

# Traveling on Advance Parole for DACA Recipients

November 28, 2023

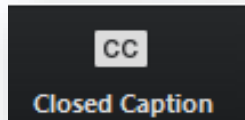


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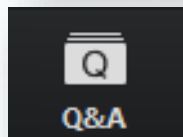


## House Keeping Items

- **Webinar is being recorded**
- **Contact information will be shared at the end**
- **Utilize Q & A for questions throughout the webinar**
- **Panelists will utilize the chat feature to share links & resources**



Click the tab to read live captions.



Click this tab to enter questions for the presenters, and read their responses.

**12:00pm – 12:05pm**

**12:05pm – 12:15pm**

**12:15pm – 12:30pm**

**12:30pm – 12:40pm**

**12:40pm – 12:50pm**

**12:50pm – 1:00pm**

# **Agenda**

**DACA Updates and Timeline**

**Overview of Advance Parole for DACA**

**Tips and Risks to Consider Before Traveling**

**Tips When Returning From Abroad**

**Advance Parole and Adjustment of Status**

**Traveling While Undocumented**

# DACA Updates and Timeline

# **DACA: *Texas v. United States* Litigation**

- December 2020: Supreme Court case—**was DACA terminated lawfully?**
  - Court agreed: Termination was arbitrary and capricious
- Lawsuit by Texas, on the other hand, challenged the legality of the DACA policy—**is DACA unlawful?**

# ***DACA: Texas v. United States***

- **August 30, 2022: DHS published DACA rule**
  - **Underwent Notice and Comment**
  - **Codified DACA into regulations**

# ***DACA: Texas v. United States***

- **2023: U.S. District Court of the Southern District of Texas held that DACA policy was unlawful—**
  - **Held DACA rule is unlawful**
  - **Permanent Injunction but stay that the rule can be implemented to allow for renewals while litigation continues**

# What's next?

- Advocates appealed to Fifth Circuit
- Decision expected to come in 2024
- Then likely will be appealed to SCOTUS, decision likely at end of 2024 if not 2025



# What did the DACA rule do?

- Sought to remedy notice and comment requirement—changing DACA from 2012 Napolitano Memo
- Rescinded the Napolitano Memo from 2012
- Kept same DACA requirements

# Final Rule Published

- Expunged convictions continue to be accepted and are not automatic bars to DACA
- A Notice of Intent to Terminated is needed before USCIS terminates DACA
- Generally, protects information about DACA recipients

# Who is eligible for DACA?

- USCIS is accepting, processing, and granting DACA renewals
- Eligible to renew if:
  - Current DACA recipient
  - DACA expired less than 1-year ago

# When to Renew?

- If DACA expires 6 months from now, renew as soon as you can
- If your DACA expires 6 months to 1 year, you could consider renewing, but could receive less time with DACA

# Overview of Advance Parole for DACA

# What is Advance Parole?

- Advance authorization to re-enter the United States (“paroled”) upon return
- Approval Notices are Given on Form I-512L
- Specific requirements for DACA

Department of Homeland Security  
U.S. Citizenship and Immigration Services

I-512L, Authorization for Parole of an Alien into the United States

(Family Name) (Given Name) (Middle Initial) Date Issued  
SONJIA, MANISH August 26, 2009

(Date of Birth (Month/Day/Year)) (Country of Birth) (City or Town) (State or Province) (Country)  
08/26/2009 INDIA

(U.S. Address - (Age number and/or in care of)) (Street Number and Name) (City) (State or Province) (Zip/Postal Code)  
1480 NE 7TH PL APT 4, BELLEVUE WA 98007

TRAVEL ADVICE: Presentation of the original of this document authorizes a transportation line to accept the named holder as board for travel to the United States without having made section 215 of the Immigration and Nationality Act fully for bringing an alien who does not have a visa.

PAROLE: The named holder of this authorization is an applicant for adjustment of status under the Act. The holder departed the United States temporarily and intends to return to the United States in certain processing of the adjustment of status application. Presentation of the original of this document prior to August 29, 2009 allows an alien and Border Protection (BP) (part of a port of entry to parole the named holder, whose photograph appears herein, into the United States based upon humanitarian reasons or significant public benefit. This authorization is valid for multiple applications for parole into the United States during the validity period stated above. Each parole period shall not exceed one year from the date of parole in the port of entry.

