



# Cornell Law School

Path2Papers Project

*Bridging Opportunities for  
Dreamers and Employers.*

Immigration Law &  
Advocacy Clinic

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Last Updated: 10/2/25

## DACA and Advance Parole Updates and Trends

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On January 17, 2025, the Fifth Circuit Court of Appeals (“the Court”) issued a ruling in the ongoing litigation over Deferred Action for Childhood Arrivals (DACA). The Court held that certain provisions of the DACA rule—specifically the federal government’s authority to grant work authorization—were unlawful. However, the Court affirmed that the federal government retains the authority to grant deferred action, which offers protection from deportation.

Importantly, the Court limited its decision to Texas and sent the case back to the lower court for further review. On September 29, 2025, the Trump administration filed a brief agreeing that only Texas demonstrated harm, meaning any restrictions should apply solely there. The administration also confirmed that USCIS may process both initial and renewal DACA applications outside of Texas. We now await the judge’s response and whether he will issue a ruling that aligns with the administration’s arguments.

For a more detailed explanation of the recent ruling, [see Informed Immigrant’s resources](#).

### DACA Renewals

DACA renewal applications are still being processed. Practitioners report that applications submitted online through the USCIS website are typically processed within a few weeks, while paper-filed renewals often take significantly longer, sometimes several months.

### Arrests and Detentions

The Trump administration recently [publicly pressured DACA recipients to self-deport](#), following reports of at least four individuals with DACA who were detained—one who inadvertently crossed into Mexico, another who missed a court hearing after being cited for driving with a suspended license, a third who was detained during a workplace raid, and a fourth who was detained prior to boarding an airplane.

DACA recipients should work with an attorney if they find themselves in a situation where they are arrested and detained.



# Advance Parole

## Current Trends in Emergency DACA Advance Parole Adjudications

Emergency Advance Parole (AP) applications for DACA recipients are becoming increasingly difficult to get approved. In recent months, there has been a noticeable rise in denials of emergency DACA AP requests that likely would have been approved not long ago. At the same time, it has become more challenging to secure INFOPASS appointments at USCIS field offices, where these emergency requests are submitted. There are reports that USCIS is not scheduling appointments for emergency AP if the DACA beneficiary's last entry was without inspection or admission. Given these hurdles, DACA recipients are encouraged to first file a regular Advance Parole application and request expedited processing, reserving the emergency option as a last resort.

See our guide [Emergency and Expedited Advance Parole Request for DACA Recipients Attending Consular Visa Appointments](#) for templates for both emergency and regular expedited advance parole requests.

## Current Trends in Expedite Requests for Regular DACA Advance Parole Applications

Regular DACA Advance Parole (AP) applications must be submitted by mail using Form I-131. You may generally request to expedite your advance parole application either at the time you file it or after you receive a receipt notice from USCIS. If you choose to request expedited processing after filing, you can do so by creating an online USCIS account and uploading evidence to support your reasons for the request.

Within a few weeks of mailing the application, applicants should receive an I-797 receipt notice by mail. Once the receipt notice arrives, applicants can log into their USCIS online account and upload a written expedite request along with any supporting documentation.

If the expedite request is based on the need to attend a nonimmigrant visa (NIV) appointment abroad, the request should specify the date of the interview and include a copy of the applicant's H-1B (or other NIV) approval notice as well as the interview appointment letter. If there are additional humanitarian or urgent reasons for the expedite, these should also be explained in the written request and supported with documentation.

After submitting the expedite request and supporting documents through the USCIS online account, applicants should call the USCIS Contact Center using the number listed at the bottom of the I-797 notice and ask the representative to ensure the request is forwarded to an officer for review. Applicants may also wish to contact their congressional representatives to request that their office contact USCIS on their behalf to help expedite the application.

A USCIS [website](#) provides the types of requests the agency will consider to expedite pending applications. One example includes a "pressing or critical" "professional commitment" such as an employment-related meeting. This example can be used as a basis for expediting for



purposes of a nonimmigrant visa interview abroad. Other examples include, “illness of a family member or close friend”, a “pressing or critical medical treatment,” or a “wedding or personal commitment”. The website provides helpful examples specifying the level of detail that should be included in documentation submitted in support of each stated reason.

In at least two recent cases, applicants received denial notices for the expedite request but had their I-131 Advance Parole applications approved just a few days later. While it is unclear why USCIS issues a denial of the expedite request and then proceeds to approve the application, these examples suggest that the requests may still be effective despite the denial notice. As of July 2025, normal processing times for DACA AP applications are approximately 11 months, so expediting is currently the only practical option for timely approval.

### **Update on DACA Recipients Returning with Nonimmigrant Visas (NIVs) and D-3 Waivers Based on Unlawful Presence (UP) Bar Findings**

In July and August 2025, the National Benefits Center approved two separate Form I-485 applications—without requiring a Form I-601 waiver for a DACA recipient who had previously departed the U.S. on Advance Parole (AP) after accruing more than one year of unlawful presence. While abroad, the individual applied for a nonimmigrant visa (NIV), and the Department of State (DOS) determined that the departure triggered the ten-year unlawful presence (UP) bar, despite the fact that the travel was on DACA AP.

This reflects a common DOS position: that individuals who leave the U.S. on AP after accruing over a year of unlawful presence and return with an NIV (rather than AP) are subject to the ten-year bar. However, the applicant argued in their I-485 filing that this interpretation was incorrect. Citing *Matter of Arrabally and Yerrabelly*, the applicant maintained that departure on Advance Parole—regardless of whether reentry occurred on AP or on an approved NIV—does not trigger the UP bars. The applicant further asserted that USCIS is not bound by DOS’s inadmissibility finding and should evaluate the issue independently (*de novo*).

USCIS agreed with the legal argument, found that the UP bar did not apply, and approved the I-485 without requiring a waiver.

A template for this legal argument, including all relevant legal citations and an [unpublished 2017 AAO](#) decision confirming that someone who departs on AP and reenters on an H-1B does not trigger the UP bar, [is available here](#).

**Note:** Future departures and returns with NIVs might separately trigger the ten-year bar and would thus make this argument moot. An NIV holder that wants to pursue this argument should work closely with immigration counsel before additional trips abroad are taken.

### **Free Legal Consultations**

Path2Papers offers free consultations to:

- Dreamers with a connection to the San Francisco Bay Area or Cornell Law School who wish to explore their employment-based options.
- DACA recipients, anywhere in the country, who have returned to the U.S. with an NIV



and D-3 waiver and wish to explore eligibility for adjustment of status without an I-601 waiver or the need to serve a 3- or 10-year bar;

- Attorneys assisting DACA recipients with NIV or AP-related matters anywhere in the U.S.; and

[Schedule a consultation here.](#)

