



DACA UPDATE - MARCH 23, 2022

What is the current state of the DACA program?

On December 4, 2020, the federal court in Brooklyn in *Batalla Vidal et al. v. Mayorkas, et al.* ordered the government to accept first-time requests for DACA, renewal requests, and advance parole requests based on the terms of the 2012 DACA program.

On July 16, 2021, a Texas federal court found that the 2012 DACA program is unlawful. The federal government has appealed this decision to the Fifth Circuit Court of Appeals. For now, those who currently have DACA or had it at any time in the past can file for renewals of their DACA and work permits. However, the federal government is currently not granting applications from first-time applicants and anyone whose DACA status expired more than one year ago. In fact, the government is not even processing these applications.

What is happening in the *Batalla Vidal* case in New York?

The plaintiffs (a nationwide class of all those who hold DACA or are DACA eligible) have filed a letter asking the Court to meet with them. In the letter, the plaintiffs are asking the Court to review the government's interpretation of the impact of the Texas court's decision on the New York order from December of 2020.

What does this mean?

Plaintiffs believe the government took actions that violated the New York court order. Specifically, the New York court had ordered the federal government to accept and adjudicate first-time DACA applications. Later on, the Texas court ordered that the government could not grant first-time applications. The government interpreted the Texas court's decision as forcing it to not process and adjudicate first-time DACA applications that had been pending before July 16, 2021 when the Texas court issued its decision, despite the fact that these applicants paid filing fees and filed at a time when the government was obligated to process those applications pursuant to the New York court's December 2020 order.

Does this change the DACA program?

For now, nothing has changed. As of March 23, 2022, Plaintiffs have only asked for a conference with the New York court. Those who hold DACA can continue to renew their deferred action and work permits. The government is still not granting first-time applications or applications from those whose DACA has lapsed for more than one year. As the court process moves forward, we will keep this information updated.

What does this mean for first-time DACA applicants?

As of now, there are no changes in the DACA program since July of 2021.

- **Q: Should I send my first application if I have my documents ready?**
- **A:** This is an individual decision you should make in conjunction with your lawyer or legal representative. The application request costs \$495 and although USCIS will accept the application, keep the money, and issue a receipt notice, the application will **not** be granted or denied.
- **Q: I have already sent in my application. What will happen next?**
- **A:** The application will not be granted. On July 27, 2021, USCIS advised they will be putting these applications “on hold” and will NOT be refunding application fees or rejecting applications. This could change in the future. You can check uscis.gov/daca for updates.
- **Q: My first-time DACA application was granted before July 16, 2021. Has anything changed?**
- **A:** No, your DACA and work permit remain valid. You can use your work permit and you are entitled to a Social Security number and could be eligible for other benefits.

What does this mean for current DACA recipients?

While the Texas decision is appealed, the Texas court order allows current DACA holders to continue benefiting from DACA and work permits remain valid. You can use your work permit and you are entitled to a Social Security number and could be eligible for other benefits. The letter filed in New York does not change this.

- **Q: Has anything changed with my DACA or work permit?**
- **A:** No, you will continue to be protected against deportation, and you may continue to use your work permit, Social Security number and any other benefits associated with your DACA.
- **Q: When should I renew my DACA?**
- **A:** USCIS encourages renewals to be filed between 120 and 150 days prior to the expiration of your DACA. However, USCIS will accept your application before 150 days but will not process it until 150 days before your DACA expires. If your DACA expires in the next few months, we encourage you to renew as soon as possible.
- **Q: What if my DACA expired more than one year ago?**
- **A:** USCIS is not granting applications for previous DACA holders whose DACA lapsed for over one year. You may still file an application but it will not be approved unless the government changes its current practice.

What does this mean for travel on advance parole?

USCIS continues to process and issue advance parole from current DACA holders.

- **Q: I have received advance parole. Can I still travel?**
- **A:** Your advance parole is valid and you may travel and re-enter the United States using the document as long as your DACA remains current. However, we always recommend you consult with an attorney or accredited representative about individual risks before traveling.

- **Q: I have an advance parole application pending. What will happen next?**
- **A:** If your DACA is current and you meet the advance parole eligibility requirements, USCIS will continue to process and issue a decision on your advance parole application.

- **Q: I was planning on applying for advance parole. Should I still apply now?**
- **A:** If your DACA is current and you are eligible for advance parole, you may apply. Your application will be processed. However, you should pay attention to the media and uscis.gov/daca for any further court updates that may impact advance parole for DACA holders.

Could any of this change?

Yes, the current DACA program is subject to change based upon court orders or federal government policy change. Please check this website for updates: <http://nydaca.org/>

Get involved!

- This decision makes it clear that we need Congress to act now. MRNY members are fighting to create a pathway to citizenship for all, that is inclusive of DACA beneficiaries and their families. **Join the fight!** Call one of our community centers to get connected with one of our immigration committees.



For more information, contact our organizers near where you live:

Queens	Brooklyn	Staten Island	Long Island	Westchester
Kendra Cornejo (631) 617-3768	Zuleima Dominguez (347) 892-0319	Zuleima Dominguez (347) 892-0319	Kendra Cornejo (631) 617-3768	(914) 948-8466