



Mano a Mano
Family Resource Center

July 26, 2021

On July 16, 2021, a Federal District Court in Texas issued a ruling in *Texas v. United States* limiting the DACA program and declaring it unlawful.

RE: <https://www.maldef.org/wp-content/uploads/2021/07/DACA-MSJ-Ruling-07.16.21.pdf?fbclid=IwAR06Mbolc9lmrBHMU5X6BqM2Ln8YbigNi5zwiVII9FIaGRF0BdRjURHiY>

What is DACA?

Deferred Action for Childhood Arrivals, or DACA, is an administrative policy that was introduced as an executive memorandum by President Obama on *June 15, 2012*. DACA gives qualified individuals who were brought to the United States illegally as minors a renewable two-year deferred action from deportation and work authorization.

What did the Supreme Court decide?

On *June 18, 2020*, the Supreme Court of the United States voted 5-4 that the decision by the Trump Administration and the U.S. Department of Homeland Security (DHS) to terminate DACA was judicially reviewable in federal court and “arbitrary and capricious” *and* in violation of the Administrative Procedure Act (APA). The Supreme Court ruled that the Trump administration had not followed the proper procedures required by the APA to terminate the policy and that DACA should remain in place.

What did the Federal District Court in Texas decide?

U.S. District Judge Andrew Hanen ruled on *July 16, 2021*, in *Texas v. United States* that the Biden administration had not reopened applications following appropriate procedures under the APA, which requires allowing public notice and comment on the policy. Because of this, Hanen ruled that the Biden administration could not accept new DACA applications, thus ruling DACA unlawful.



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What does this mean for current DACA Recipients?

If you currently have DACA and if your first-time initial DACA request has been filed *and* granted, your DACA and work permit continue to be valid. You may continue to use your social security number and work permit. Additionally, you can continue to renew your DACA permit. It is still advisable to renew your DACA within 150 days of its expiration date.

Can those who currently have DACA continue to renew?

YES! This court order does not prohibit USCIS from accepting *and* processing DACA renewals. USCIS encourages renewals to be filed between 120 and 150 days prior to the expiration of your DACA. If your DACA expires soon, RENEW NOW!

Is advance parole still available for DACA recipients?

According to a statement made by USCIS, the agency will continue to process and approve advance parole for DACA recipients.

Am I at risk of deportation now?

DACA recipients and DACA applicants are **not** a priority for deportation at this time. This court case states that this court decision “does not require DHS or Department of Justice to take any immigration, deportation, or criminal action against any DACA recipient, applicant, or any other individual.”

What does this mean for those who have a pending initial DACA application?

This court order ruled that USCIS can no longer grant new DACA applications. If your first-time initial DACA request is filed, but it has NOT been granted yet as of *July 16, 2021*, it is our understanding that those applications will not be granted until further notice. It is important to note that this does not mean your request is denied or rejected, it is simply being held without approval.

My DACA has been lapsed for more than a year, can I still renew?

Previously, applicants whose DACA expired for more than one year could renew by submitting an initial application. Under the latest decision, USCIS is no longer able to approve initial applications, therefore someone who did not renew their DACA for more than one year after expiration cannot apply for renewal at this time.



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My biometrics appointment was scheduled for the near future, should I still go?

USCIS has begun cancelling biometrics appointments for first-time DACA applicants. If you still have not received a cancellation notice by the date of your appointment, at this time we encourage you to go. Even though this court order prohibits USCIS from granting first-time initial DACA requests, your DACA request could be denied for failure to appear to a biometrics appointment.

What about my money?

At this time, it is our understanding that if your check / money order for your first-time initial DACA request has been cashed, you will *not* be receiving a refund of any fees paid to USCIS. Additionally, USCIS will not refund filing fees for initial DACA applications that are currently pending.

I received an RFE (request for information) for my DACA application, should I still respond?

Even though this order prohibits USCIS from accepting any first-time DACA initial applications, at this time, we encourage first-time DACA applicants to respond to any RFEs requested by USCIS since a DACA request can be denied for a failure to timely respond to an RFE.

What about those who were preparing / or are interested in applying for DACA for the first time? Will these requests be rejected by USCIS?

This court order prohibits USCIS from granting new DACA requests. At this time, we recommend that you consult with an immigration attorney or an accredited representative to review your case prior to you filing for your request. It is important that a professional review your case and thoroughly explain the risks involved with submitting your initial DACA request.