

DACA Renewal 2026: Process, Parole and Risks

A comprehensive guide from EB5 Attorneys

DACA (Deferred Action for Childhood Arrivals) renewal is the process by which current DACA recipients submit Form I 821D and Form I 765 to maintain their deferred action status and work authorization for another two years. As of April 2026, DACA remains subject to active litigation, and new initial applications are not being accepted. Renewals continue for existing recipients under court orders, but the program's long term future is uncertain. This guide covers the current renewal process, advance parole risks, employment authorization, and limited pathways toward permanent residence.

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Current Legal Status of DACA in 2026

DACA was created by executive action in June 2012. It has been subject to continuous legal challenges since 2017. In July 2021, U.S. District Judge Andrew Hanen ruled DACA unlawful under the Administrative Procedure Act. The Fifth Circuit Court of Appeals affirmed that ruling in October 2022. The Biden administration published a final DACA regulation in the Federal Register in August 2022 (87 Fed. Reg. 53152), which the Fifth Circuit also found unlawful for new applicants while allowing renewals for existing recipients to continue pending further appeals. The Supreme Court declined to take the case on an expedited basis. As of April 2026, DACA renewals for existing recipients remain available under a standing injunction, but initial grants for new applicants are blocked by court order. USCIS continues to accept and adjudicate renewal applications from individuals who previously received DACA. Recipients should file renewals as early as permissible (no more than 150 days before expiration per USCIS policy) because any gap in DACA status results in loss of work authorization and deferred action protection. The program's future depends on additional appellate proceedings and potential congressional action. No legislation providing DACA recipients a path to permanent residence has passed Congress as of this writing. Recipients should consult an immigration attorney for current status updates given the rapidly shifting litigation environment.

Form I 821D: The DACA Renewal Application

DACA renewal requires filing Form I 821D (Consideration of Deferred Action for Childhood Arrivals) along with Form I 765 (Application for Employment Authorization) and the required filing fees. As of April 2026, the combined filing fee for Form I 821D and Form I 765 is \$495 (\$85 biometric services fee plus \$410 for the I 765). There is no government filing fee for Form I 821D itself when filed for renewal; the \$495 covers the full package. USCIS publishes current fee schedules at uscis.gov and fees are subject to change. Form I 821D requires recipients to certify that they: arrived in the United States before age 16; continuously resided in the United States from June 15, 2007 through the date of filing; were physically present in the United States on June 15, 2012 and at the time of filing; had no lawful status on June 15, 2012; are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a GED, or are an honorably discharged veteran; and have not been convicted of a felony, a significant misdemeanor, or three or more other misdemeanors, and do not pose a threat to national security or public safety. For renewals, USCIS relaxes some initial grant requirements. Recipients renewing do not need to re establish all initial eligibility criteria, but must certify they have not been convicted of a disqualifying offense since their prior grant. Supporting documentation for renewals typically includes a copy of the prior DACA approval notice, government issued identity document, evidence of continuous presence if requested, and documentation of any name change. USCIS may issue a Request for Evidence (RFE) for additional documentation.

Employment Authorization Document Tied to DACA

DACA recipients receive an Employment Authorization Document (EAD) under category (c)(33), which is the DACA specific category under 8 CFR 274a.12(c)(33). The EAD is valid for two years and is automatically linked to the underlying DACA grant period. The EAD allows the recipient to work legally for any employer in the United States without restriction on the type of job or industry. Recipients use the EAD with their unexpired card to establish work authorization on Form I 9. Employers complete Form I 9 using the EAD as a List A document, which establishes both identity and employment authorization. DACA recipients should keep their EAD current at all times. An expired EAD means the recipient can no longer legally work. Auto extension provisions that apply to some EAD categories do not automatically apply to DACA EADs in the same manner as other categories. Recipients should track their EAD expiration date carefully and file renewals early. USCIS processing times for DACA renewals have fluctuated between two months and seven months over recent years; filing early reduces the risk of a gap in work authorization. DACA also allows recipients to obtain Social Security numbers, which are required for legal employment. Recipients who did not obtain a Social Security number when first granted DACA can apply through the Social Security Administration by presenting their DACA approval notice and EAD. Social Security numbers obtained through DACA are valid for work authorized purposes only and are annotated accordingly.

