



Immigration Law Update

Deferred Action for Childhood Arrivals (DACA) Renewal Applications

Submitted by Claudia Vincze Turcean, VLN Robina Fellow

June 2014 marks the second anniversary of Deferred Action for Childhood Arrivals (DACA). On June 15, 2012, the Secretary of the Department of Homeland Security announced that individuals who came to the United States before their 16th birthdays and meet other criteria may request DACA, deferred action from deportation for a two-year period, subject to renewal. On June 5, 2014, United States Citizenship Immigration Services (USCIS) published a combined renewal and initial application.

While DACA does not provide a path to legalization or citizenship, it serves as a powerful tool that helps individuals integrate into the economy and their communities. Individuals who receive DACA are authorized to work and live in the United States for a two-year period. A national survey of 2,381 individuals granted DACA found that, because of DACA, 59% obtained new jobs, 49% opened a first bank account, 33% obtained a first credit card, and 57% obtained a driver's license.¹ Without DACA, these opportunities would not have been possible. Further, in Minnesota, DACA holders may qualify for in-state tuition rates and access to financial aid if they meet the requirements under the Minnesota Prosperity/Dream Act.²

USCIS began accepting DACA applications on August 15, 2012. Through March 31, 2014, the agency approved 553,197 DACA applications.³ Out of those, 4,429 came from Minnesota.⁴ As DACA turns two years old, we have much to celebrate and much left to do—including ensuring applicants timely request renewal so their DACA status does not lapse. The purpose of this tip is to raise awareness around initial and renewal DACA applications.

Requirements for Initial DACA Applications

Some individuals may not know about DACA or may have only recently become eligible to apply. At the time of the DACA request, an applicant must be at least 15 years old unless he/she is currently in removal proceedings or has a final removal or voluntary departure order. The individual must meet the following seven criteria:⁵

1. He/she was under the age of 31 as of June 15, 2012⁶;
2. He/she came to the United States before reaching his/her 16th birthday;
3. Has continuously resided in the United States since June 15, 2007, up to the present time;

¹ <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>

² <http://www.ohe.state.mn.us/mPg.cfm?pageID=2056>

³ http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/I821d_daca_fy2014qtr2.pdf

⁴ http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/I821d_daca_fy2014qtr2.pdf

⁵ <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca#request%20DACA>

⁶ Applicants born after June 15, 1981 meet this requirement. An applicant may *currently* be over 31.

4. He/she was in the United States on June 15, 2012 and when applying for DACA;
5. He/she had no lawful status on June 15, 2012;
6. Is currently in school⁷, has graduated or obtained a certificate of completion from high school, has a GED certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Has not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.

- If an applicant who has not been in removal proceedings applies before he/she is 15 years old, USCIS will reject the application.

To apply, an applicant must complete USCIS forms I-821D, I-765, I-765WS and submit evidence showing he/she meets the criteria. USCIS is only accepting the June 4, 2014 edition of Form I-821D.⁸ The fee is \$465. There is no fee waiver and exemptions are granted on a very limited basis. USCIS will conduct background checks.

DACA Renewals

The first DACA approvals will begin to expire in September 2014. To avoid a lapse in DACA status and employment authorization, individuals should submit renewal applications between 120 to 150 days prior to the expiration of their current DACA status.⁹

In order to qualify for renewal, an applicant who met the initial requirements must meet the following criteria:

1. He/she did not depart the United States on or after August 15, 2012 without Advance Parole;
2. He/she has continuously resided in the United States after submitting the most recent approved DACA request;
3. He/she has 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.

- If an individual traveled outside the United States after August 15, 2012 without Advance Parole, their DACA status is terminated. These individuals are not eligible for renewal.

To request renewal, an applicant must submit the June 4, 2014 version of Form I-821D, Form I-765, and I-765WS. USCIS has emphasized that, for renewals, individuals do not have to submit the same evidence they mailed with their initial application. Applicants should only submit new documents involving removal proceedings, travel outside the United States (i.e., Advance Parole documentation), and criminal history. The fee is \$465. There is no fee waiver and exemptions are granted on a very limited basis. As with the initial application, USCIS will conduct background checks.

⁷ In addition to traditional public or private schools, “currently in school” may also include education, literary, career training programs, and education programs assisting students in obtaining diplomas or in passing the GED. For more information, see <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions>.

⁸ <http://www.uscis.gov/i-821d>

⁹ <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/renew-your-daca>

Tips

- All initial and renewal applicants must use the June 4, 2014 edition of Form I-821D. USCIS will reject all prior forms. Applicants must also use the most current versions of form I-765 and I-765WS. The most recent versions are available at www.uscis.gov.
- Once an initial DACA grant expires, an individual has one year to apply for renewal. If over one year passes, the applicant will have to submit a new initial DACA application, which requires evidence showing he/she meets the initial criteria.
- Applicants should not apply for renewal more than 150 days before their current DACA status expires. USCIS will reject renewal applications mailed too early.
- It is very important to thoroughly examine an applicant's criminal history. Some criminal records can disqualify an applicant from DACA. USCIS defines felony, significant misdemeanor, and non-significant misdemeanors for DACA purposes. For example, according to USCIS, an offense of domestic violence is a significant misdemeanor. Unless an applicant can show exceptional circumstances, the domestic violence offense would disqualify him/her from DACA.¹⁰ For more information, see the USCIS website. VLN Spanish Legal Services Manager Gabriela Brunner is available to discuss the immigration consequences (including removal proceedings) stemming from an applicant's criminal record.
- If an applicant filed his/her renewal request with USCIS approximately 120 days before current DACA expires and USCIS experiences an unexpected delay in processing the renewal request, the agency may provide deferred action and employment authorization for a short period of time.
- USCIS has kept the names and addresses of DACA grantees in their system and will proactively send a letter to the person's last known address reminding them to apply for renewal 100 days before their current status expires.
- DACA is a kind of prosecutorial discretion that may be terminated at any time. For that reason, you may hear individuals say they will wait for immigration reform. There is no guarantee immigration reform will pass. For now, DACA may be the best option available to some individuals who are out of status or undocumented.

Although DACA-eligible individuals have grown up in the same communities and attended the same schools as their documented peers, they have been denied the same opportunities. DACA allows undocumented individuals to access some of the same benefits available to their documented peers. If you would like to help low-income individuals pursue their ambitions in the country they call home, please contact Gabriela at gabriela@vlmn.org.

¹⁰ <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions>