

Frequently Asked Questions

Updated as of September 11, 2018

These Frequently Asked Questions (FAQs) were prepared by the [Harvard Immigration and Refugee Clinical Program](#) (HIRC). **HIRC provides *free* consultations and legal representation to undocumented and DACAmented members of the Harvard community.** The responses to the FAQs listed below are informational and do not constitute legal advice. Every case is different, and advice will vary depending on the individual circumstances of each student. This guidance is valid as of September 11, 2018.

If you are currently an undocumented or DACAmented Harvard student, either at the College or in a graduate program, **please contact HIRC as soon as possible to set up an individual in-person legal consultation. To make an appointment, please call the HIRC paralegal, Nilce Maldonado, at 617-495-6648 or email her at nmaldonado@law.harvard.edu.**

Can I still apply for DACA?

Yes, but only if you are renewing your previously approved DACA application. The state of DACA has been in flux since President Trump announced its rescission. Since then, federal district courts in [New York](#) and [California](#) issued nationwide injunctions requiring that USCIS continue accepting **renewal** DACA applications. On April 24, 2018, a Washington D.C. federal district court judge [ordered](#) the Department of Homeland Security to restart the DACA program including accepting applications for first-time DACA applicants. However, the court [stayed](#) its own decision which means that, for now, applications are not being accepted for people who have never received DACA. Most recently, the attorney general in Texas filed a lawsuit in federal district court in Houston arguing that DACA is an unconstitutional use of executive power. The plaintiffs in that case filed a temporary injunction seeking to end the processing of DACA applications immediately, however that [injunction was denied](#).

As of the date of this posting, you can apply to renew DACA but you cannot apply for DACA if you were never granted DACA in the past. The situation regarding DACA remains fluid, and we will update these FAQs as frequently as possible with the latest information. Additionally, we urge all concerned members of the Harvard Community to contact us with any questions or concerns about updates to DACA.

If you are considering renewing your DACA, please contact HIRC for a free legal consultation before doing so. To make an appointment, please call the HIRC paralegal, Nilce Maldonado, at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

What if I never applied for DACA?

If you never applied for DACA, you cannot currently apply; however, on April 24th a district court in Washington D.C. ordered that the DACA **rescission** was “arbitrary and capricious” and therefore unlawful. The order went beyond the orders issued in the New York and California courts by requiring that U.S.C.I.S. accept new applications for DACA in addition to renewal applications. The order requiring the acceptance of new cases has been temporarily stayed and as

of the date of this publication new DACA applications are not being accepted. Please contact HIRC Program for a free legal consultation as soon as possible to see if you are eligible for DACA or any other potential remedy. **To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.**

What is DACA?

Deferred Action for Childhood Arrivals or DACA is a program established by former President Obama in June 2012. Under DACA, DHS deferred taking action to remove qualifying undocumented immigrants, commonly known as DREAMers, and also granted renewable work authorization. At its inception, DACA was subject to renewal every two years. However, on September 5, 2017, DHS issued a [memorandum](#) detailing the rescission and eventual phase-out of the DACA program.

The federal district court for the Northern District of California issued a [nationwide injunction](#) on January 9, 2018, ordering USCIS to resume accepting applications to renew DACA and to prescribe a process for doing so. Following the nationwide injunction, USCIS has begun accepting renewal applications and has [prescribed a process](#) for doing so.

Who qualifies for DACA?

Prior to its rescission, an individual qualified for DACA if he or she was able to show that he or she:

- (1) had come to the United States before he or she turned 16;
- (2) had lived continuously in the United States since June 15, 2007, up to the present time;
- (3) was under the age of 31 as of June 15, 2012;
- (4) had been physically present in the United States on June 15, 2012, having no lawful immigration status at the time he or she requested consideration of deferred action with USCIS;
- (5) was in school, had graduated or obtained a certificate of completion from high school, had obtained a general education development (GED) certificate, or was an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
- (6) had not have been convicted of a felony, significant misdemeanor, or three or more other misdemeanors and must not pose a threat to national security or public safety.