Advance Parole for DACA Recipients: Risks and Procedures

Advance parole is permission granted by USCIS allowing a noncitizen to travel outside the United States and return without obtaining a new visa. Form I 131 (Application for Travel Document) is used to request advance parole. USCIS may grant advance parole to DACA recipients for humanitarian, educational, or employment purposes. The advance parole application fee is currently \$630. To qualify, DACA recipients must demonstrate a specific legitimate purpose for travel: humanitarian purposes (medical treatment, attending a funeral or a seriously ill relative), educational purposes (semester abroad program, academic conference), or employment purposes (work training, conference attendance, international assignment). General tourism does not qualify. USCIS reviews each advance parole request individually. Approval is not guaranteed and is discretionary. If approved, the recipient receives Form I 512L, which must be presented at the port of entry upon return. Critically, advance parole is granted before travel. DACA recipients who depart the United States without first receiving an approved advance parole document may be deemed to have abandoned their DACA status and may be subject to bars on reentry based on unlawful presence accrued before their DACA grant. The interaction between DACA, unlawful presence, and advance parole is legally complex and has been the subject of conflicting agency interpretations. A 2012 USCIS policy indicated that travel on advance parole could allow DACA recipients who accrued unlawful presence to subsequently adjust status, because the parole would make them eligible for adjustment of status under INA section 245(a). However, the current litigation environment has created uncertainty about whether DACA recipients who travel and return on advance parole can successfully adjust status to permanent resident. Some recipients have used advance parole and subsequent adjustment of status to obtain green cards through marriage to U.S. citizens. Courts have generally supported this pathway, but it is fact specific and carries risks if the DACA program's legal status changes during travel. Do not travel on advance parole without consulting a qualified immigration attorney first.

Risks of International Travel on Advance Parole

Even with an approved advance parole document, international travel for DACA recipients carries serious risks that must be carefully evaluated. The unlawful presence bars under INA section 212(a)(9)(B) can trigger a three year bar for recipients who accrued unlawful presence of more than 180 days and a ten year bar for unlawful presence exceeding one year. USCIS policy has generally held that deferred action (including DACA) stops the accrual of unlawful presence, meaning time spent in DACA status does not count toward the unlawful presence bars. However, time spent in the United States before receiving DACA may have accrued unlawful presence. If a DACA recipient traveled after the DACA program is found unlawful by a court and their status is terminated before they return, they may be treated as an arrival without inspection, triggering inadmissibility grounds. Certain countries present additional risks for DACA recipients. Travel to countries with high political instability, countries with difficult relationships with U.S. immigration authorities, or countries from which the recipient originally fled may expose them to dangers that affect their ability to return. At ports of entry, Customs and Border Protection (CBP) officers have discretionary authority to question the basis for the advance parole. CBP may conduct additional screening of DACA recipients. Officers who disagree with the advance parole grant or who have concerns about the recipient's admissibility may refer the case for secondary inspection or, in rare cases, may seek to deny entry. Recipients should carry copies of all DACA approval notices, the advance parole approval, evidence of the purpose of travel, and evidence of ties to the United States when returning from travel.

Biometrics Appointment

When USCIS schedules a biometrics appointment for a DACA renewal, the applicant must appear at the designated Application Support Center (ASC) to provide fingerprints, photograph, and signature. USCIS uses biometric data to run background checks through the Federal Bureau of Investigation (FBI) and Department of Homeland Security (DHS) databases. The biometrics appointment notice (Form I 797C) specifies the ASC location, date, and time. Recipients should bring the appointment notice and a valid government issued photo ID. Acceptable IDs include a passport, state issued driver's license, or other government ID. Failure to appear for a biometrics appointment without rescheduling may result in denial of the DACA renewal application. If a recipient cannot attend the scheduled appointment, they should contact USCIS immediately to request rescheduling. USCIS typically permits one reschedule request without penalty. After the biometrics appointment, USCIS will continue adjudicating the renewal application. Processing times vary, and recipients can check case status online using their receipt number at uscis.gov.

State Driver's License Rules by State

State rules on driver's licenses for DACA recipients vary significantly. Following the REAL ID Act (Pub. L. 109 13), states establish their own rules for issuing driver's licenses to noncitizens. Most states allow DACA recipients to obtain standard state driver's licenses based on their EAD and DACA approval notice. However, REAL ID compliant licenses (which are required for federal purposes like domestic air travel starting in 2025) require proof of lawful status, and DACA status is deferred action rather than lawful status. Some states issue REAL ID compliant licenses to DACA recipients by interpreting deferred action as an authorized stay; others issue only non REAL ID licenses. States that have historically provided licenses to DACA recipients include California, Texas, Illinois, New York, Florida, and most others. States with more restrictive policies have changed their positions over time. As of 2026, recipients should check their specific state's DMV requirements directly, as rules have evolved and may continue to change based on state legislative action and court orders. Some states require recipients to present their DACA approval notice, EAD, and Social Security number. Others require additional documentation. License validity periods often align with the EAD expiration date, so recipients must renew their driver's license when they renew their DACA status.

What Happens If DACA Ends

If DACA is terminated by court order or executive action, recipients would lose their deferred action status and employment authorization on whatever date the termination takes effect. USCIS would be required to stop renewing DACA applications. Existing EADs would expire on their stated expiration dates with no option for renewal through the DACA program. Recipients who are in valid DACA status at the time of termination would not be immediately subject to removal proceedings, but their period of deferred action would end, and they would revert to whatever prior immigration status they held. For most DACA recipients, that status is undocumented. Without deferred action, they would be potentially removable under INA section 237. The practical impact depends on enforcement priorities at the time. Historically, DACA recipients have not been a priority for removal enforcement, but enforcement priorities can change. Recipients should consult with an immigration attorney about contingency planning. Options to explore include whether adjustment of status through a qualifying family relationship is possible, whether a pending petition filed before DACA ends might preserve certain rights, or whether departure for consular processing could be advantageous in some circumstances. Recipients who accrued unlawful presence before DACA and who have U.S. citizen immediate relatives may be eligible for Form I 601A (Provisional Unlawful Presence Waiver), which could facilitate departure and consular processing for a green card.

