA benefits as soon as possible.

If you currently have DACA or your DACA has been expired for less than one year, you can submit a DACA renewal application. If you are interested in attending one of NIJC's upcoming, free DACA renewal clinics, you can register here. We are updating the calendar frequently with new clinic offerings.

If your DACA expired more than one year ago or it was previously terminated, you must submit an initial DACA application. However, because of the court's ruling, the government will not be able to process your case due to the indefinite pause on all initial DACA applications. If you are in this position and would like to request assistance from NIJC, you can use the NIJC Assistant chatbot in the bottom right corner of our website at any time or call 312-660-1370 on Tuesday, Wednesday and Thursday from 8:30 a.m. to 4:30 p.m. Central Time.

The DACA and employment authorization renewal process

10. How much will it cost to apply for DACA benefits?

The cost to file your DACA application is $555.00 (online) or $605.00 (paper filing).

11. My DACA is expired. Will USCIS refer my case to ICE for enforcement purposes (like detention or deportation proceedings)?

As of August 2026, most current and former DACA recipients have not specifically been subjected to ICE enforcement. But all immigrants without permanent status face increased risks under this administration. NIJC has seen an alarming rise in reports of DACA recipients being arrested, detained and even deported under the administration's current approach towards enforcement. Those cases generally involved applicants with criminal legal contact, so we encourage particular care for applicants who have been charged with crimes, even if charges were ultimately dismissed.

As well, the Government has taken longer and longer to approve DACA renewal applications, often causing individuals' protections to expire. This places individuals at greater risk of enforcement. If your DACA is expired, we recommend that, if eligible, you apply to renew as soon as possible. If you are interested in attending one of our upcoming, free DACA renewal clinics, you can register here. We are updating the calendar frequently with new clinic offerings.

12. My work permit was lost, stolen or destroyed. Can I request a replacement?

If you are currently in a valid period of DACA, you may apply to replace a lost, stolen, or destroyed EAD/work permit by filing a new Form I-765 and paying the $555.00 (online) or $605.00 (paper) filing fee. If your DACA benefits have expired and you are within the timeframe to renew, you may seek to renew your DACA protection and, within that process, seek a new work permit. At present, DACA recipients should continue to receive employment authorization in addition to protection from removal since the Fifth Circuit's decision finding employment authorization through DACA to be unlawful is stayed (paused).

13. Even though I have DACA, I am afraid I might one day be forced to return to my home country, where I fear harm. What can I do?

U.S. immigration laws offer certain protection-based immigration benefits. For example, if you are afraid to return to your home country because you believe you will be harmed ("persecuted") based on your race, religion, nationality, membership in a particular social group or political opinion, you may be eligible for asylum or another protection-based immigration benefit. This is a complex area of the law and requires an in-depth analysis of your specific fear of return. If you are afraid to return to your home country, we recommend that you schedule a consultation with a licensed attorney or DOJ recognized organization.

14. Does the Social Security Number (SSN) I received belong to me forever?

The SSN that you received after your initial DACA grant will belong to you for life. You can continue using your SSN for various matters (banking, housing, education, etc.). To accept employment, you may need to present a valid EAD/work permit to use your SSN for employment.

15. My work permit expires soon; do I have to tell my employer?

If your DACA is close to expiring, we recommend that, if eligible, you apply to renew as soon as possible. If you are interested in attending one of our upcoming, free DACA renewal clinics, you can register here. We are updating the calendar frequently with new clinic offerings.

You are not legally obligated to notify your employer that your work permit is expiring. Your employer is obligated to make sure they are employing individuals who are authorized to work. If your employer asks you for a new work permit, you have until your current work permit expires to produce a new one. If you do not produce a new work permit when your current work permit expires, your employer can terminate your employment. However, the employer must give you the opportunity to present a new work permit and cannot take negative action against you (i.e. terminate your employment) until your current work permit expires.

16. What can I do now?

We encourage you to consult with a legal service provider about the possibility of filing an application for initial or renewal DACA benefits. We also encourage you and your family members to seek a legal consultation to explore other potential forms of immigration relief. NIJC has found that 14.3% of individuals screened for DACA eligibility were potentially eligible for more permanent forms of immigration relief. To request assistance from NIJC, you can use the NIJC Assistant chatbot in the bottom right corner of our website at any time or call 312-660-1370 on Tuesday, Wednesday and Thursday from 8:30 a.m. to 4:30 p.m. Central Time.