DACA does not provide lawful immigrant status or a path to citizenship, but it does provide authorization to work and the government's assurance that the person could remain in the United States, without being placed in removal proceedings. More information about the previous administration's DACA program can be found [here](#).

Who can apply for DACA renewal?

Only those who have previously received DACA *and* meet the following requirements can apply for renewal:

- Have not departed the U.S. on or after August 15, 2012, without first having been granted *advance parole*.
- Have resided continuously in the U.S. from the time the initial request for DACA was submitted up until the present time.
- Have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and must not otherwise pose a threat to national security or public safety.

USCIS has issued the [following guidance](#) for those considering applying for DACA renewal:

Due to a federal court order, USCIS has resumed accepting requests to renew a grant of deferred action under DACA. Until further notice, and unless otherwise provided in this guidance, the DACA policy will be operated on the terms in place before it was rescinded on September 5, 2017.

Individuals who were previously granted deferred action under DACA may request renewal by filing [Form I-821D \(PDF\)](#), [Form I-765 \(PDF\)](#), and [Form I-765 Worksheet \(PDF\)](#), with the appropriate fee or approved fee exemption request, at the [USCIS designated filing location](#), and in accordance with the instructions to the [Form I-821D \(PDF\)](#) and [Form I-765 \(PDF\)](#). USCIS is not accepting requests from individuals who have never before been granted deferred action under DACA. USCIS will not accept or approve advance parole requests from DACA recipients.

If you previously received DACA and your DACA expired on or after September 5, 2016, you may still file your DACA request as a renewal request. Please list the date your prior DACA ended in the appropriate box on Part 1 of the Form I-821D.

If you previously received DACA and your DACA expired before September 5, 2016, or your DACA was previously terminated at any time, you cannot request DACA as a renewal (because renewal requests typically must be submitted within one year of the expiration date of your last period of deferred action approved under DACA), but may nonetheless file a new initial DACA request in accordance with the Form I-821D and Form I-765 instructions.

To assist USCIS with reviewing your DACA request for acceptance, if you are filing a new initial DACA request because your DACA expired before September 5, 2016, or because it was terminated at any time, please list the date your prior DACA expired or was terminated on Part 1 of the Form I-821D, if available.

For a free legal consultation, please call the HIRC paralegal, Nilce Maldonado, at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

If I am eligible to renew my DACA status when should I apply?

ASAP! We are recommending people that are eligible to renew their DACA status to apply if their status is expiring within a year. Previously USCIS had recommended that DACA renewals be submitted between 120-150 days prior to expiration. However, as of this publication USCIS is accepting DACA renewals that are submitted more than 150 days prior expiration. Conversely, if you have fewer than 120 days remaining in DACA status USCIS will accept your application, however you run the risk of accruing unlawful presences if your application is not adjudicated before your current DACA status expires.

What will happen after my DACA expires?

If your DACA status expires you will begin accruing unlawful presence if you are over the age of 18 years old. Unlawful presence of longer than 180 days may result in a 3 year bar of your ability to return to the United States that will be triggered once you leave the United States. Unlawful presence of more than a 365 days may result in a 10 year bar.

Please schedule an appointment to further discuss unlawful presence and the 3/10 year bars. To make an appointment, please call the HIRC paralegal, Nilce Maldonado, at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

Will the information submitted on my DACA application be provided to ICE to be used to initiate removal proceedings against me?

DHS has [stated](#) that the information submitted in DACA applications “will not be proactively provided to Immigration and Customs Enforcement (“ICE”) and Customs and Border Protection (“CBP”) for the purpose of immigration enforcement proceedings,” except under certain circumstances. It is recommended that you make an appointment with HIRC well in advance of your DACA expiration in order to assess whether you might be eligible for any other forms of immigration relief.

Further a Federal District Court in [Maryland](#) enjoined the Government from using information provided on DACA applications for enforcement purposes.

