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The City University of New York

CUNY SCHOOL OF LAW

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Frequently Asked Questions (FAQs) for CUNY Students & Other New Yorkers Impacted by the Termination of DACA

Current as of September 25, 2017

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The Immigrant and Non-Citizen Rights Clinic (INRC) provides direct services, advocacy and educational resources for immigrants seeking either to be free from U.S. custody or to live in the U.S. without fear, exploitation or subordination. We seek to be flexible, holistic and creative, responding to the changing needs of our immigrant students, and the communities we serve. Read more about us [here](#).

The Health Law Practice Clinic provides research and information on health care access, educational access and professional licensing and places law students with organizations addressing a range of health-related issues. Read more about us [here](#).

The Planning with Parents Project organizes know your rights workshops and free walk-in clinics on advance planning documents and arrangements for parents and families at risk of removal. Read more about us [here](#).

Immigration-Related Questions

Is my DACA status now invalid?

No, your DACA status is valid until the expiration date listed on your approval notice.

If my DACA is expiring soon, can I renew now?

Yes, if your DACA is expiring on or before March 5, 2018, you must renew now! The United States Citizenship and Immigration Services (USCIS) will accept only those DACA renewal requests received by October 5, 2017. If possible, submit your application via express-mail and request a confirmation receipt so you have proof that USCIS received the application by the October 5th deadline. Importantly, if you have had any interaction or trouble with law enforcement since your last application, consult an immigration attorney before submitting your renewal application.

If my renewal application is approved, what will the time period of my DACA renewal be?

USCIS has indicated that the DACA renewal period will be two years from the date that USCIS renews your application. For example, suppose your DACA status will expire on March 4, 2018 and you submit your application for renewal by October 4, 2017. If USCIS grants your petition on November 4, 2017, your DACA status will be renewed for two years starting on November 4, 2017. Your DACA status will now span from November 4, 2017 to November 4, 2019, not from March 4, 2018 to March 4, 2020.

Will the information that I provided to USCIS for my DACA application be shared with ICE for immigration enforcement purposes?

Current [USCIS policy](#) states that the information that you provided to USCIS will not be shared with ICE for immigration enforcement. However, according to USCIS, your “information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of DACA, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense.” In short, there are no guarantees that your information will not be shared, so consult an immigration attorney before providing any *new* information to the U.S. government.

I moved since I last applied for DACA two years ago. Do I need to provide USCIS with my new address if I am renewing my DACA status?

If you moved since you last submitted an application two years ago, you will need to list your new address when you apply for DACA renewal. Generally, most non-U.S. citizens must report a change of address to USCIS within ten days of moving. To weigh the risk of sharing your new address, please speak with an immigration attorney.

My DACA is about to expire and I still have not received my renewal, what does that mean?

If your DACA renewal is still pending and your present DACA has expired, you will be without work authorization and DACA status until you receive a renewed employment authorization document and DACA. You can try to speed up the decision on your application by filing a [USCIS Service Request](#), filing a report with the [DHS Ombudsman's Office](#) and/or contacting your local representative.

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How much will it cost to renew my DACA status?

There is a \$495.00 fee to renew your application, but there are many scholarships and grants available to cover your fees. Please see below for a link to a number of organizations that will be able to cover DACA renewal fees. Additionally, fees for all CUNY DACA students will be covered at CUNY Citizenship Now!'s screening and renewal events. Fees for non-CUNY students may also be covered if they meet certain income eligibility guidelines.

What level of priority are DACA recipients for potential deportation now?

In the official White House statement on DACA, the President [stated](#) that “[o]ur enforcement priorities remain unchanged. We are focused on criminals, security threats, recent border-crossers, visa overstays, and repeat violators. I have advised the Department of Homeland Security that DACA recipients are not enforcement priorities unless they are criminals, are involved in criminal activity, or are members of a gang.” If you believe the government may attempt to classify you in the above categories, please speak to an immigration attorney before submitting your renewal application and highlight your concerns.

