



DACA

WORKERS' RIGHTS GUIDE

OCTOBER 2020

Prepared in partnership with:



On July 28, 2020 the Department of Homeland Security (DHS) issued a new memorandum that severely limited the DACA program. Under the new memorandum, DHS stated they would reject all initial applications for DACA, limit when advance parole could be approved, and reduce the time of protection from deportation from two years to one year. Because of these changes and attacks, immigrant youth and allies are working tirelessly to inform the community of the new changes and the rights they have despite them. In light of this, many questions have surfaced about DACA workers' rights. This guide is meant to answer some of the most common questions regarding DACA recipients and their rights in the workplace.

FREQUENTLY ASKED QUESTIONS

WHAT RIGHTS DO I HAVE AS A DACA RECIPIENT IN THE WORKPLACE?

Generally, **DACA recipients have the same rights as any other employee in the workplace.** While your work permit is valid, and you can work lawfully, you are protected like other workers. This means that you have certain rights, including the right to not be discriminated against or harassed by your employer or co-workers, to be paid your fair wages, and to receive the benefits that may come with your employment.

HOW OFTEN CAN MY EMPLOYER ASK TO VERIFY MY WORK AUTHORIZATION?

Once you have verified your eligibility to work, your employer should not ask you to verify your work eligibility or how you received your employment authorization. Typically as an employee, you are only required to provide documentation proving your identity and your ability to work in the United States (this is usually satisfied by showing your employment authorization card) and fill out a form known as Form I-9 at the time of hiring. Once hired, your employer should not ask to re-verify your employment eligibility until your employment authorization is about to expire or expires.

If your employer does ask you to re-verify your eligibility to work, they should have a consistent policy that reverifies all employees under the same legitimate circumstances, such as having a policy that reverifies all employees when their employment authorization is about to expire. If your employer only asks to re-verify your eligibility and no other employees, your employer could be engaging in unlawful conduct.

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Similarly, your employer cannot reject your job application or fire you simply because your employment authorization expires in the future or fire you based on your country of origin, citizenship, or immigration status.

AM I REQUIRED TO TELL MY EMPLOYER WHEN MY WORK PERMIT EXPIRES?

You do not have an affirmative obligation to inform your employer that your employment authorization will expire. In other words, it is your employer's job to ask you for your new work permit, and they can only do this when your work permit is about to expire. With that said, it is important to note that if you decide to continue to work after your work permit expires, you will be engaging in unlawful work. This might have immigration consequences in the future if you seek to apply for a more permanent immigration benefit.

AM I REQUIRED TO SHARE MY IMMIGRATION STATUS WITH MY EMPLOYER OR COWORKERS?

As an employee, **you do not have an obligation to inform your employer or coworkers that you have DACA.** Your DACA status is completely confidential and there is no legal obligation to share this information with them under any circumstances. As mentioned above, you generally only have to prove your identity and eligibility to work when you are hired, which can be satisfied by showing your employment authorization document. The only instance in which you will be required to share work permit information will be when your HR department asks you to present your work permit, after the previous one has expired.

WHAT DO I NEED TO DO IF I LOSE MY WORK PERMIT AND I CHANGE JOBS?

If you physically lose your work permit, or your permit is damaged, you can apply for a replacement with USCIS. The work permit will be replaced for the same time period as your previous work permit. While you remain at the same job, you should not be asked to present your new work permit, even if you had to replace it. On the other hand, if you happen to change jobs and your work permit is lost, you might need to wait until you are issued a replacement so you can use it to verify your eligibility to work.

If you no longer are eligible for a work permit, you will be unable to continue to work lawfully. If you change jobs, you will be asked for proof of employment and if you cannot show proof of employment, you might not get the job.

HOW DO THE RECENT ANNOUNCEMENTS BY THE DHS AND UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (USCIS) AFFECT MY DACA RENEWAL?

DHS released a new policy memorandum on July 28, 2020 known as the Wolf Memo and USCIS released guidance to implement the Wolf Memo on August 21, 2020. Under the Wolf Memo and implementing guidance, **only persons who have or had DACA at some point are able to submit their applications for DACA and employment authorization.** Moreover, **all applications granted after July 28, 2020 will only be valid for one year instead of two years. Additionally, USCIS will only accept renewal applications filed between 120-150 days before the current DACA and employment authorization expire.** This means that USCIS will generally reject applications submitted more than 150 days before their expiration date.

