



USCIS Releases New DACA Application Form and Instructions

A new edition of the Deferred Action for Childhood Arrivals (DACA) application (Form I-821D) and instructions, dated June 25, 2013, is available on the [USCIS website](#). As of September 9, 2013, USCIS is accepting **only** this version of the DACA application form.

The new Form I-821D and instructions include the following major changes:

➤ **Removal Proceedings Information (Form I-821D, Part 1, Question 3)**

Removal Proceedings Information

3.a. Are you now or have you ever been in removal proceedings (which includes exclusion or deportation proceedings initiated before April 1, 1997, an INA section 240 removal proceeding, expedited removal, reinstatement of removal, an INA section 217 removal after admission under the Visa Waiver Program, or removal as a criminal alien under INA section 238), or do you have a removal order issued in any other context (for example, at the border or within the United States by an immigration agent)? Yes No

If you answered "Yes" to the above question, you must check a box below indicating your current status or outcome of your removal proceedings.

3.b. Status or outcome:

- 1. Currently in Proceedings (Active)
- 2. Currently in Proceedings (Administratively Closed)
- 3. Terminated
- 4. Subject to a Final Order

3.c. Most Recent Date of Proceedings

(mm/dd/yyyy) ▶

3.d. Location of Proceedings

- USCIS clarifies how to answer the question regarding whether the applicant is or has ever been in removal proceedings by providing a list of types of removal proceedings (e.g. exclusion or deportation, INA Section 240 removal proceedings, expedited removal proceedings). This list should help applicants identify whether they have been in or are currently in removal proceedings.
- The revised form allows applicants to indicate whether pending proceedings are active or administratively closed.
- The new form directs the applicant to include the "most recent" date of proceedings. The prior version of the form simply asked for "date and location of proceedings," which made it difficult for applicants to answer. It was unclear whether the applicant should include, for example, the most recent hearing date, an upcoming hearing date, the date the administrative closure or termination of proceedings occurred, or the date of the issuance of the final removal order. Presumably, applicants should now indicate the most recent date of any court hearing.

➤ **Status on June 15, 2012 (Form I-821D, Part 1, Question 15)**

15. Status on June 15, 2012 (e.g., No Lawful Status, Status Expired, Parole Expired)

- The new I-821D now asks about the applicant's immigration status on *June 15, 2012*, rather than at the time of initial entry. The form lists three potential responses: no lawful status; status expired; and parole expired. This change is consistent with the DACA eligibility guideline providing that applicants must have entered without inspection before June 15, 2012 or their lawful immigration status must have expired as of June 15, 2012.
- Individuals who entered the U.S. with a visa or parole that expired as of June 15, 2012 should indicate that their status or parole expired.
- Individuals who entered the U.S. without inspection should indicate that they had no lawful status on June 15, 2012.

➤ **Educational Information (Form I-821D, Part 1, Questions 18-20; Form Instructions at pp 6-7)**

Education Information

18. Education Status (e.g., High School Graduate, Recipient of GED, or Currently in School)

19. Name, City, and State of School Currently Attending or Where Education Received

20. Date of Graduation (e.g., Receipt of a Certificate of Completion, GED Certificate, or other equivalent State-authorized exam) or, if Currently in School, Date of Last Attendance (mm/dd/yyyy) ▶

- The new form makes slight modifications to the three questions addressing the applicant's educational background.
- Question 18 on current education status now indicates that this pertains to being in school, having a GED certificate, or having a high school diploma.
- Question 20 has been slightly revised to ask for the applicant's date of graduation, indicating that this also may include the date of receipt of a certificate of completion or GED certificate or, if currently in school, date of last attendance.

