

DACA: Preparing for 2019

February 5, 2019



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- For webinar link or registration questions, contact Donna Golub at dgolub@ilrc.org or Helen Leung at hleung@ilrc.org

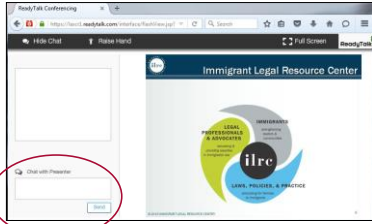
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Questions During the Webinar

Chat Box: You can enter your questions in the chat box, and instructors will answer them, if time permits.



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ILRC Attorney of the Day

- Mon-Thu 10am-5pm
- Our AOD attorneys are available to answer inquiries by e-mail regarding immigration law and practice. Our attorneys will also schedule an appointment for a phone consultation if you request one in your e-mail inquiry.
- To access our AOD service, please contact Philip Garcia at (415) 321-8542, or email pgarcia@ilrc.org to set up a one-time consultation or a contract. For more information, please visit <http://www.ilrc.org/legal-assistance>

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ILRC Attorney of the Day

Free Attorney of the Day

- All CDSS Contractors and Subcontractors
- IOLTA Legal Services Programs in California
- All San Francisco Bay Area Non-Profits
- All NAC Partners with Naturalization questions

Other Attorney of the Day

- Hourly rate pro-rated (6 minute minimum), or
- One-time consultation fee

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Agenda

11:00-11:10

DACA Update

11:10-11:30

Litigation Overview

11:30-11:45

DACA Renewal Tips

11:45-12:00

Other Legal Options

12:00-12:15

Legislative Update

12:15-12:30

Questions and Next Steps

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DACA Update

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DACA Program Overview

June 15, 2012 President Obama Announces DACA

- President Obama announces the DACA Program
- USCIS begins to accept applications from individuals who met the requirements
- 150,000+ initial request were submitted

September 5, 2017 Program Terminated

- Sessions announces the termination of DACA
- States that USCIS will only accept applications from people who DACA expires between 9/5/2017 and 3/5/2018

Jan. 2018 DACA Renewals Accepted

- Court issued injunctions ordering USCIS to start accepting DACA Renewals
- Program open for anyone who has DACA or had DACA

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Update on DACA-Related Litigation

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Lawsuits Challenging the DACA Rescission

- Eastern District of New York/Second Circuit
 - Batalla Vidal v. Nielsen
 - New York v. Trump
- District of D.C./D.C. Circuit
 - NAACP v. Trump
 - Trustees of Princeton University v. USA
- Northern District of California/Ninth Circuit
 - Regents of the University of California v. DHS
 - California v. DHS
 - County of Santa Clara v. Trump
 - Garcia v. Trump
 - San Jose v. Trump
- District of Maryland/Fourth Circuit
 - CASA de Maryland v. Trump

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Current Court Orders Maintaining DACA Renewals

- Regents (N.D. Cal.): Preliminary Injunction Issued on January 9, 2018
 - Injunction affirmed by Ninth Circuit on November 8, 2018
- Batalla Vidal v. Trump (E.D.N.Y.): Preliminary Injunction issued on February 13, 2018
 - Appeal pending before Second Circuit
- NAACP v. Trump (D.D.C.): Order vacating DACA Rescission Issued April 24, 2018
 - Order Reaffirmed by District Court on August 4, 2018
 - Order Narrowed to Parallel Preliminary Injunctions on August 17, 2018
 - Appeal pending before D.C. Circuit, Argument to be held February 22, 2019

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Pending Petitions for Certiorari

- Petition for Certiorari
 - Regents v. DHS (originally filed as certiorari before judgment)
- Certiorari Before Judgment
 - Batalla Vidal v. Trump
 - NAACP v. Trump
- Next SCOTUS conference: February 15, 2019

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CASA de Maryland v. Trump

- District court ruled for government on challenge to DACA rescission
- BUT**
- Injunction preserving DACA information-sharing/privacy protections
 - DACA excluded from recent changes to USCIS NTA policies
 - Cross appeals pending, oral argument held on December 11, 2018

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What about Texas's lawsuit against DACA?

- Texas led a group of states, arguing that DACA is unlawful
- Defendant-Intervenors Perez, et al., and state of NJ because federal agencies would not defend DACA's legality
- Preliminary injunction denied on August 31, 2018
- Trial date set for May 2020

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DACA Renewal Tips

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Who is eligible to apply?

All individuals who were previously granted DACA can apply, including:

- People whose DACA case expired at any time;
- People whose DACA case was terminated; and
- People whose current DACA will expire.

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Filing DACA Renewals

- Applicants whose DACA expired on or before September 5, 2016 must file as Initials
 - Show physical presence on June 15, 2012
 - Must show continuously resided in United States since June 15, 2007
- Applicants whose DACA expires September 5, 2016 to now, can file as Renewals

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DACA Application Packet

- Form I-821D
- Form I-765
- Form I-765WS
- Photocopy of your work permit (both sides)
- Two identical passport-style photographs
- Filing fee of \$495 on a check or money order payable to U.S. Department of Homeland Security

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Processing DACA Applications

- Applications filed as “initials” are being approved
- Renewals are being processed within 2-3 months of filing, with some exceptions
- Applicants still being approved even with law enforcement contact
- DACA recipient information not being shared with ICE for enforcement purposes

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Unsure if you should file a Renewal?

- Those who remain in DACA “status” and/or file to renew before any litigation cancels the program **may** be grandfathered in to the program
- Newer USCIS policy of issuing notices to appear in immigration court do not apply to DACA applicants
- There are agencies covering filing fees for DACA recipients.

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What happens to my work permit?

