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USCIS Implements DHS Guidance on DACA

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U.S. Citizenship and Immigration Services today provided guidance on how it will implement Acting Secretary of Homeland Security Chad Wolf's [July 28 memorandum \(PDF\)](#) regarding the Deferred Action for Childhood Arrivals (DACA) policy.

Under USCIS' [implementing guidance \(PDF, 1.7 MB\)](#), we will reject all initial DACA requests from aliens who have never previously received DACA and return all fees. The rejections will be without prejudice, meaning aliens will be able to reapply should USCIS begin accepting new requests in the future from aliens who never before received DACA. USCIS will continue to accept requests from aliens who had been granted DACA at any time in the past and will also accept requests for advance parole that are properly submitted to the address specified on the Direct Filing Addresses for Form I-131 webpage.

For approvable DACA renewal requests, USCIS will limit grants of deferred action and employment authorization under DACA to no more than one year, but will not rescind any currently valid two-year grants of DACA or associated employment authorization documents (EADs), unless USCIS terminates an alien's DACA for failure to continue to meet the DACA criteria (see 2012 Memorandum), including failure to warrant a favorable exercise of prosecutorial discretion. USCIS will replace two-year EADs that are lost, stolen or damaged with the same facial two-year validity period assuming the EAD replacement application is otherwise approvable.

USCIS will generally reject requests received more than 150 days before the current grant of DACA expires. DACA recipients should file their renewal request between 150 and 120 days before their current grant of DACA expires.

USCIS will only grant advance parole for travel outside the United States to DACA recipients pursuant to the new guidance, which provides for a determination that parole of the alien is for urgent humanitarian reasons or significant public benefit in keeping with the governing statute. The agency will not rescind any previously granted advance parole documents unless there is another legal reason to do so. However, as has always been the case, parole into the United States is not guaranteed. In all cases, aliens are still subject to immigration inspection at a port-of-entry to determine whether they are eligible to come into the United States.

The determination whether to grant advance parole to an alien is entirely within the discretion of USCIS and must be made on a case-by-case basis. USCIS will review all the factors presented in individual cases before determining whether to approve advance parole for a DACA recipient based on the new guidance.

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Some examples of circumstances that may warrant approval include, but are not limited to, situations such as:

- Travel to support the national security interests of the United States;
- Travel to support U.S. federal law enforcement interests;
- Travel to obtain life-sustaining medical treatment that is not otherwise available to the alien in the United States; or
- Travel needed to support the immediate safety, wellbeing or care of an immediate relative, particularly minor children of the alien.

Even if a requestor establishes that their situation meets one of the examples above, USCIS may still deny the request for advance parole in discretion under the totality of the circumstances.

CAUTION: If you travel outside the United States on or after Aug. 15, 2012, without first receiving advance parole, your departure automatically terminates your deferred action under DACA.

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