Approval  
 Conditional/Comments

NOTE: READ BEFORE YOU TRAVEL ABROAD

Parole is not admission into the United States. Presentation of this authorization will allow a CBP Inspector at a port of entry to parole you into the United States, which will allow you to reenter your application for adjustment of status. Parole is not an "admission," as even after your parole you will remain an applicant for admission. If you are found inadmissible, you will need to apply separately for a waiver of inadmissibility. If your adjustment application is denied, you may be subject to removal proceedings as an inadmissible alien under 212(a)(7)(A) of the Act.

Parole into the United States is not guaranteed. In all cases, you are still subject to admission inspection at a port of entry to determine whether you are eligible to enter into the United States on the basis of this document. Even if you have previously been granted parole, the Department of Homeland Security reserves discretion to deny you parole if the Department determines approving your travel application would serve the public interest of the United States.

Travel Warning Regarding Unlawful Presence: If you have been unlawfully present in the United States, you may want to seek an immigration attorney or a representative of an immigrant assistance organization accredited by the Board of Immigration Appeals (BIA) whether leaving the United States would make you inadmissible and therefore ineligible for adjustment of status. Under section 212(a)(9)(B) of the Act, aliens who depart the United States after being unlawfully present in the United States for certain periods may become subject to bars of additional grounds of inadmissibility because of their initial arrival. If you were unlawfully present in the United States for more than 180 days after April 1, 2007, you may be found inadmissible when you return to the United States. If you were unlawfully present in the United States for more than 360 days after that same year after April 1, 2007 and have departed voluntarily before the start of removal proceedings, you are inadmissible for three years. If you were unlawfully present for one year or more after April 1, 2007 and then departed, you are inadmissible for ten years. Obtaining advance authorization for parole will not relieve you of inadmissibility under 212(a)(9)(B).

Inadmissibility in general: If you have concerns about admissibility and want you should contact an immigration attorney or an immigrant assistance organization accredited by the BIA before making foreign travel plans.

Norfolk Service Center  
450 S. State  
Lincoln, NE 68501  
(Authorizing Officer)  
Parole Stamp

F. Conrad Helmsauer  
F. Conrad Helmsauer

Form I-512L (Rev. 08/23/2007)

# Advance Parole Eligibility for DACA

Has to be based on either:

- **Employment** Purposes (overseas assignments, interviews, conferences, trainings, meetings)
- **Humanitarian** Purposes (obtaining medical treatment, attending funeral, visiting sick relative)
- **Educational** Purposes (semester study abroad, academic research, cultural exchange programs)

# Advance Parole Eligibility

## To Apply:

- Fill out **Form I-131** (Application for Travel Document) + \$575 Fee and Submit to USCIS
- **Include Supporting Evidence**
  - **Employment:** Conference Programs, Letters from Employer
  - **Humanitarian:** Letters from physician/hospital/social worker to prove family member illness or extreme age
  - **Educational:** Evidence of educational enrollment and why education program requires travel



# General Process

- Persons have been able to successfully travel and return
- General Processing times according to USCIS: 3-4 months
- Emergency Travels: Call USCIS, can take application and pay there if approved:
  - **800-375-5283** to request an appointment

# Advance Parole Case Examples

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## Employment:

- Applicant applied for advance parole to participate in her employer's annual humanitarian trip to provide free dental services to orphans.
- Advance Parole was requested as an employment and educational opportunity.
- Advance Parole was approved for a single 30-day trip.

# Advance Parole Case Examples

## Education:

- Applicant applied for advance parole to study abroad in France for a semester. Applicant requested multiple entries to be able to come back home to the U.S. for spring break and other holidays.
- Advance Parole was approved for a multiple entry 5-month trip.
- *Keep in mind that tourism is not a valid purpose for Advance Parole.*

# Advance Parole Case Examples

## Humanitarian:

- Applicant's family member died of COVID and was not able to visit them before they passed. Applicant requested advance parole to visit family member's grave & pay respects.
- Advance Parole was approved for a single 40-day trip.

# Tips & Risks to Consider Before Traveling

# Things to Consider Before Traveling

- **BEFORE** you leave the U.S., check your Advance (AP) Parole document
  - Confirm your information is correct (Name, address, A number, and country of birth)
  - Confirm your advance parole is valid for DACA
  - Confirm your travel dates
  - Confirm one entry vs. multiple entries into the U.S.