If DACA expires or is revoked, a DACA recipient cannot be deported without an opportunity to present his or her case in court, unless the DACA recipient has a prior removal order. ICE could decide to enforce prior removal orders for DACA recipients without initiating new removal proceedings. If you were in removal proceedings prior to having DACA, ICE could also seek to recommence your prior removal proceedings. DACA recipients who were previously in removal proceedings or who have prior removal orders should contact HIRC as soon as possible for a free legal consultation. **To make an appointment, please call the HIRC paralegal, Nilce Maldonado, at 617-495-6648 or email her at nmaldonado@law.harvard.edu.**

Other than rescinding DACA what are some of the Trump Administration’s policy changes that impact immigrants?

The following three immigration-related executive orders (EOs) have altered enforcement priorities in the United States:

1. [*Executive Order: Enhancing Public Safety in the Interior of the United States*](#)

This EO from January 25, 2017 substantially broadens the categories of undocumented persons prioritized for detention and removal, potentially making every undocumented individual a priority for removal. It authorizes the hiring of 10,000 additional Immigration and Customs Enforcement (ICE) officers and allows law enforcement to pursue the removal of all undocumented immigrants under the 287(g) program, which empowers (but does not require) state and local law enforcement to enforce immigration laws. It ends the [Priority Enforcement Program](#) (PEP), which prioritized removal of undocumented immigrants who had committed an offense listed in the DHS civil immigration enforcement priorities. Additionally, the order seeks to punish “sanctuary jurisdictions” that do not comply with federal law. The provision related to sanctuary jurisdictions is the subject of ongoing litigation in California and Illinois, Massachusetts, among other places. On November 20, 2017, the federal district court for the Northern District of California issued a [nationwide permanent injunction](#) on the EO’s provision (section 9(a)) regarding withholding federal funding from sanctuary jurisdictions.

2. [*Executive Order: Border Security and Immigration Enforcement Improvements*](#)

This EO from January 25, 2017 calls for building a border wall between the United States and Mexico and for the detention of all persons unlawfully attempting to enter the United States and all persons in removal proceedings; directs DHS to immediately construct detention facilities at or near the southern border; limits the use of parole; calls for the expanded use of “expedited removal” to include potentially anyone in the United States who cannot prove she or he has lived here for at least two years based on forthcoming regulations; prioritizes criminal prosecution of unlawful entry into the United States; and calls for removal of individuals to “the territory from which they came” pending their removal proceeding.

3. [*Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats*](#)

On September 24, 2017, President Trump signed a Presidential Proclamation replacing the [March 6, 2017 Executive Order](#) (set to expire on September 24) that had revoked the first travel ban. This third version of the ban has no stated end date, and includes the following provisions:

- 1) Indefinite bans on travel/visa applications for certain individuals from eight listed countries—[Chad¹, Iran, Libya, North Korea, Somalia, Syria, Yemen, and Venezuela](#), if they were outside of the U.S. on the effective dates of the order without a valid visa;
- 2) Does not suspend entry from:
 - a) [Chad, Libya, Somalia & Yemen](#): as nonimmigrants, but Somali nationals seeking to enter as nonimmigrants will be subject to additional scrutiny.
 - b) [Iran](#): under F, M, and J visas, although this group may be subject to enhanced screening.

¹ [Chad has since been removed from the list.](#)

- c) Venezuela: of any individuals who are not officials of government agencies involved in screening and vetting procedures, or their immediate family members. For individuals within this affected groups, only entry as visitors on business or as tourists is suspended.
- 3) Does not revoke valid visas or impact lawful permanent residents (LPRs) or dual nationals so long as they have a travel document that is not from one of the eight listed countries; and
- 4) Provides for heightened scrutiny of Iraqi nationals, although Iraq was removed from the list of banned countries identified in the first version of the Ban.

On June 26, 2018, the Supreme Court upheld the Trump administration's ban. **The Travel Ban is in full effect.** For more information, please see our [FAQs on the Travel Ban](#).