While I am in still in DACA status, can I apply for other immigration benefits, such as asylum, green card, etc.? Is there any other way for me to get a work permit?

Yes, you might be able to apply for other immigration benefits. As there are many factors that will determine your eligibility for other immigration benefits, please consult an immigration attorney as soon as possible to find a legal solution. Even if you have consulted with an immigration attorney in the past to assess your immigration options outside of DACA, we recommend you speak to an immigration attorney again to reassess whether there are any new avenues of relief available for you.

What are the possibilities that DACA will not terminate or another similar pathway to status will be provided?

There are now six lawsuits challenging the termination of DACA as unconstitutional and unlawful. Two are pending in a federal court in New York. Four are in federal courts in California. One of the lawsuits was brought by the New York State Attorney General. Federal legislation has been proposed to provide protection and a pathway to immigration status for those who came to the country as children.

For more resources on immigration advice and screening for those with expiring DACA, please see:

[CUNY School of Law DACA Library Guide](#)

[The New York Immigration Coalition: DACA Referrals Guide](#)

[DACA Renewal Grants & Scholarships: My Undocumented Life](#)

[CUNY Citizenship NOW: DACA](#)

Employment, Work Authorization & Driving

My work permit is expiring soon, can I renew now?

Yes, as with your DACA status, if your employment authorization document (EAD) expires on or before March 5, 2018, you must submit a renewal application by October 5, 2017. If your EAD is expiring after March 5, 2018, it is valid until the expiration date. The date your work permit expires is listed on the right-hand side of your EAD.

What will happen to my current employment once my work permit expires?

If your work permit expires, you may lose your job due to federal laws barring employers from employing those without valid work authorization. However, you may be able to apply for other immigration benefits and subsequently receive a work permit through those applications. Speak to an immigration attorney to explore whether you may still be self-employed.

Can an employer refuse to hire me because I will have an expired work authorization document in the near future?

Refusal to hire an employee solely because their employment authorization may expire sometime in the future may violate the anti-discrimination provision of the Immigration and Nationality Act. Employers cannot refuse to hire an individual only because their employment authorization may expire in the future.

Will my employer know that my DACA status is going to expire?

Generally, when employers hire new employees they require a new employee to submit a copy of their social security number and work permit. Your employer will likely be aware of the date your work permit expires and may ask you for an updated work permit. You are under no obligation to tell your employer that you have DACA status that is expired or will expire.

What are the consequences of continuously working without a valid work permit?

Working for an employer without authorization will generally not expose you to additional immigration or criminal consequences different from those you may already face on account of living in the U.S. without documentation. An employer faces fines and potential criminal prosecution for hiring or continuing to employ persons who do not have federal work authorization. Presenting false documents or assuming a false identity to continue working can lead to criminal prosecution and additional immigration related consequences. Many individuals with DACA have done volunteer work and can continue to do that. Some individuals continue their occupations and pay taxes as self-employed. Please consult with an immigration attorney to identify legal options that may exist for you to continue working in the United States.

After my DACA status expires, is my Social Security Number still active?

Your Social Security Number will remain active even after the expiration of your DACA status, it is yours forever and you can use it to file federal and state income tax returns regardless of your immigration status. However, once your work permit expires, your Social Security number will no longer be valid for an employment authorization check.

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I got a valid driver's license after I got my DACA status. What happens to my driver's license when my DACA expires?

The state you are living in will determine what happens to your driver's license after DACA status has expired. Some states might allow undocumented immigrants to use their driver's license regardless of their DACA status. In New York, your license will remain valid until its expiration date. You will not be able to renew your driver's license in New York if your DACA status expires unless you qualify for another form of immigration relief.

For more resources on your rights on employment, IDs and licenses, please see:

[The Department of Justice Immigrant and Employee Right's Sections FAQs](#)

[Legal Aid at Work: Undocumented Workers Employment Rights](#)

[ID NYC](#)

[National Immigration Law Center: DACA Employment FAQs](#)

[NYC Comptroller's Report -The Road to Opportunity: Granting Driver's Licenses to all New Yorkers](#)

Educational Pursuits & Professional Licensing

Can ICE obtain information about me from my educational institution, including CUNY? What are CUNY's obligations to protect my privacy?