- Revised form instructions now include a more detailed description of the types of acceptable programs and evidence needed to show that applicants meet the DACA educational guideline. For example, the instructions provide that an applicant may be considered “enrolled in school” if enrolled in an education, literacy, or career training program aimed at placing the individual in post-secondary education, job training, or employment.
- The revised form instructions also provide that applicants may meet the “enrolled in school” guideline by enrolling in a program helping them obtain a high school diploma, or pass a GED exam or other equivalent exam. The applicant must provide evidence regarding whether the program is funded in whole or in part by federal, state, local, or municipal funds. If the program is not publicly funded, then applicants have to show that the program has “demonstrated effectiveness.” Evidence of “demonstrated effectiveness” includes a letter from a program representative regarding:
 - How long the program has existed;
 - The program’s track record;
 - Awards/special achievements of the program; and
 - Any other explanation of the program’s overall quality.

➤ **Arrival/Residence Information (Form I-821D, Part 2, Question 1)**

Part 2. Arrival/Residence Information

1.a. I initially arrived and established residence in the U.S. prior to the age of 16. Yes No

1.b. I have been continuously residing in the U.S. since at least June 15, 2007 up to the present time. Yes No

Note: If you departed the United States for some period of time before your 16th birthday and returned to the United States on or after your 16th birthday to begin your current period of continuous residence, submit evidence that you established residence in the United States prior to age 16 as set forth in the instructions to this form.

- A revised question (1.a.) and accompanying text in this section should help applicants determine their eligibility for DACA based on their initial arrival in the U.S. before age 16. As noted in the form, applicants who first entered the U.S. before age 16 and established residence at that time qualify for DACA, even if they departed the U.S. for some period of time and returned after age 16. They must also have been continuously residing in the US since June 15, 2007. The prior version of the form asked only whether the applicant had arrived in the U.S. on or before June 15, 2007.

- Accompanying instructions to the new form list documents that may serve as evidence of established residence in the U.S. prior to turning 16, including records showing school attendance, employment in the U.S., or residence in the U.S. for multiple years.

➤ **Juvenile Delinquency Dispositions (Form I-821D, Part 3, Question 1)**

Part 3. Criminal, National Security and Public Safety Information

If any of the following questions apply to you, use **Part 7., Additional Information**, to describe the circumstances and include a full explanation.

1. Have you ever been arrested for, charged with, or convicted of a felony or misdemeanor in the United States? *Do not include minor traffic violations unless they were alcohol- or drugs-related. Do include incidents handled in juvenile court.* Yes No

If you answered "Yes" you must include a certified court disposition, arrest record, charging document, sentencing record, etc., for each arrest, unless disclosure is prohibited under state law.

- Question 1 in this section of the form asks whether the applicant has ever been arrested, charged with, or convicted of a felony or misdemeanor in the United States. The old form was silent as to whether this question required the disclosure of juvenile offenses, which are not considered to be convictions under immigration law. The new form, however, specifically states that juvenile offenses should be disclosed. However, the form does note that applicants do not need to submit accompanying court records where such disclosure is prohibited under state law.
- Partner organizations within the Own the Dream Campaign have joined in advocating that USCIS not consider juvenile offenses in determining DACA eligibility. In particular, these organizations have raised the concern that differences in state laws regarding access to juvenile records makes it difficult for USCIS to treat applicants uniformly. Under current policy, certain applicants have to divulge juvenile records that may negatively impact their cases while others are exempt from this requirement. For this reason, these organizations will continue to advocate with USCIS to reconsider this policy regarding disclosure of juvenile delinquency offenses and records.

➤ **Form Preparer (Form I-821D, Part 4, Question 4)**

4. Did someone help you prepare this form or a portion of it? (You must answer Yes or No.) Yes No

If yes, complete Part 5., Signature of Person Preparing This Request, If Other Than the Requestor.

- Form I-821D now asks the applicant to indicate whether anyone helped prepare the application or any portion of it. If the applicant answers "yes" to this question, USCIS will expect that Part 5 of the application form will include a signed declaration by the person or persons who helped prepare the application. As a result of this change, more individuals involved in application assistance may need to identify themselves as form preparers and complete the declaration in Part 5 of the application.