Does Harvard admit and enroll undocumented/DACAmented students? Are they eligible for financial aid?

Harvard admits, enrolls, and provides financial aid to students without regard to their citizenship or immigration status. There is no state or federal law that prohibits enrolling undocumented students. While undocumented students typically are not eligible for federal financial aid, students can still receive grants and loans from Harvard or other sources.

In addition, the University may provide undocumented students with financial assistance to cover costs of certain immigration applications, including the \$495 DACA renewal fee. If you have any questions about your particular case, you should arrange to speak with the Harvard Immigration and Refugee Clinical Program's (HIRC) Staff Attorney, Jason Corral, as soon as possible. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

Will I lose my financial aid from Harvard if my DACA expires or is revoked?

No. Undocumented students and students with deferred action protection rely on the same grants and loans from Harvard as international students. Because your financial aid does not come from the federal government, your financial aid is not dependent on DACA.

For more information, contact the [Harvard College Financial Aid Office](#), if you are an undergraduate student. If you are a graduate student, contact the financial aid office at your graduate school.

What does being a sanctuary campus mean? How am I protected if Harvard is not one?

The "sanctuary campus" label is based on the "sanctuary city" concept. The general idea is that the institution, be it a university or city, has a policy of not voluntarily turning over undocumented immigrants to federal immigration officials and will not voluntarily assist with immigration enforcement efforts. Cambridge has designated itself a sanctuary city. While Harvard has declined to declare itself a sanctuary campus, it has longstanding policies that provide similar protections. The University does not voluntarily share information about the immigration status of undocumented community members, and federal officials attempting to

enforce immigration laws on campus are required to obtain a judicial warrant or other valid legal process requiring the University to provide access or assistance to federal agents.

Consistent with the policies of both Cambridge and Boston, Harvard's Police Department also does not inquire about the immigration status of any Harvard-affiliated persons it encounters. Furthermore, the Harvard Immigration and Refugee Clinic provides confidential legal advice to members of the Harvard community. Information communicated to HIRC attorneys is protected from disclosure to the government by the attorney-client privilege.

If you are a member of the Harvard University community, please contact the Harvard Immigration and Refugee Clinical Program for a free legal consultation as soon as possible. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

[The University is continuing to develop new resources and policies](#) in response to unfolding circumstances and the concerns of the community.

What are University and Campus Policies concerning ICE enforcement activities on campus?

“Chief Francis D. Riley of the Harvard University Police Department (HUPD) issued a message restating the HUPD’s practice of not inquiring about the immigration status of faculty, students, or staff and noting that the department is not involved in enforcing federal immigration laws. This is consistent with the policies of the cities of Boston and Cambridge. Furthermore, the University does not and will not voluntarily share information on the immigration status of undocumented members of our community. And, as a matter of longstanding policy, law enforcement officials seeking to enter campus are expected to check in first with the HUPD and, in cases involving the enforcement of the immigration laws, will be required to obtain a warrant.”

You can read Chief Riley’s message in its entirety [here](#).

How does Harvard protect the privacy of students’ personal information?

Harvard University, while not technically a “sanctuary campus,” has a policy of protecting students’ personal information, including immigration status.

Regarding immigration status, the Harvard administration has previously stated: “While we will not declare Harvard a ‘sanctuary campus’, we have made clear that the Harvard University Police Department does not inquire about the immigration status of faculty, students, or staff, and the department is not involved in enforcing federal immigration laws. The University does not and will not voluntarily share information on the immigration status of undocumented

members of the community, and law enforcement officials seeking to enter campus must first check with campus police and obtain a warrant for cases involving immigration laws.”²

Are there exceptions to the general rule that Harvard won’t disclose a student’s personal information?

Harvard may be legally required to disclose a student’s personal information if it receives a valid, enforceable request from law enforcement or a court, such as a warrant or subpoena.

What kind of safety plan should I come up with?

