



# DACA UPDATE

We have won another victory in our long fight to protect DACA. On November 14th, a federal court in New York ruled that the Trump Administration's latest attack on DACA is unlawful. The court found that DHS official Chad Wolf had no legal authority to issue his memo limiting DACA renewals to only one year and prohibiting new applications. The court also certified a nationwide class in the case, which includes **all individuals who are or will be eligible for DACA**. This means the current plaintiffs in the *Batalla Vidal v. Wolf* case have been appointed to represent the interests of the nationwide class.

## **What led to this decision?**

In June 2020, the [U.S. Supreme Court](#) found that the Trump Administration's attempt to end the Deferred Action for Childhood Arrival (DACA) program in 2017 was unlawful. As a result, USCIS *should* have fully restored the DACA program and begun accepting new DACA applications and advance parole applications from DACA recipients. Instead, in a memo issued on July 28, 2020, a DHS official named Chad Wolf limited DACA renewals to periods of one year and tried to once again close the program to new applicants. Make the Road New York and the plaintiffs in the *Batalla Vidal* lawsuit challenged this memo. On November 14, 2020, a court in Brooklyn agreed with us and invalidated that memo.

## **What Will Happen Now?**

As a result of the memo being invalid, it follows that USCIS should return to applying the original 2012 DACA memo that was issued by the Obama administration. That would mean that applicants who qualify for DACA under that memo but have not been able to apply since September 5, 2017, should now be able to apply. It would also mean that renewals should return to two year periods and the availability for travel under advance parole should be restored to cover more applicants.

**However, the court has not yet ordered the government to take this action. The parties are submitting written arguments to the court about what USCIS needs to do now that the Wolf memo has been found unlawfully issued. The plaintiffs written arguments must be filed with the court by November 24th. The government's response is due December 1st. We expect the court will issue its final order shortly after that.**

## **How Does This Impact Me?**

**I'm DACA eligible but I have never had DACA before, can I apply now?**

- Not yet. The court has not yet ordered the government to accept new applications.
- However, if you think you are eligible, you should be gathering and organizing documents proving you have been in the country since before your 16th birthday and since before June 15, 2007.

### **Can I apply for advance parole if I have DACA?**

- The court has not yet ordered the government to use the advance parole rules from the 2012 memo.
- Until further notice, USCIS is likely to continue to deny advance parole requests except in “exceptional circumstances.”
- Exceptional circumstances will be decided on a case-by-case basis but USCIS has provided the following examples of travel that could be considered exceptional:
  - To support national security interests;
  - To obtain life-sustaining medical treatment;
  - To support the immediate safety, well-being or care of an immediate relative
- You should seek a consultation with an attorney before filing an advance parole request.

### **I have DACA and want to renew my status. What should I expect?**

- The court has not yet ordered the government to issue two year work permits.
- The rules in place when your application is decided will determine whether you receive a one year or two year work permit.

For years, Make the Road New York has been fighting back against the Trump administration’s attempts to terminate the program. We will continue to fight back in the streets and in the courts!

To receive the latest information about DACA, please visit our website at: [nydaca.org](http://nydaca.org)

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