# Things to Consider Before Traveling

- **Make sure you have your valid DACA card & passport**
  - **Consider submitting your DACA renewal before you travel**
- **Advance Parole is granted for a specific trip(s) and purpose**
  - **Can be approved for travel to more than one country, for various purposes and for one or more entries into the U.S.**
- **Advance Parole is not authorized for "tourism" purposes**



# Things to Consider Before Traveling

Depending which country you will travel to:

- Valid visa or travel document may be required
- Covid testing may be required
- Vaccination may be required to return to the U.S.
- Covid may continue to impact international travel

# Risks to Consider Before Traveling

- Advance parole document does not guarantee entry into the U.S.
  - Allows recipient to request re-entry into the U.S.
- Consult an expert, especially if in the past you:
  - Have been deported or ordered removed
  - Had contact with ICE/CBP
  - Had an arrest or conviction

# Tips When Returning from Abroad

# Keep in Mind when Returning to the US

- Carry with you your unexpired DACA card, valid passport, and original Advance Parole Document
  - Original Advance Parole Document will get stamped when you arrive to the US
  - Passport may also get stamped and/or be given I-94
- Keep proof of entry into the U.S.!
  - You will need the information for your DACA Renewal and for future applications

# Keep in Mind when Returning to the US

- **Be mindful of which airport you fly into**
  - **First airport you arrive to in the U.S. is where you will go through customs**
- **Be prepared in case you are sent to secondary inspection**
  - **Officer may ask you many questions**
  - **Officer may search your phone/belongings**
  - **Officer may review your social media accounts**

# Keep in Mind when Returning to the US

- **Recommended you obtain a consultation with an immigration expert before traveling and/or when returning to the US**

# Advance Parole and Adjustment of Status

# Consular Process v. Adjustment of Status

- **Step 1: Filing an immigration petition (e.g. Family)**
- **Step 2: Getting your immigration visa**
- **Consular Process: Obtaining your visa outside the United States**
- **Adjustment of Status: Obtaining your visa inside the United States**



# Consular Process v. Adjustment of Status

- **Consular Process:**
  - Once a person leaves the United States, can cause certain bars:
    - 3/10 year bar if they've had **more than 180 days** of unlawful presence in the United States and leave
  - **Notes:**
    - While on DACA, person does not accrue unlawful presence
    - Leaving on advance parole does not trigger this!
    - Waiver available

# Consular Process v. Adjustment of Status

- Adjustment of Status:
  - Only certain persons can be eligible for adjustment of status
- Common Forms:
  - **245(i) Eligibility:** Persons who were beneficiaries of a petition filed on or before **April 30, 2001**
  - **245(a) Eligibility:** Persons who are “inspected and admitted or paroled”

# Getting a Green Card through Immediate Relative

- **Main 245(a) Eligibility Requirements**
  - **Inspected and admitted or Paroled**
    - Traveling and re-entering on advance parole is considered a “parole” and meets the definition under 245(a)
  - **Must NOT:**
    - **Have worked without authorization**
    - **Have unlawful immigration status at time of adjustment**
    - **Exception: Immediate Relatives**

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# Getting a Green Card through Immediate Relative

- **Immediate Relatives**
  - **Spouses of U.S. Citizens**
  - **Unmarried Child under 21 of a U.S. Citizen**
  - **Parent of a U.S. Citizen (21 years or older)**

# Example:

- **Claudia entered without inspection by crossing the border and began working without authorization to help her mom. She received her DACA when she was 19 years old. She now wants to marry her U.S. spouse, Natalia. Claudia travels on advance parole and re-enters. Is Claudia eligible for adjustment of status?**

# Example:

- **YES! Claudia would meet the 245(a) definition of paroled because she traveled and re-entered successfully. Because she is an immediate relative of a U.S. citizen spouse, she doesn't have to worry about her previous work without authorization.**

# Flying Domestically as Undocumented



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- Flying domestically is possible if flying anywhere between the 50 states, Puerto Rico, Guam, Commonwealth of the Northern Mariana Islands, U.S. Virgin Islands
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# Flying Domestically as Undocumented

- Make sure you have a **VALID** and **UNEXPIRED** ID (e.g. Passport)
- Of course, there are risks of being questioned further by immigration officials
  - Avoid airports near border or anti-immigrant states like TX and Florida
  - If asked questions, state your name but don't answer about place of birth or if you have documents/papers or not
  - Talk to an attorney and have a number handy

# Legal Services for Students

- **Services are:**
  - Available in client's best language
  - Free and confidential
  - Available to individuals regardless of their status
  - Available to students, faculty, and staff
  - DACA renewal applications, naturalization and Advance Parole application filing fees are also covered

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