



## **FREQUENTLY ASKED QUESTIONS**

### **Deferred Action for Parental Accountability and Expansion of Deferred Action for Childhood Arrivals Programs**

*November 25, 2014 (updated August 12, 2015)*

On November 20, 2014, President Obama announced the expansion of deferred action. Deferred action is a measure by which the U.S. Department of Homeland Security (DHS) grants undocumented individuals a form of temporary lawful presence in the United States. It protects such individuals from being deported and allows them to apply for work authorization. Deferred action cannot by itself lead to permanent resident (“green card”) status or citizenship. In 2012, the government started Deferred Action for Childhood Arrivals (DACA), in which those who came to the U.S. as children may be granted deferred action on a case-by-case basis.

**NOTE:** *Implementation of the expansion of Deferred Action for Childhood Arrivals and the new Deferred Action for Parental Accountability (DAPA) program, scheduled to begin on February 18, 2015 and May 19, 2015, respectively, was delayed, due to a February 16, 2015 ruling by a Texas federal judge temporarily enjoining the President's executive immigration actions, including the expanded DACA and new DAPA programs. The Justice Department's appeal is pending in the Fifth Circuit. In the meantime, individuals should begin collecting [documents](#) to prepare for their deferred action requests, in the event that the temporary hold on the expanded DACA and new DAPA programs is lifted.*

#### ***Which programs have been expanded or created?***

Two programs are affected. First, DACA's eligibility criteria have been expanded. The Secretary of Homeland Security has also announced a new program, Deferred Action for Parental Accountability (DAPA), which makes parents of U.S. citizens or lawful permanent residents who have continuously resided in the United States since January 1, 2010 eligible for deferred action.

#### ***How has DACA eligibility been expanded?***

Individuals who arrived in the U.S. before the age of 16, no matter their current age, are now eligible for DACA so long as they have been continuously residing in the U.S. since January 1, 2010. Prior to this announcement, applicants must have been under the age of 31 on June 15, 2012 and have been living in the U.S. continuously since June 15, 2007.

#### ***How long does DACA last now?***

Between November 24, 2014 and February 16, 2015, grants of deferred action and work authorization for initial and renewal applications were valid for a renewable period of three

years. Previously, they were given for two years. *NOTE: As a result of the injunction issued on February 16, grants of deferred action and employment authorization are valid for two years under the existing DACA guidelines.*

***Do you still have to enter the U.S. before the age of 16 to qualify for DACA?***

Yes. Unfortunately, the DACA expansion does not include those who entered the country after turning 16.

***Are parents of DACA recipients eligible for deferred action?***

No, not unless they also have a child born on or before November 20, 2014 who is a U.S. citizen or green card holder.

***I have a U.S. citizen or lawful permanent resident child born on or before November 20, 2014. Am I eligible for deferred action?***

Not automatically. DAPA applications are decided on a case-by-case basis. In addition to continuously residing in the U.S. since January 1, 2010, you must have been physically present in the U.S. without lawful status on November 20, 2014 and at the time you apply for DAPA. You should also not be an individual that DHS considers to be an enforcement priority.

***Who is an enforcement priority?***

Persons who have been convicted of certain crimes or apprehended at the border or at ports of entry while trying to unlawfully enter the U.S. are considered to be enforcement priorities. Other enforcement priorities include persons suspected of terrorism, espionage, or abusing the visa or visa waiver programs. To a lesser extent, persons who have been issued a final order of removal after January 1, 2014 are also enforcement priorities. We recommend you ask an attorney to find out whether you fall within any of these categories.

***How do I apply for deferred action?***

You must file the request for deferred action, submit biometrics for USCIS to conduct background checks, and pay the required fee (\$465). Individuals eligible for deferred action may also apply for work authorization for the period of deferred action.

***I can't afford the fee. Can I get a fee waiver?***

Unfortunately, there will be no fee waivers and, like the original DACA, very limited fee exemptions.

***How long does the deferred action grant for parents of U.S. citizens and permanent residents last?***

Three years, as with the new DACA application and renewal periods. *NOTE: Such grants have been blocked by the injunction that was issued on February 16, 2015.*

***Does this expansion of deferred action create a new right?***

No. Only Congress may pass laws that give you new rights. These actions are a form of

“prosecutorial discretion,” meaning that the U.S. government may decide at any time to change its policies.