You can still submit a DACA renewal application if you have ever had DACA, have DACA, or it was terminated, so long as you are still eligible. For most, submitting a DACA renewal application will be a simple process that will only require you to submit the application packet and a copy of your work permit. On the other hand, if your DACA expired more than a year ago, you will have to include all evidence as if you are applying for the first time.

The cost for a DACA renewal currently remains at \$495, which will have to be paid every year. This means that DACA recipients will essentially be paying \$990 for having DACA for two years.

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For more information about how the memo and guidance applies to you, visit ILRC's DACA page at:
<https://www.ilrc.org/daca>

DO I HAVE DIFFERENT WORK PROTECTIONS IF I HAVE A CONTRACT AND AM UNIONIZED?

In a unionized workplace, the employer typically will be required to comply with specific requirements set forth in the collective bargaining agreement concerning the reverification of bargaining unit members.

When bargaining, the union should demand bargaining over any reverification of bargaining unit members since that would amount to a change in working conditions. Similarly, the union should demand bargaining over an employer's decision to sign up for E-Verify and/or use E-Verify to screen returning bargaining unit members.

For an example of contract language, you can visit the Texas Labor Citizenship [website](#).

WHAT CAN I DO IF I AM BEING TARGETED OR DISCRIMINATED AGAINST BECAUSE OF MY IMMIGRATION STATUS?

Regardless of your immigration status, you are protected against employment discrimination. The law protects individuals against discrimination based on race, color, sex, national origin, religion, pregnancy, disability, age, and citizenship.

Discrimination based on immigration status deals with being asked for paperwork related to your immigration status and can often be linked to discrimination due to your national origin. This type of discrimination occurs when you are treated differently because of your immigration status and the type of work authorization you have. Employers cannot require more or different documents than are legally acceptable for employment verification purposes. Additionally, it also makes it illegal to refuse to honor the documents the employee offers if they are legally acceptable and appear to be genuine.

If you think you are being discriminated against or targeted because of your immigration status, or any other characteristic covered by the law, you can file a complaint to start an investigation. This will require that you show how you were discriminated against. To facilitate the process, you should keep a copy of communications, requirements asked of you and not of others, and interactions with employers or co-workers.

HOW TO BE AN ALLY

It is important that co-workers, supervisors, and companies support DACA recipients in the workplace and be true allies. Workplaces should ensure a safe and supportive work environment is created for all. Below are a few things that companies and co-workers can do to help support. Note that participation in each of these might be different if you are an employer, supervisor, or co-worker and that employers might need to consult appropriate parties before creating certain policies.

- 🔊 **Be transparent when I-9 audits happen in the workspace.** Make general announcements to workers when your company is being audited. For example, in California employers can post the [request for I-9s](#) visibly for employees to be aware of the process. This link will take you to a blog post of this process: [Blog post on the audit process](#).
- 🔊 **Have a welcoming and public facing policy protecting immigrants and temporary employees from discrimination.** Having signage around that clearly states people's rights is important. Welcoming and inclusive messages can go a long way to make workers feel empowered and protected.

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- ↪ **Help to organize and provide legal consultations for employees.** Identify low-bono and pro-bono resources for employees to access as they need them.
- ↪ **Support the immigrant community as U.S. Citizen allies by taking real actions if they witness a raid by Trump's Deportation Force.** (📄: [Information on Workplace Raids/rights](#))
- ↪ **Support one another 🤝 Unionize.** Unions can be open to workers regardless of immigration status. Worker solidarity is important and provides protections for all on bargaining for fair pay and working conditions, and when it comes to immigrants, a chance to negotiate against wage theft, representation in negotiations and labor disputes, or even announcements of I-9 audits among other benefits.
- ↪ **Find ways to support DACA employees with renewal fees.** Identify a private or public immigrant fund that provides fees assistance and/or donate to local funds supporting immigrants. Be careful about offering to pay your employees fees outright, this can be seen as coercive.

Know Your Power
Record and Report:

- Step 1** - Ensure Audio and recording is on and ready to be used and linked to a cloud.
- Step 2** - Get information of the officer's, name, badge and agency.
- Step 3** - Narrate the date, time and location of event.
- Step 4** - Do not disclose the information of your loved ones or yourself to the agents.
- Step 5** - Report it to the **MigraWatch** Hotline and send your video/pics to migrawatch@unitedwedream.org

Always remember you have the power to make choices, you have a choice over your safety, how you respond and what you choose to share.
To learn more about your power and your rights visit:
unitedwedream.org/knowyourpower

While asserting our rights does not guarantee the stop of arrest at the moment, it is important to exercise our rights to facilitate our defense. You are not alone. Our movement is ready to support you, fight for your freedom, and reclaim the humanity of our community.