The Federal Educational Rights and Privacy Act (FERPA) provides guidance on how universities and other educational institutions must protect student information. On December 14, 2016, Chancellor Milliken [stated](#) that CUNY would not turn over student information to enforcement authorities except pursuant to court order or lawfully issued subpoena. Note that nonimmigrant students and exchange visitors on CUNY campus who entered the United States with student visas or through other exchange programs can expect that their educational enrollment records will be shared with the U.S. government through the Student and Exchange Visitor Program System (SEVIS).

Am I safe from law enforcement agents while on my CUNY campus?

Chancellor Milliken [stated](#) on December 14, 2016 that immigration enforcement would not be allowed to enter campuses except if required by warrant or court order. While private spaces like dorm rooms or classrooms may be protected, city streets and external courtyards may still be accessible to Immigration and Customs Enforcement ("ICE") without a warrant. If you go to another university check on that institution's policies.

If my DACA status expires, am I still eligible for in-state tuition?

Even without valid immigration status, you may remain eligible for in-state tuition in New York if you meet the following criteria:

- You have attended for at least two years and graduated from an approved New York State high school and apply to enroll at a SUNY, CUNY, state-operated, or community college within five years of receiving a high school diploma, or
- You have attended an approved New York State program for General Equivalency Diploma preparation, received a GED issued in New York State, and enrolled at a SUNY, CUNY, state-operated, or community college within five years of graduating high school.

Given this criteria, those with expired DACA status and other undocumented immigrants, may still be eligible for in-state tuition if you meet the above criteria that governs where and when you graduated from high school or received your GED. Other states also have in-state tuition policies.

If my DACA status expires, what financial aid will I be eligible for? What other scholarships? Can I participate in work-study programs on campus?

DACA recipients generally do not and will not qualify for work-study or any other types of state and federal student loans and/or financial aid. Regardless of immigration status, though, private funds, scholarships and financial aid may be available for you. Consult your school financial aid office to see if there are other scholarships or resources available through private donors and foundations.

If my DACA status expires, what impact will it have on my current student loans? Can I apply for additional loans?

Presently, it is unclear what impact the rescindment of DACA will have on state student loans.

Regarding private student loans, if you did not have to disclose your immigration status while applying for such loans, the change in your immigration status will likely not impact your loans.

I hope to attain professional licensure in my field of study. Will I still be eligible for professional licensure in New York State after the expiration of my DACA status?

New York State regulation affords eligibility for professional licenses to DACA recipients and non-citizens who are PRUCOL, permanently residing under color of law. If DACA expires, those who have been afforded DACA should be considered as Persons Residing Under the Color of Law (PRUCOL) in New York State and eligible for professional licenses. Generally, people with expired DACA status will be residing in New York with the knowledge and acquiescence of federal authorities (unless a particular individual is in removal proceedings without a pending application for immigration relief).

For more resources on matters relating to educational settings and licensing, see:

[The Harvard Law Immigration Response Initiative Sanctuary Campus Toolkit](#)

[CUNY Non-Citizen Financial Aid Eligibility](#)

[CUNY: Scholarships for DREAMers](#)

[CUNY Citizenship Now! In-State Tuition Eligibility Brochure](#)

[NY State Education Department: Office of Professions](#)

Interactions with DHS & Other Law Enforcement

I have DACA and I'm planning to renew before October 5, 2017. Since my last renewal, I was arrested and charged with a crime. Should I still renew my DACA?

Maybe yes, but generally USCIS will not process an application with an open criminal matter. An arrest, citation or conviction could be problematic for your DACA status. Many criminal convictions will bar eligibility for DACA. Before deciding if you should renew, you should immediately inform your criminal defense attorney of your DACA status and request the advice of an expert immigration attorney on how the charge could impact the application. Many public defender offices or other court-appointed attorneys have systems set up for you to receive appropriate advice. It is very important to have this consultation **before** submitting any renewal application. If you do decide to submit an application after consulting with an expert immigration attorney, you can expect to receive a request for more evidence ("RFE") requesting information regarding the resolution of the criminal matter.