Work permits remain valid until expiration date- no need to update with employer unless they ask. Your employer cannot ask you about DACA or your immigration case.



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What about my SSN?

Social security number is valid for life - even if your status changes. Some cards have a condition requiring work authorization.



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Filing Fee Support

Organizational

- **United We Dream's DACA Renewal Fund:**
<https://unitedwedream.org/category/daca-renewal-fund/>.
- **Ready California:**
<https://ready-california.org/print-resources/daca-renewal-resources/>.

Loans

- **Self-Help Federal Credit Union:**
<https://www.self-helpfcu.org/personal/loans/immigration-loans>.
- **Mission Asset Fun:**
<https://missionassetfund.org/immigration-programs/>.

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Filing Fee Support

- Fundraising Opportunities:
 - **Gofundme:** Some DACA recipients have started "Gofundme" campaigns to help fund their filing fees:
<https://www.gofundme.com/cause/protect-daca>.

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Not Eligible for DACA?

- Collect documents that can demonstrate eligibility
 - Physical Presence
 - Education
 - Work History
 - Community Involvement
 - Family Relationships
- Save money for future filing fees & legal fees

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Other Immigration Options for DACA Recipients

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Why get a legal consultation?

DACA recipients may be eligible for another immigration benefit and not know it.

15+% of those DACA-eligible found to be potentially eligible for other relief.



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Legal Consultation

Get a Legal Consultation:

Explore alternative forms of status now!

Your situation or the law might have changed since your last consultation.

If eligible, request documents and prepare applications- begin process while still have DACA due to processing times.

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Legal Consultation

Identifying legal options:

- Permanent Residence through a family member
- Parole-In-Place for Military Families
- VAWA for domestic violence victims
- U visa for crime victims
- T visa for trafficking victims
- Asylum
- Temporary Protected Status
- Special Immigrant Juvenile Status
- Acquisition or Derivation of Citizenship
- Employment-Based Options

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Legal Consultation

Explore all possible options available:

- Do they have USC or LPR family members?
- Has anyone ever filed a petition for them or on behalf of a close family member?
- Did they travel on Advance Parole?
- Has the client or a family member ever been the victim of a crime?
- Do they have a close relative serving in the U.S. military?
- Are they afraid to return to their country of origin?
- Do they have an employer willing to sponsor them?

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Watch Out for Fraud!

Get legal advice from a trustworthy source:

- ✓ Check the credentials of the attorney or accredited representative
- ✓ A legal service provider should:
 - provide a contract and receipts for payments
 - explain the process and answer questions
 - follow the rules

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Watch Out for Fraud!

To find a non-profit legal service provider in your area, visit the Immigration Advocates Network Directory:

<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>



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Next Steps: Advocates

- Identify DACA recipients in your database and contact them for a consult- do not wait until a change to DACA!
- Conduct individual consultations screening for all forms of possible relief
- Determine if client was in removal proceedings or if they have a final order of removal or deportation
- Request relevant documents

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Next Steps: Advocates

Gather relevant documents:

- Do FOIA request for copy of file from one of the relevant DHS agencies.
- ILRC FOIA guide:
<https://www.ilrc.org/step-step-guide-completing-foia-requests-dhs>
- Do FOIA with immigration court system (EOIR) and call telephonic system (1-800-898-7180) for immigration court case information.
 - Conduct FBI or state criminal background check for any criminal or other history
 - Request file from prior legal representative

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Next Steps: Advocates

- *Think broadly*
- *Update your screening or intake form to capture relevant information*
- *Discuss or train staff on what to look for*
- *Refer to employment-based or other experts as needed*

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What to Do Now

Renew DACA Now!

Get a Legal Consultation

Stay Informed and Get Involved

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Legislative Update

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History & Brief Recap of the 115th Congress

- Dream Act legislation dates back to 2001, and reintroduced as standalone and part of comprehensive legislative packages
- Numerous bills introduced in House and Senate in 2017 and 2018
 - Dream Act of 2017 (S. 1615, H.R. 3440)
- Series of votes in Senate in February 2018 and in House in June 2018
- Status quo remains with DACA renewals and no legislation signed into law

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Legislation in the 116th Congress

- New Congress in 2019 with a split in majority between the House & Senate
- Legislation must pass both houses and be signed by the President
- Expect Dream legislation to be introduced early this year
- New legislation is also expected to cover Temporary Protected Status (TPS)
- Check back with the ILRC for updates through our website and social media
 - Visit our partners' resources as well

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Dream Act of 2017

- **Conditional Permanent Residence (CPR)**
 - Entered the U.S. before the age of 18
 - Entered the U.S. 4 years prior to date of law's enactment and continuously, physically present in U.S. since that date
 - Is not subject to enumerated inadmissibility grounds and other criminal bars
 - Some waivers are available
 - Admitted to higher education institution; earned high school diploma or GED; or enrolled in secondary school or an education program in order to obtain a high school diploma or to pass GED exam
- CPR status valid for 8 years
- Includes DACA recipients
- **Lawful Permanent Residence (LPR)**
 - Obtained higher education degree or completed at least 2 years towards degree in the U.S.; served in the military for at least 2 years; or employed for at least 3 years
 - Hardship exceptions apply
 - Same bars apply
 - Has not abandoned U.S. residence
- After 5 years, can apply to become a U.S. citizen

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How to get involved

- Contact your Representatives and Senators
 - www.house.gov and www.senate.gov



- Get involved with local or national networks and partners
 - National Immigration Law Center ([NILC](#))
 - United We Dream ([UWD](#))
- DACA Renewal Fund/Scholarship
 - www.DACARenewalFund.com

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Questions and Next Steps

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Thank you for attending!

- Please remember to complete survey
- Make sure you received all materials

Join Our Social Networking Community



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