

## POST-ELECTION COMMUNITY ADVISORY ON DACA AND OTHER IMMIGRATION RELIEF

Updated: November 16, 2016 (visit [www.nmilc.org/advisory](http://www.nmilc.org/advisory) for updated information)

**Background:** NMILC has received several questions from community members and organizations following the election of Donald Trump as President about the future of the Deferred Action for Childhood Arrivals (DACA) program. This community advisory provides information on the program and what NMILC recommends individuals do moving forward in terms of that program and other forms of immigration relief.

### What is DACA?

DACA is a program established by President Obama in June 2012 that grants temporary protection from deportation, known as “deferred action,” to undocumented immigrants who came to the United States before turning 16, have resided in the U.S. since June 15, 2007, and meet other requirements. DACA is only an executive action aimed at shifting the priorities of the Department of Homeland Security (DHS). It is not a law, which means that any incoming president can modify or rescind the program.

### What are President-elect Trump’s positions on DACA?

Donald Trump indicated that he would end the DACA program if he were elected, but did not give specifics on how he intends to do that. There are several possibilities for how he could end or phase out the program; he could choose to end the program right away for everyone, including those who currently have work permits, he could allow people with DACA to keep it until it expires and not allow renewals, or some combination of either of those things. Donald Trump does not take office until January 20, 2017, so DACA is still in force at least until then.

### Should I submit my initial DACA application?

If you have not submitted a DACA application and are thinking about submitting your initial one now, **NMILC recommends that you do not file an application.** As previously mentioned, Trump has indicated that he will eliminate the program upon taking office. Because it is unclear what DHS’ priorities for enforcement will be under Trump’s administration, it is best not to provide your information to DHS.

### What if my initial DACA application is currently pending?

Currently, initial DACA applications may take 6-8 months to process. If you recently submitted your initial DACA application and you are represented by an attorney or B.I.A. Accredited Representative, you should contact them. If you did not have an attorney or accredited representative, you may want to contact one. You may also want to contact your local congressional delegation representatives to determine if they may be of assistance in expediting your application. DHS has not indicated whether it will begin to process these applications faster due to the election results and we will have to wait and see if it takes any such position. It is possible that DHS may approve your DACA application before the new president takes office on January 20, 2017.

### What if I already have DACA and need to renew?

If you already have DACA and need to renew and have not had any new issues from the time of your last application that could disqualify you from DACA—including arrests, charges or convictions, or travel outside of the U.S. without permission (advance parole)—and if your contact information has not changed, NMILC believes that the benefits outweigh the risk of applying. Because DHS already has your information, there is little additional risk. USCIS encourages you to renew between 120-150 days of the expiration date on your work permit, but does not require you to apply within that window. If your DACA expires in more than 150 days, DHS will accept your application but your renewal period may not extend for a full two years after your current DACA expires.

Currently, DHS is processing renewals in about 8 weeks. Though this estimate is not guaranteed, it means that for you to have the best chances for DHS to make a determination on your renewal you should file your application by November 25, 2016. If you apply thereafter, your application may not be approved by January 20, 2017, the date of Donald Trump’s inauguration. Because it is unclear what DHS’ priorities for enforcement will be under Trump’s administration, we do not know what will happen to pending applications when he takes office. NMILC believes that pending applications would likely be denied and the application fee would be lost. It is unlikely (although not impossible) that they would be referred to immigration enforcement.

If your circumstances have changed and you have been arrested, charged, or convicted or traveled without permission or your contact information has changed, contact an attorney or B.I.A. Accredited Representative before renewing because it may be best not to renew at this time.

#### **What if I have DACA and want to travel under advance parole?**

Because there is so much uncertainty about the future of DACA, NMILC's general recommendation is not to travel outside of the U.S. at this time, even if you have been approved advance parole. However, if you do decide to travel under an already approved advance parole, do so within the time limits indicated on your approval and return before January 20, 2017. If you have not requested advance parole and there is an emergency that requires you to travel, you may apply for an emergency request of advance parole. Speak to an attorney or B.I.A. Accredited Representative if this is your situation. Keep in mind that USCIS announced that immigration application fees will increase beginning December 23, 2016.

#### **Will DHS deport me if I am DACA-mented after Trump becomes president on January 20, 2017?**

Those who received DACA are not necessarily going to be targeted for deportation. More than 700,000 individuals applied for DACA and it would be extremely costly to deport all recipients. However, Trump is more unpredictable than presidents in the past and we really don't know what to expect. NMILC recommends that you get involved in one of the following local advocacy and organizing groups now to support you in case any such action is taken by Trump:

El CENTRO de Igualdad y Derechos, [www.elcentronm.org](http://www.elcentronm.org)

Somos un Pueblo Unido, [www.somosunpueblounido.org](http://www.somosunpueblounido.org)

NM DREAM Team, [www.facebook.com/UNMDreamTeam](https://www.facebook.com/UNMDreamTeam)

#### **What about DACA+/DAPA?**

NMILC does not expect that DACA+ or DAPA will make it through the courts. Please visit Listo Nuevo México's website, [www.ListoNM.org](http://www.ListoNM.org), to stay up to date of any changes to these programs.

#### **What if I am undocumented? What can I do now?**

If you are undocumented or DACA-mented, you should talk to an immigration attorney, if you haven't already, to determine if there is a possible permanent immigration option for you. You can call NMILC on Fridays, between 11am-1pm (except national holidays) at (505) 247-1023 to speak to an attorney by phone for free. If you want to talk to an NMILC attorney about DACA, citizenship, or green card renewal, you can come to our weekly walk-in hours on Wednesdays at Encuentro/El CENTRO at 714 4th St. SW, Albuquerque, NM 87102 between 1-5pm. You can also reach out to private immigration attorneys in your area. Contact the advocacy groups above to learn how you can get involved. And more about your rights.

If you are an ally, you should donate to your local immigrant-serving groups to help continue fighting for justice for New Mexico's immigrant communities. You can also volunteer and talk to your local and national representatives to advocate for strong pro-immigrant positions on legislative actions.

#### **What about the increases in fees for initial and renewal DACA applications?**

DHS announced that fees will be increasing beginning December 23, 2016 for initial and renewal DACA applications. The application will increase from \$465 to \$495. This may impact your decision to renew. Again, if you have not submitted a DACA application before, NMILC recommends that you not do so.

#### **What if I am a legal permanent resident?**

If you have been a legal permanent resident for five years (or three years and married to a U.S. Citizen), you may be eligible to apply for U.S. Citizenship. NMILC hosts weekly walk-in hours where you can speak to one of our attorneys about applying for citizenship on Wednesdays at Encuentro/El CENTRO at 714 4th St. SW, Albuquerque, NM 87102 between 1-5pm. You can also reach out to private immigration attorneys in your area. If you have any criminal convictions, have traveled outside of the U.S. for more than 6 months in any given year, speak to an attorney before applying for citizenship.

### **PROTECT YOURSELF FROM IMMIGRATION FRAUD!**

Remember, only immigration attorneys and B.I.A. Accredited Representatives can assist you with immigration cases.