



## September 2, 2021

On July 16, 2021, DACA was greatly impacted by a district court decision in Texas, et al., v. United States of America, et al., 1:18-CV-00068, (S.D. Texas July 16, 2021). The district court in this case held that the DACA program is unlawful and remanded the DACA policy to the Department of Homeland Security (DHS). The federal government has subsequently [announced](#) that it intends to appeal the decision.

Due to the remand as well as the pending appeal, more changes to DACA are soon to come. For up to date information during these uncertain times, students can refer to this webpage, the [USCIS](#) website, as well as the Immigrant Legal Resource Center's [DACA Toolbox](#).

Current state of DACA for first time applicants:

- USCIS is still accepting first-time DACA applications along with accompanying requests for employment authorization. HOWEVER, USCIS is prohibited from processing or approving new applications.
- If you have an initial DACA request currently pending with USCIS, your request will remain on hold in compliance with the court order and will not be processed or approved at this time. However, if you filed a DACA renewal request and are scheduled for biometrics after July 16, 2021, USCIS is directing that you still attend your scheduled biometrics appointment and proceed with the DACA renewal process.
- USCIS has stated that because initial DACA requests will remain on hold, it will not issue refunds while the court order remains in effect. Therefore, USCIS will not refund the \$495.00 application fee for first-time DACA applicants at this time.
- During the pendency of the court's remand and the Department of Justice's appeal, it is not clear if there is any advantage to submitting an initial DACA request right now. In the meantime, persons should continue to be screened for DACA eligibility and other forms of relief in case there are additional developments in the coming weeks and months.

Current state of DACA for applicants looking to renew their status:

- USCIS is continuing to process DACA renewal requests according to existing policy for people who already obtained DACA status before July 16, 2021.
- People who previously obtained DACA on or before July 16, 2021, but whose status has expired can continue submitting requests and getting those requests approved so long as it has not been one year or more since the expiration date. Unfortunately, USCIS treats requests filed a year or more after the expiration as initial DACA requests and is currently prevented from processing or approving them.

- Persons should continue to submit their DACA renewals 120 to 150 days before their DACA and employment authorization expire.
- USCIS has clarified that it will continue to approve Advance Parole requests for persons who currently have DACA and meet all other requirements. That being said, it is important to discuss the risks associated with upcoming changes to the DACA policy with an immigration attorney before deciding to travel outside the United States.
- Persons should continue to submit their DACA renewals 120 to 150 days before their DACA and employment authorization expire.