unitedwedream.org/knowyourpower Text KnowYourPower 877-877

← CLICK FOR MORE TOOLS →

Know Your Power
Defend Yourself: If Immigration Agents Come to your workplace

- **Remain Silent** - if you chose to speak remember to not lie.
- **Show** your valid documentation or a copy of your pending process.
- **Ask for a warrant** and check to see if your name is on it and if so, ensure that it is spelled correctly.
- **Do not sign** anything.
- Do not consent to being search - **verbally say** ... "I do not consent to being searched"
- **ICE Lies:** Do not agree to what ICE asks, for example, do not follow them to their office, to immigration offices like USCIS or do not agree to meet them for coffee.

While asserting our rights does not guarantee the stop of arrest at the moment, it is important to exercise our rights to facilitate our defense. You are not alone. Our movement is ready to support you, fight for your freedom, and reclaim the humanity of our community.

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📖 DO'S & DON'TS FOR ALLIES

For DACA workers, having uncertainty about their ability to work and or legal status has a huge impact on their emotional, mental and physical health. Not having a safe environment for vulnerable co-workers can lead to uncomfortable and risky situations with management and other peers at the workplace. An unsafe environment can also prevent individuals from asking for the help or support they need. As a supervisor or coworker you have the responsibility to maintain a safe work environment for everyone, below are some simple Do's and Don'ts that can allow you to achieve this:

DO'S (FOR SUPERVISORS AND COWORKERS)

- ✓ If a DACAdmented employee approaches for help, listen to their stories and needs.
- ✓ Ensure that the conversation is taking place in a safe space or setting.
- ✓ Ask for permission before you ask follow-up questions.
- ✓ Report any discrimination incidents against your DACAdmented coworkers.

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- ✓ Advocate within your organization to have friendly policies that support immigrant coworkers.
- ✓ Spend time educating yourself about DACA's history, facts and policy updates.

DON'TS (FOR SUPERVISORS AND COWORKERS)

- ✗ Do not use derogatory terms to address them such as "illegal" or "alien", and educate other coworkers who may use such terms.
- ✗ Don't assume a coworker's family immigration situation is all the same.
- ✗ Don't share confidential information to other colleagues, family or friends in-person or online.
- ✗ Do not tag your DACAmented coworker on social media, even if it's for a local resource you think may help them, use a private message, text or a personal email instead.
- ✗ Do not question how they chose to protect or advocate for themselves or their families.
- ✗ Do not pressure them to share confidential information under any circumstances.



ADDITIONAL RESOURCES

✗ **[Top 5 things you need to know on the new DHS memo ending DACA as we know it](#)**

On June 18th the Supreme Court announced what we know is right: that Trump's decision to end the DACA program was arbitrary and capricious. However, the Trump Administration, in defiance of SCOTUS, announced changes to the program. Click the link above to learn the Top 5 things you need to know about the July DHS memo.

✗ **[Know Your Power](#)**

ICE and CBP might not respect our rights, but they cannot take away our POWER. Use these resources in case you have a run in with an immigration official.

✗ **[9 Tips To Find Good Legal Help](#)**

This document is only meant as a resource to help you discern between a legitimate lawyer or notary and one that might want to take advantage of you and your situation. Inaccurate legal advice can have a long term impact on your adjustment process and status.

✗ **[Immigrants Rising - Beyond DACA](#)**

Immigrants Rising compiled resources to help DACA recipients explore their options as an immigrant—with or without DACA. Whether it's learning about the long-term immigration options, renewing and applying for DACA, starting their own businesses, or taking care of mental and emotional well-being, they provide a number of resources that help DACA recipients navigate their undocu-journey.

✗ **[Steps to Take If Your DACA Renewal Is Delayed](#)**

This page is compiled of different questions and answers on steps you can take if your DACA renewal is delayed. This page will be incredibly important, especially considering that COVID-19 has brought many delays within the mailing system.

✗ **[Immigration Advocates Network](#)**

When you click on this website, you will be able to access the tools that Immigration Advocates Network has created to provide information regarding a number of topics including access to pro bono or low bono legal services, learn about immigration law and civil rights as well as accessible information about rights,

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immigration options, information for allies and where to go for help.

✦ **More Frequently Asked Questions About DACA and Your Workplace**

This page will go into more details about DACA and the workplace.

✦ **Informed immigrant**

Website with resources for undocumented people and allies.

PARTNER WEBSITES:



<https://www.texasaflcio.org/>



<https://www.unitedwedream.org/>