- Have your immigration information in a place that is quickly accessible and let a family member or friend with immigration status know where this information is, so that he or she can easily access it in case of an emergency.
- Memorize the phone numbers of a qualified lawyer and of a family member or friend with lawful immigration status whom you can call if picked up by ICE.
- Know what rights you have and what course of action you will take when speaking to immigration enforcement officials. Under the U.S. Constitution, whether you are undocumented or not, you have, for example:
 - The right to remain silent;
 - The right to refuse to open your door to immigration or law enforcement officials who do not have a signed judicial warrant;
 - The right to a lawyer (in immigration proceedings, at your own expense); and
 - The right not to sign any document without first speaking with a lawyer.

Here is a [tool](#) that can help to organize your information.. You may also wish to speak with your family about planning for an emergency. This [tool](#) provides relevant guidance, and attorneys at HIRC are also available to consult about this subject. For further information, see:

- [ACLU Guide: What to do if you are stopped by the police, immigration, or the FBI](#)
- [Family Preparedness Guide](#)
- [Planning for a Family Emergency](#)

What rights do I have even if I don’t have documentation?

Regardless of your immigration or citizenship status, you have certain constitutional rights. Your rights include:

- The right to remain silent.
- The right to refuse to consent to a search of yourself, your car, or your home without a judicial warrant.

² Abby Jackson, A Harvard Student Explains What It’s Like to Live in America Illegally Now That Trump Is President, Bus. Insider, Jan. 26, 2017, <https://www.businessinsider.com/undocumented-harvard-student-daca-deportation-2017-1>

- If you are not under arrest, you have the right to leave. You should do so without incident to avoid potentially violating other laws that can be cause for arrest.
- The right to a lawyer if you are arrested. Ask for one immediately.

For more information:

- [ACLU Guide: What to do if you are stopped by the police, immigration, or the FBI](#)
- [Family Preparedness Guide](#)

Where can I be targeted? Are places like churches and/or schools safe from enforcement?

Historically, ICE has had a policy of not targeting individuals within the confines of the following types of institutions. However, ICE may still target individuals traveling to and from these institutions or it may change its policies entirely towards these “[sensitive locations](#).”³

- Current ICE policies provide that the agency will attempt to avoid raids or arrests near sensitive locations such as:
 - Schools, including known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop;
 - Medical treatment and health care facilities, including hospitals, doctors’ offices, accredited health clinics, and emergency or urgent care facilities;
 - Places of worship, including churches, synagogues, mosques, and temples;
 - Religious or civil ceremonies or observances, such as funerals and weddings; and
 - During public demonstrations, such as a marches, rallies, or parades.

Can immigration officials conduct deportation activities on Harvard’s campus?

Currently the Department of Homeland Security (DHS) has a policy of not taking “enforcement actions” at “sensitive locations,” including colleges and universities. More information is available [here](#). Enforcement actions covered by this policy include arrests, interviews, searches, and surveillance.

Is it safe to go to the police or to court?

Individuals should go to the police if they feel as though they are in danger. There may be additional immigration benefits available to victims of a crime if they can show they were helpful in the investigation of the crime.

Among others, the following cities in the Boston area have declared themselves “sanctuary cities,” meaning that they will not cooperate with ICE except as required by law:

- **Boston:** “Will not honor ICE detainer without a criminal warrant.”

³ See also <https://www.ice.gov/ero/enforcement/sensitive-loc>

- The Boston Police Commissioner [stated on January 31, 2017](#) that the Department does not target people based on their immigration status, does not take that status into consideration, and does not consider itself responsible for enforcing immigration laws.
- **Cambridge:** “Will not honor ICE detainer unless in cases where immigration agents have a criminal warrant or Cambridge officials have a legitimate law enforcement purpose not related to immigration.”
 - Cambridge City Council released the following [statement on November 17, 2016](#): “the Cambridge Police Department does not undertake immigration-related investigations and does not routinely inquire into the specific immigration status of any person encountered during normal police operations.”
- **Somerville:** “Will not honor ICE detainer unless in cases where immigration agents have a criminal warrant or Cambridge officials have a legitimate law enforcement purpose not related to immigration.”
 - The Mayor of Somerville [stated on November 21, 2016](#) “our local police and agencies don’t profile our residents to run immigration checks on them.”

