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The DACA Renewal Process and Updates¹

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On June 5, 2014, U.S. Citizenship and Immigration Services (USCIS) [announced](#) the process for Deferred Action for Childhood Arrivals (DACA) renewal and released a revised [Form I-821D, Consideration of Deferred Action for Childhood Arrivals](#). USCIS also updated its [Frequently Asked Questions](#) (FAQ) webpage on DACA.

DACA recipients seeking to renew must file Forms I-821D, I-765, I-765WS with a filing fee of \$465 (\$380 for Form I-765 and an \$85 biometric services, unless exempt²) 120 to 150 days before their DACA expiration date. USCIS encourages renewal requestors to file as early as possible in the 150-day window, ideally 120 days before the expiration date to avoid a lapse in DACA and employment authorization³.

Renewal Guidelines:

DACA recipients may request a renewal if they met the [initial DACA guidelines](#) and they:

1. Did not depart the United States on or after Aug. 15, 2012, without advance parole;
2. Have continuously resided in the United States since they submitted their most recent DACA request that was approved; and
3. Have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and do not otherwise pose a threat to national security or public safety.

Renewal Evidentiary Requirements:

USCIS does not require additional evidence with renewal requests unless the renewal requestor has *new* documents related to *removal proceedings or criminal history* that have not already been submitted to USCIS in a previously approved DACA request.

But USCIS reserves the authority to request at its discretion additional documents, information or statements relating to a DACA renewal request determination.

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² See DACA Fee Exemption guidance at: <http://www.uscis.gov/forms/forms-and-fees/consideration-deferred-action-childhood-arrivals-fee-exemption-guidance>.

³ Those who file at least 120 days in advance *may* receive an [automatic extension](#) of DACA and employment authorization, if USCIS is delayed in processing the renewal request.

Highlights related to Criminal, Public Safety and Removal Issues:

Changes to Form I-821D:

- *Removal Proceedings Information Section, Question 5*
USCIS **added** an “Other” option in response to the question about the status or outcome of the requestor’s removal proceedings. This new option will help requestors who are unsure about their past removal proceedings complete the DACA application form.
- *Criminal, National Security and Public Safety Information Section, Questions 6 and 7*
USCIS **added** the following two questions that relate to “child soldiers.” One concern is that this question could apply to “gangs.”
 - Question 6. Have you EVER recruited, enlisted, conscripted, or used any person to serve in or help an armed force or group while such person was under age 15?
 - Question 7. Have you EVER used any person under age 15 to take part in hostilities, or to help or provide services to people in combat?

Changes to Form I-821D Instructions:

- *Criminal History Evidence, Question 12*
USCIS **added** Question 12, “What evidence should I submit to demonstrate my criminal history?” to the instructions, which provides guidance on the documentation required for requestors who have been arrested for or charged with a felony (i.e. an offense punishable by imprisonment for a term exceeding one year) or misdemeanor (i.e. an offense for which the maximum term or imprisonment authorized is one year or less but greater than five days) in the U.S., or a crime in any country other than the U.S. Requestors must submit evidence demonstrating the results of the arrest or charges brought against them. **Exception:** USCIS does not require evidence of juvenile dispositions if the records are from a state with laws prohibiting their disclosure.
 - *If no charges were filed*→ USCIS requires an original official statement by the arresting agency or applicable court order confirming that no charges were filed for each arrest
 - *If charged or convicted*→ USCIS requires an original or court-certified copy of the complete arrest record and disposition for each incident
 - *If arrest or conviction has been vacated, set aside, sealed, expunged or otherwise removed from the person’s record*→ USCIS requires an original or court-certified copy of the relevant order or an original statement from the court that no record exists

If requestors are unable to provide the documentation listed above, they must provide an explanation including a description of their efforts to obtain such evidence.

Updates to FAQs:

Description of Update	Previous FAQ (Dated 1/18/13)	Current FAQ (Dated 6/5/14)
<p>DACA-eligible detainees should contact the jail liaison⁴ and the ICE Field Office Director instead of the ICE Public Advocate.</p>	<p>Q2: Can I request consideration of deferred action for childhood arrivals from USCIS if I am in immigration detention under the custody of ICE?</p> <p>If you are currently in immigration detention and believe you meet the guidelines you should not request consideration of deferred action from USCIS but should identify yourself to your detention officer or contact the ICE Office of the Public Advocate through the Office’s hotline at 1-888-351-4024 (staffed 9 a.m. – 5 p.m., Monday – Friday) or by email at EROPublicAdvocate@ice.dhs.gov.</p>	<p><i>Q12: Can I request consideration of DACA from USCIS if I am in immigration detention under the custody of ICE?</i></p> <p>Individuals who are currently in immigration detention and believe they meet the guidelines may not request consideration of deferred action from USCIS but may identify themselves to their deportation officer or Jail Liaison. You may also contact the ICE Field Office Director. For more information visit ICE’s website at www.ice.gov/daca.</p>
<p>New FAQ- DACA can be terminated at any time with or without a Notice of Intent to Terminate.</p>	<p>No information on process for termination.</p>	<p><i>Q27: Can my deferred action under the DACA process be terminated before it expires?</i></p> <p>A27: Yes. DACA is an exercise of prosecutorial discretion and deferred action may be terminated at any time, with or without a Notice of Intent to Terminate, at DHS’s discretion.</p>

Lessons Learned Inform the Renewal Process:

Since the announcement of DACA on June 15, 2012, we have learned more about the following issues affecting the adjudication of DACA requests that will help inform the renewal process.

- **DUIs:** Practitioners have asked about what convictions constitute Driving Under the Influence offenses under DACA’s significant misdemeanor definition. To date, we have heard of various denials for alcohol-related convictions (e.g. negligent driving in the first degree in Washington) and few approvals (e.g. first-time DUI conviction in Wisconsin, expunged DUI in California).
- **Template Denials:** Our members have reported DACA denials involving the discretionary checkboxes⁵ in cases where there was no conviction or there was a less serious conviction than the one initially charged. We are advocating for denial notices with more information about the basis for the denial, and are collecting case examples to share with USCIS headquarters to help resolve this issue. If you would like to share your case with us, please fill out this [form](#). Frequently Asked Question No. 25, however, describes an expansion of the Service Request Management Tool (SRMT) Grounds, which outline limited circumstances where requestors may ask for a review of a denial.
- **Felony Convictions:** DACA requestors with Arizona identity felony theft convictions were denied DACA despite advocacy and organizing efforts.

⁴ The jail liaison is the name of the person assigned to liaise with Enforcement and Removal Operations (ERO) when ERO staff is not present in an IGSA (Intergovernmental Service Agreement) facility.

⁵ For example, we have heard of various denials with the checkboxes for “You have not established that you warrant a favorable exercise of prosecutorial discretion” or the “You have been convicted of a felony or a significant misdemeanor, or you have been convicted of three or more misdemeanors, or you do not warrant a favorable exercise of prosecutorial discretion because of public safety concerns, or exercising prosecutorial discretion in your case would not be consistent with the Department of Homeland Security’s enforcement priorities.”