I am a DACA activist and am concerned that I may be contacted by the FBI or another federal agency due to my activism? What should I do if I am contacted by the FBI, etc.?

Many DACA recipients are activists in a number of ways, including advocating for legislative change, participating in lawsuits challenging the termination of DACA, organizing and participating in protests and have never been targeted by federal authorities for their activism. However, non-citizen activists may be subject to extra scrutiny in their immigration applications, receive pretextual denials or be subject to inordinate delays in the processing of their immigration applications. Oftentimes, these denials, delays and repeated requests for evidence will take the shape of repeated "security checks." If you believe you are experiencing any of these issues with your application for immigration relief, or have been contacted by the FBI for questioning related to your immigration status and/or activism, please contact the Creating Law Enforcement Accountability & Responsibility Project ([CUNY CLEAR Project](#)) at the CUNY School of Law. Please do not speak with any law enforcement agents (FBI or otherwise) about your immigration status, activism or personal details without first consulting a lawyer. You have a right to remain silent and should not answer any questions or sign any documents without first consulting an attorney.

I am in valid DACA status and I am worried about getting arrested. Will Immigration and Customs Enforcement ("ICE") find me if I am arrested?

Possibly, any arrest or conviction can put you at risk with ICE. Avoid any contact with law enforcement. If you are criminally arrested be sure to inform your criminal defense attorney of your DACA status and request the advice of an expert immigration attorney. You have the right to receive immigration advice to understand the impact of your criminal charge on your immigration situation. Generally, it is important to stay out of jail because ICE operates in many jails nationwide. (This varies by locality. Ask your criminal defense lawyer about ICE's practices locally). If you do have an encounter with ICE in a jail or courthouse, respectfully decline to speak with them. This is also your right. Before resolving the criminal charge in your case be sure that you have received clear advice from an immigration attorney as to the impact of the disposition on your DACA status as well as any other immigration benefits you may also qualify for. It is not possible to predict who will be targeted for immigration enforcement. However, historically people with criminal justice contacts have been at greater risk for enforcement.

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If I lose my DACA and get arrested, does it matter what happens with my criminal case?

Yes, even if you lose DACA and become undocumented you might be eligible for another immigration benefit or defense to deportation. Many of these benefits and defenses have specific criminal bars. Thus, it is very important you request that your criminal defense attorney consult with an expert about the immigration consequences of the criminal disposition of your case. Your criminal defense attorney can work in conjunction with the expert immigration attorney to try to resolve the case in a way that does not bar you from any other immigration benefits or defenses you qualify for.

For more resources on your rights with law enforcement and how criminal matters may impact your immigration status, please see:

[ILRC KYR Red Card Illustration](#) and [How to Order Red Cards](#)

[ACLU Know Your Rights in Police/ICE/FBI Interactions](#)

[The Immigrant Defense Project ICE Raids Booklet](#)

[Don'tGetIced.org](#)

[The Immigrant Justice Network Guide to How Arrests and Convictions Separate Families](#)

Travel

Can I still travel outside the country until my DACA status expires?

No, previous mechanisms that allowed for DACA recipients to temporarily leave and re-enter the country (known as Advanced Parole) will not be granted anymore to DACA recipients. Unfortunately, this means you may not safely leave the country and expect to return even if you have scheduled fellowships, study abroad opportunities, or need to visit sick family.

If you already have a valid advanced parole document and have plans to travel outside of the country using that document, please consult with an immigration attorney. Traveling with this document is extremely risky for those with temporary immigration status or DACA.

What about domestic travel?

Whether you have valid DACA status or your status has expired, you may travel throughout the U.S. but such travel may be risky. Firstly, you must travel with properly issued official identification

- ID accepted at airports include a valid state-issued driver's license, a tribal-issued photo ID, or a foreign government-issued passport. Unfortunately, IDNYC cards will not be accepted for air travel.
- Most national rail operators and bus operators require a valid photo ID for those over 18 years of age. In most of these situations an IDNYC card can function as a valid form of ID.