***When can I apply for deferred action?***

If you are eligible for DACA under the existing guidelines, you can continue to apply for an initial grant or a renewal at any time. If you are newly eligible for DACA under the expanded criteria, USCIS will begin accepting applications on February 18, 2015. If applying for deferred action as a parent (DAPA), USCIS expects to begin accepting applications by May 19, 2015.

*NOTE: The court ruling that was issued on February 16, 2015 blocked the implementation of the expanded DACA and new DAPA programs. We will update this FAQ when USCIS confirms the start date for expanded DACA and the new DAPA program.*

***If my request for deferred action under DACA was previously denied or rejected and I now qualify for DACA under the expanded guidelines, will I have to submit a new request for deferred action?***

Yes. If your application was properly denied or rejected prior to February 18, 2015 under the DACA guidelines that were in effect at that time, you will need to file a new request, with filing fees, to be considered for DACA under the new guidelines. *NOTE: The expanded DACA program has been put on hold.*

***Is there a cut-off date for applications?***

No. USCIS has not imposed deadlines and has not released an application form or procedures regarding DAPA or the newly expanded DACA program. Be wary of individuals who ask you to pay fees and claim that they can file your case now. It is best to seek the advice of a qualified immigration lawyer or an accredited representative about your case.

***Is there an updated application for deferred action under expanded DACA?***

Yes. The new version of Form I-821D will be revised to reflect the expanded guidelines and will be accepted by USCIS beginning on February 18, 2015. *NOTE: The expanded DACA program has been put on hold and requests will not be accepted by USCIS. Individuals who qualify for deferred action under the existing DACA guidelines should continue to use the current I-821D form.*

***How do I prove that I qualify for Deferred Action for Parental Accountability?***

Instructions for DAPA are still pending. Based on the evidence required for DACA applications, you will need documents that establish your identity, your relationship to a U.S. citizen or lawful permanent resident son or daughter, and your continuous residence in the U.S. since January 1, 2010. Also, all documents that are not in English need to be translated into English.

***After I apply, how long do I have to wait for a decision?***

USCIS aims to complete all applications received by the end of 2015 before the end of 2016. USCIS will provide each applicant with a notification of receipt within 60 days of receiving

the application. Processing times may vary depending on which regional service center processes your application. *NOTE: The court ruling that was issued on February 16, 2015 blocked the implementation of the expanded DACA and new DAPA programs.*

***What if my case is denied or I fail to pass a background check?***

Under USCIS's current policy, only cases involving criminal offenses, fraud, or a threat to national security or public safety will be referred to Immigration and Customs Enforcement (ICE) for deportation proceedings. Those who knowingly misrepresent or fail to disclose facts will not receive "favorable consideration." If you have ever been arrested or convicted of any crime, please consult with an attorney before you apply.

***Will the information I share in my request for consideration of deferred action be used for immigration enforcement purposes?***

Unless USCIS determines that you meet the criteria for issuance of a Notice to Appear or a referral to ICE, the information you provide in a deferred action application will be protected from disclosure to ICE or Customs and Border Protection (CBP) for the purpose of immigration enforcement proceedings. However, the information may be shared with ICE, CBP, and other national security and law enforcement agencies for reasons other than removal proceedings, including:

- assisting in the consideration of the deferred action request
- to identify and prevent fraudulent claims
- for national security purposes; or
- for the investigation or prosecution of a criminal offense.

***May I travel abroad under deferred action?***

Yes, travel outside of the United States may be allowed, but only if you apply for and are granted "advance parole." Advance parole is advance permission from DHS to leave the United States for certain purposes and may not be used to go on vacation or for general travel. We expect that DAPA recipients, like current DACA recipients, will be able to apply for advance parole. Advance parole is considered on a case-by-case basis.

***May I apply for advance parole together with my DACA request?***

Filing an application for advance parole together with your applications for deferred action under DACA and employment authorization under expanded DACA will be available when the hold on this program is lifted. However, USCIS will not process the application for advance parole until it has approved the application for DACA. Under the current guidelines for the existing DACA program, you can only file the advance parole application separately after you have been granted DACA. *NOTE: The expanded DACA program has been put on hold.*

For more information, please contact us at [info@aaldef.org](mailto:info@aaldef.org).

***These FAQs do not constitute legal advice. For specific questions about individual circumstances, please consult with an immigration attorney.***