Pathways to Permanent Residence for DACA Recipients

DACA itself does not provide a pathway to permanent residence. Recipients must qualify through existing immigration categories. The most common pathway is marriage to a U.S. citizen. A DACA recipient who marries a U.S. citizen is an immediate relative under INA section 201(b), meaning there is no annual cap on visa availability. However, adjustment of status under INA section 245(a) requires that the applicant was inspected and admitted or paroled into the United States. DACA recipients who entered without inspection (crossing the border without a visa) are not eligible for adjustment of status unless they have a qualifying entry. Those who traveled and returned on advance parole have been paroled into the United States and may qualify for adjustment of status. Recipients who have never used advance parole and who entered without inspection generally cannot adjust status inside the United States and must depart for consular processing. Departing triggers the unlawful presence bars if applicable. A qualifying relative who is a U.S. citizen spouse can file Form I 601A (Provisional Unlawful Presence Waiver) before the DACA recipient departs, reducing the time the recipient spends outside the United States. Employment based pathways are available but less common. A DACA recipient who is sponsored by an employer for an employment based green card must also satisfy the inspection and admission requirement for adjustment of status. VAWA (Violence Against Women Act) petitions allow DACA recipients who are survivors of abuse by a U.S. citizen or lawful permanent resident spouse or parent to self petition under INA section 204(a)(1)(A). VAWA petitioners may adjust status even if they entered without inspection. Congressional action remains the only source of a broad pathway for DACA recipients not covered by existing categories. As of April 2026, no such legislation has been enacted.

Frequently Asked Questions

1. Can I still renew my DACA in 2026?

Yes. As of April 2026, DACA renewals are available for existing recipients under federal court injunctions. USCIS continues to accept and adjudicate Form I 821D renewal packages. Initial applications for individuals who have never received DACA remain blocked by court orders. File your renewal as early as possible (up to 150 days before expiration) to avoid gaps in your employment authorization.

2. What documents do I need for a DACA renewal?

Standard renewal documentation includes your prior DACA approval notice (Form I 797), a copy of your current EAD, and completed Forms I 821D and I 765 with the required filing fee of \$495. USCIS may request additional documentation through an RFE. If there have been any changes to your information (name, address, criminal history) since your last approval, include documentation of those changes. Your attorney or accredited representative can confirm the current documentation requirements at the time of filing.

3. Is it safe to travel outside the United States with advance parole?

Advance parole carries meaningful risks for DACA recipients that must be individually assessed before travel. If you accrued unlawful presence before DACA and your DACA status were terminated while you were abroad, you could face bars on reentry. CBP has discretion to question your admissibility at the port of entry. Courts have generally allowed DACA recipients who travel on advance parole and return to subsequently adjust status, but the legal picture remains unsettled. Consult a qualified immigration attorney before departing the United States on advance parole.

4. Can DACA recipients get a green card?

DACA itself is not a pathway to a green card. However, DACA recipients may qualify for permanent residence through other categories: marriage to a U.S. citizen (if they have a qualifying entry or have used advance parole), employer sponsorship (same entry requirement), or VAWA self petition (if they are a survivor of abuse by a qualifying relative). Recipients who entered without inspection and have not used advance parole generally must depart for consular processing, which may trigger unlawful presence bars. Individual circumstances vary significantly, and an immigration attorney's analysis of your specific case is essential.

5. What happens to my DACA if I get a misdemeanor conviction?

A significant misdemeanor conviction (defined by USCIS to include any offense with a sentence of more than 90 days, or DUI regardless of sentence length, among others) disqualifies a DACA recipient from renewal under current USCIS policy. Three or more non significant misdemeanors also disqualify a recipient. If you have been arrested or convicted of any offense, you should consult an immigration attorney before filing a DACA renewal, as the interaction between criminal history and immigration consequences is complex and fact specific.

6. How long does a DACA renewal take to process?

USCIS processing times for DACA renewals have ranged from approximately two months to seven months, depending on USCIS workload and case complexity. Current processing times are posted on the USCIS website at uscis.gov/manage-case. Filing early (up to 150 days before your EAD expires) is the best protection against a gap in employment authorization. If your EAD expires before your renewal is adjudicated, you may lose work authorization temporarily.

Disclaimer: This guide is provided for general informational purposes only and does not constitute legal advice. Every immigration case is unique. Consult a qualified immigration attorney for advice specific to your circumstances.

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