Any travel that takes you within 100 miles of the U.S. border and/or port of entry (the "constitution free zone") is especially risky for those without valid immigration status due to the amount of law enforcement presence in these areas and the level of immigration enforcement. Please take heed of the risks of such travel before making your decision. If you do decide to travel, be aware of your rights when speaking with law enforcement and consult an attorney first.

For more information about your rights while traveling, please see:

[The CLEAR Project: Know Your Rights – Flying While Muslim](#)
[ACLU of San Diego: Know Your Rights with Border Patrol](#)

Healthcare/Benefits

If my DACA status expires, will I lose my health insurance in New York State?

People with DACA status who are employed are eligible for the health insurance plans offered by their employers. If they are terminated from their employment, they may in some circumstances still be eligible to continue that insurance at a higher price through COBRA. People with valid DACA status and applicants for DACA are eligible for New York State Medicaid as they are considered PRUCOL, permanently residing under color of law. If DACA expires, those who had DACA should still continue as PRUCOL, and therefore Medicaid eligible in New York, since they are continuing to reside in the state with the knowledge and acquiescence of federal immigration authorities. Even non-citizens who are not PRUCOL can be covered by New York Medicaid for pregnancy related or emergency healthcare. All New York children qualify for healthcare regardless of their immigration status.

Is it safe for me to apply for health insurance if I lose DACA status?

Information provided to insurance providers in the course of applying for insurance may only be used to determine an individual's eligibility for the insurance for which they are applying. Note, if another member of your household is applying for insurance, there is absolutely no need for you to share information about your own immigration status.

Are there any hospitals or medical clinics where I can seek medical help if I lose my health insurance?

Yes, there are hospitals providing free medical care for uninsured patients, including those who are undocumented. The New York Health and Hospitals Corporation has a policy to protect immigration status and other confidential information and to provide medical care regardless of immigration status or ability to pay. It has health centers that provide primary care and hospitals in New York neighborhoods. They charge on a sliding scale based on ability to pay. New York City Health Department clinics offer patients sexual health, immunization and Tuberculosis (TB) services, regardless of immigration status. You can also call 311 and say, "Action NYC."

Can ICE obtain any information about me from my hospital? Are there any precautions I need to take when I visit my doctor?

Generally, hospitals are considered [sensitive locations](#) where ICE has agreed to refrain from enforcement operations. Further, hospitals and healthcare providers have no affirmative obligation to share personal patient information with law enforcement. In fact, the Health Insurance Portability and Accountability Act (HIPAA) prohibits disclosure of patient information without patient consent unless required by court order or other mandatory reporting requirements relating to child abuse and mistreatment.

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For more information on these topics, visit:

[The Mayor's Office of Immigrant Affairs – Deferred Action](#)

[The Mayor's Office of Immigrant Affairs - Insurance](#)

[Empire Justice Center's Health Insurance Crosswalk](#)

[New York City's Office of Citywide Health Insurance Access](#)

[NYC Health + Hospitals Options, Open Letter to New Yorkers](#)

[The New York Immigration Coalition: Public Health Eligibility](#)

[NYC Health: Clinics](#)

[New York City Comptroller: Immigrant Rights and Services Manual](#)

[National Immigration Law Center – Healthcare & Healthcare Providers Know Your Rights](#)

Advanced Parental Planning

Should I have a safety plan for my children in case I am detained or removed?

Yes, you should organize important documents, such as birth certificates, information about doctors and health care, school information, and other important information and let family members or friends know where this information is. You should also update contact information with schools, programs, and activities your children attend.

Should I plan in advance for the future care of my children in case I am detained or removed from the U.S.?

If you are worried about the care of your children if you are removed from the U.S., there are advance planning documents that you can sign to make sure that somebody will be able to take care of your children temporarily or long term if you are detained or removed.