If you are already in immigration proceedings, it is important that you attend all hearings in immigration court. If you do not attend, immigration judges can issue an order of deportation against you.

If you have a matter in court, please contact an immigration attorney. If you are a member of the Harvard University community, please contact the Harvard Immigration and Refugee Clinic’s Staff Attorney, Jason Corral. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

As a DACA recipient, is it safe for me to protest and march in rallies?

The Trump Administration has expanded the definition of “criminal alien” for the purpose of prioritizing deportations. If you are arrested at a protest or rally (e.g., for blocking the road), you may fit under the definition of “criminal alien” and be subject to removal.

There are a few precautionary measures you can take if you do plan to attend a protest.

- Check with the organizers to see if they have applied for a permit for the protest. Often, a permitted protest is coordinated ahead of time with authorities to ensure participants’ safety.
- Make sure you have the contact information for a lawyer available. The National Lawyers Guild has [legal support hotlines](#) available for people participating in political actions.

What should I do if I am detained at an airport?

If you have a lawyer, you should let CBP/ICE/TSA know that you would like to speak with him or her.

If you do not have an attorney, call the local ACLU hotline. You can find your local ACLU number [here](#).

There is also an app available to connect with a lawyer in certain airports, including Boston, through AirportLawyer.org.

If you are a member of the Harvard University community, please contact the Harvard Immigration and Refugee Clinical Program's (HIRC) staff attorney, Jason Corral. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

Additionally, the ACLU has prepared a "[Know Your Rights](#)" document regarding what to do when encountering law enforcement at airports and other ports of entry into the U.S.

Can my family members and I fly to Puerto Rico with a driver's license but no passport?
Traveling within 100 miles of the U.S. border may expose individuals to detection, arrest, and detention by Customs and Border Protection (CBP) operating various checkpoints along these routes. It is possible to travel to Puerto Rico, a U.S. territory, with a government-issued ID such as a driver's license, but there are risks to doing so. People may at times be asked to prove their immigration status. If you have any questions about travel plans, please contact the Harvard Immigration and Refugee Clinical Program. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu. **We strongly urge you *not* to leave the country without first consulting an immigration expert at the Clinic.**

CAUTION: If you leave the United States after being ordered deported or removed, USCIS will likely consider you deported or removed. This may make you ineligible to return to the United States in the future.

I have DACA/TPS and am or was planning to go abroad with advance parole. What should I do?

If you are a DACA recipient you are not currently eligible for Advance Parole. For TPS recipients, **we strongly urge you to meet with an attorney before making plans to leave the country.** DACA, TPS for certain countries, and advance parole are discretionary programs that may be withdrawn by the administration, and you may not be able to gain re-entry. As part of the administration's decision to phase out DACA, it determined that it would no longer grant advance parole (*i.e.*, a written assurance that the recipient may leave the country and reenter) to DACA participants. If you have any questions about your particular case, please contact the Harvard Immigration and Refugee Clinical Program before making your travel arrangements and before leaving the country. To make an appointment with Mr. Corral, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

I am an ally. How can I help?

There are various campus groups that work to advocate for immigrant rights including but not limited to the following:



6 Everett Street
Suite 3103
Cambridge, MA 02138
617-384-8165
hirc@law.harvard.edu

- [Act on a Dream](#)
- [UndocuAllies Initiative](#)
- [SLIC](#)

Bi-partisan legislation, called the DREAM Act of 2017, has been introduced in Congress and would provide protection to DACA recipients. You can call your Congressperson and advocate for passage of the DREAM Act. For more information, see:

- [Dream Act 2017 Summary and FAQ](#)
- [Dream Act of 2017 \(House Bill\)](#)
- [Dream Act of 2017 \(Senate Bill\)](#)