



**University of California Undocumented Legal Services Center (“Center”)
Post-Election Frequently Asked Questions (FAQ)
November 16, 2016**

The information below is informational and does not constitute legal advice. Each individual case is different, and advice may vary depending on the situation. If you have any questions about your case, please contact a Center attorney for a consultation as soon as possible.

Deferred Action for Childhood Arrivals (“DACA”)

1. Will I still be able to work with my current, unexpired DACA EAD card after the Presidential Inauguration?

It depends on whether the new president repeals DACA. If and when DACA is repealed you will no longer be able to work with your EAD card even if it is unexpired. Many groups are asking that the new president not take back the unexpired cards but we do not know how he will respond to that request.

2. I currently have DACA but it expires next year. Should I file a DACA renewal application?

You can apply for DACA renewal, but see below:

- You may lose the fees that you pay for the renewal (currently at \$465 but set to increase to \$495 on December 23, 2016) should DACA be rescinded by the new president after inauguration.
- If you have had any criminal issues whatsoever after your last DACA renewal, please make an appointment to see one of the Center attorneys prior to submitting your DACA renewal.
- If you have changed addresses since your last DACA renewal, there is a risk that the Department of Homeland Security (“DHS”) will be able to use that new address to arrest and detain you, and try to deport you. Talk to a Center attorney prior to submitting your DACA renewal.
- If your family resides at any of the addresses you have written on your prior DACA applications, you should develop a safety plan should DHS engage in an enforcement action against a family member.

3. I have not yet applied for DACA. Should I apply now?

No, you should not apply for an initial DACA application. Applying for DACA provides your contact information, immigration history, and other important information to DHS, which can then use that information to go after you or your family members that reside at your address.

Even though the original DACA program promised that information would not be shared with ICE we don't know if the new administration will keep that promise.

Advance Parole

4. I received Advance Parole to study abroad next Winter Quarter/Semester. Should I go on my trip?

No, you should not leave or be outside of the country after January 20, 2017. This is because if the new president repeals DACA while you are abroad, it is very likely that you will not be permitted to re-enter the United States upon return, with or without Advance Parole.

5. I received Advance Parole to visit family in December, and return in the beginning of January. Should I go on my trip?

You may travel, be sure to return to the U.S. before January 20, 2017. Even if you've received advance parole and return before January 20, 2017, it may be harder to be admitted into the U.S. and it is not certain that you would be admitted into the U.S. on or before that date. Please consult with a Center attorney.

6. I am currently abroad and plan to return with Advance Parole. When should I come back?

You should come back before the date of the Presidential Inauguration, which is Friday, January 20, 2017. The sooner you can return the better, but certainly before that key date.

7. I want to visit my family in my country of birth, because my aunt is there and is not in good health. Should I apply for Advance Parole to visit her?

No, you should not apply for advance parole through the usual channel of mailing an application. This is because the applications by mail typically take three months to be approved and, by that time, the new president will take office and it will then be highly risky to travel. You will likely lose your application fee and if you travel after January 20, 2017, it is possible that you will not be permitted to re-enter the United States.

Alternatively, there is a process to apply in person for advance parole at a local USCIS field office for emergency travel. The field offices generally only approve advance parole for travel to visit immediate family members when there is an "emergent" emergency, meaning that the emergency recently arose and was unforeseeable. In the example of an aunt who has been sick for a long time, it is very unlikely that a field office would approve the travel request if your

aunt's health condition has been ongoing and did not arise unexpectedly. Please consult with a Center attorney.

8. I applied for Advance Parole and my application is pending. Should I withdraw the application?

No, it is not necessary to withdraw your application if they already cashed your check. Even if your Advance Parole application is approved before your travel date, you should not travel outside of the United States.

Marriage to a U.S. Citizen or Lawful Permanent Resident (“LPR” or “Greencard” Holder)

9. Is it a good idea to marry a U.S. Citizen or a lawful permanent resident so that I can get a green card/lawful permanent residency?

Maybe, but it depends on your specific situation and a variety of other factors. It is very important that your marriage is a “real” or “bona fide” marriage, which means that your marriage cannot be fraudulent. There are many factors that may preclude an applicant from gaining lawful permanent residency through marriage, such as the manner in which the applicant entered the United States and complex laws known as “grounds of inadmissibility.” Please see a Center attorney for a consultation to assess whether this is the right option for you and your partner.

Miscellaneous issues

10. California just legalized marijuana for recreational use. If I buy marijuana and am caught with it, can that affect my DACA renewal application or any future immigration applications?

Yes, it can. Immigration is governed by federal, not state law, and marijuana is still unlawful to possess under federal law. Furthermore, it is important not to post images on social media of you engaging in marijuana use. If you have an arrest, citation, or conviction for any crime related to marijuana, or are generally concerned about how marijuana possession can impact your immigration status please contact a Center attorney as soon as possible.

11. What other issues might affect me?

We are working to address issues regarding work authorization, driver's licenses, domestic travel, and other related issues. We will be in touch with you as soon as we have more information.