Will doing advance planning take away my rights as a parent?

No, you keep all of your rights as a parent. Advance planning documents do not change anything right now, they only get activated if it becomes necessary in the future.

What if I sign documents now, but then change my mind, can I revoke the documents?

Yes, you keep total control over who will take care of your children. You can revoke any documents by tearing them up and telling anybody you have named as a caretaker, guardian, or agent that you have changed your mind.

What document deals with temporary care of my children?

For the temporary care of your children, you can name a person to make decisions about education and routine and emergency medical care in a “Designation of Person in Parental Relationship.” This will let the person you name deal with your child’s school, educational programs, and health care. The person will be able to get school and health care records and make any necessary decisions for your child.

When does this temporary care document get activated and how long does it last for?

It can be activated right away (when you and the person you name sign it before a notary public, you do not have to sign it at the same time) or it can be activated if a future event happens, for example if you are detained or removed. The person you designate can act for your children for a maximum of 6 months, and you can renew this document multiple times (even if you are detained or no longer living in the U.S.).

Do I need to have the other parent of my children sign the temporary care document?

Only if there is a court order that requires both parents to make decisions about education and health care; usually this kind of order is part of a custody or divorce case.

Can I name a guardian for my children in advance?

Yes, you can complete a “Designation of Guardian for Minor Children” form that names a guardian and explains why it is in the best interests of your children for that person to be guardian. This document should be signed before a notary public. If there is a need to appoint a guardian of your children in the future, this document can be submitted to the Family Court along with the guardianship petition.

Does the court have to appoint the person I name as guardian?

Although the court will consider your wishes in the Designation of Guardian, it will make a decision based on what the court thinks is in the best interests of your children.

Does the person I name to take care of my children or be their guardian have to be a citizen or have some sort of legal status?

No, the person you name can be undocumented. There may be practical reasons why you would want to name a guardian who has a more secure legal status, but if the named guardian lives in New York State, they do not have to be a citizen or have legal status.

Does the person I name have to submit information to New York State and get fingerprinted?

The named guardian and members of the same household have to list their addresses for 20 plus years on a form that is checked against the NYS Registry of Abuse and Neglect. A judge may also order them to be fingerprinted, but that is not legally required and not always necessary to satisfy a background check.

Can I make arrangements for a person to use my money to support or pay for what my children need, including food, clothing, housing, and other needs?

If you have money in a bank account or other assets, you can name a person to be your Agent under a Power of Attorney and give them specific powers to manage your money and property, including to provide “support and maintenance” for your children (and other family members who depend on you). This can include the power to pay bills, rent, sign a lease, pay for travel, and meet other needs your children have.

Who should I name as an agent under the Power of Attorney?

You should only name a person who is honest, responsible, trustworthy, and can manage money. A person named as agent under a Power of Attorney has access to your money and property, so it can be a “license to steal.” If you think a person may be tempted to use your money and property for themselves, do not appoint them as your agent.

Can I complete a Power of Attorney myself?

We strongly recommend that you get help from an attorney to complete a Power of Attorney. Unlike the Designation of Person in Parental Relationship (for temporary care) and Designation of Guardian, the Power of Attorney form is complicated and has specific requirements in order to be valid. It is best to work with any attorney or experienced advocate who can guide you through the Power of Attorney.

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For advance planning forms and information, visit:

[The New York State Bar Association: Personalized Immigration Safety Plan](#)

[Law Help NY: Have a Plan in Case of Immigration Arrest](#)

[CUNY Commons: Planning with Parents Who Face Deportation](#)

[What If I'm Picked Up By ICE? Steptoe & Johnson \(2017\)](#)

Guardianship Information from the NYS Court System:

<https://www.nycourts.gov/CourtHelp/Guardianship/basics.shtml>

<http://nycourts.gov/courthelp//Guardianship/case.shtml>

<http://www.nycourts.gov/courthelp/Guardianship/child.shtml>

https://www.nycourts.gov/courts/nyc/family/faqs_guardianship.shtml#G3