



## Advance Parole Travel for Deferred Action for Childhood Arrivals (DACA) Recipients

Jan. 26, 2021

In compliance with a federal court order, U.S. Citizenship and Immigration Services (USCIS) has resumed accepting and adjudicating advance parole applications under the terms that were in place under the original 2012 DACA program. This FAQ answers common questions about applying for and traveling with advance parole.

### 1. What are qualifying purposes to receive advance parole for travel abroad?

Advance parole may be granted for humanitarian, educational or employment purposes. Travel for vacation is not a valid basis for advance parole. USCIS has provided the following non-exclusive examples in its DACA FAQs, available at [uscis.gov/humanitarian/humanitarian-parole/frequently-asked-questions](https://uscis.gov/humanitarian/humanitarian-parole/frequently-asked-questions):

- humanitarian purposes, including travel to obtain medical treatment, attending funeral services for a family member or visiting an ailing relative;
- educational purposes, such as semester-abroad programs and academic research, or;
- employment purposes such as overseas assignments, interviews, conferences, training or meetings with clients overseas.

### 2. How do I apply for permission to travel abroad?

A DACA recipient may apply by filing a Form I-131, Application for Travel Document. Advance parole applications cannot be submitted concurrently with a first-time DACA application. The current fee for applying is \$575 and fee waivers are not available. A biometrics fee is not required. Applicants must also include supporting evidence to document the purpose of the travel. The I-131 instructions include some examples of acceptable evidence related to the humanitarian, educational or employment nature of the trip.

### 3. Can advance parole requests be expedited?

DACA recipients who have an urgent need for travel may request that USCIS expedite their applications for advance parole. USCIS may consider expedite requests if one or more of the following criteria are met:

- Severe financial loss to a company or person;
- Urgent humanitarian reasons;
- Compelling U.S. government interests (such as urgent cases for the Department of Defense or DHS, or other public safety or national security interests); or
- Clear USCIS error.

More information is available on the USCIS website [here](#) and in Vol. 1, Part A, Ch. 5 of the [USCIS Policy Manual](#). If you are filing an advance parole request and would like to request expedited processing, include a cover letter explaining the need for expedited processing and include supporting documentation to demonstrate the urgent need to travel. We recommend that you write EXPEDITE on the envelope and the cover letter.

To request that USCIS expedite an advance parole application that has already been submitted, the [USCIS website](#) instructs applicants to contact the USCIS Contact Center and provide a receipt number. The USCIS Contact Center will create and forward a service request to the office with jurisdiction over your application.<sup>1</sup>

#### **4. Can I make an emergency advance parole request if the expedite process is not fast enough?**

In extremely urgent situations, you may request an emergency advance parole appointment at a local field office by contacting the USCIS Contact Center. Procedures for requesting emergency advance parole in the green card context are available [here](#). Requests should include an explanation of the urgent need to travel and evidence of the emergency. These requests are reviewed on a case-by-case basis. According to [DHS Ombudsman guidance](#), emergency advance parole requests can be processed and approved on the same day if the individual submits the completed form, appropriate fee, and supporting documentation. Emergency advance parole requests granted at the field office may be granted for a specific period of time and will have no effect on advance parole requests already pending with a service center. However, an Immigration Services Officer has the discretion to request that a currently pending advance parole application be expedited rather than issuing an emergency advance parole document. USCIS is likely to deny avoidable emergency requests or emergencies that resulted from applicant delay.<sup>2</sup>

#### **5. What recommendations should DACA recipients follow before traveling abroad?**

- Be mindful of traveling within the approved period that is specified on the I-512L travel document to help ensure that the DACA recipient is able to re-enter.

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<sup>1</sup> [uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request](https://uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request)

<sup>2</sup> [dhs.gov/ombudsman-update-advance-parole-tips](https://dhs.gov/ombudsman-update-advance-parole-tips)

- Consider requesting extra time to account for any travel delays and to minimize the possibility that the DACA recipient is unable to return to the United States before the travel document expires.
- Keep copies of the travel document. Note that, when returning to the United States, a CBP officer should take one copy of the travel document and also stamp and return another copy of the travel document to the DACA recipient.

## **6. Are there any known risks that might prevent a DACA recipient from re-entering with advance parole?**

A travel document does not guarantee your ability to re-enter the United States. DACA recipients are still subject to inspection at the port of entry, and CBP officers have the discretion to determine whether the individual is inadmissible or otherwise should be denied entry. In particular, watch out for inadmissibility issues such as being subject to the permanent bar or criminal grounds of inadmissibility, which potentially increase the risk of traveling on advance parole. Note that in *Matter of Arrabally and Yerrabelly*, the Board of Immigration Appeals held that travel on advance parole does not constitute a “departure” for purposes of triggering the ten-year bar for unlawful presence under INA § 212(a)(9)(B)(i)(II).<sup>3</sup> DACA recipients should be carefully screened by a qualified legal representative for all grounds of inadmissibility before a decision is made to depart.

## **7. What are the consequences of traveling with an unexecuted removal order?**

USCIS will likely view travel in this circumstance as executing the removal order. The DACA recipient would be inadmissible for 10 years from the date of departure under INA § 212(a)(9)(A)(ii)(II) unless an I-212 waiver is granted. The impact of executing the removal order is that a DACA recipient who is eligible to apply for adjustment of status would need to file their application with USCIS and not with EOIR. Note that in the Temporary Protected Status (TPS) context, there is USCIS guidance that takes the opposite position, stating that advance parole travel does not execute an outstanding removal order.<sup>4</sup> However, this reasoning is specific to TPS.<sup>5</sup> If USCIS tries to apply its TPS guidance to a DACA client, advocates should argue that this policy should not be applied to DACA recipients and that USCIS retains jurisdiction over adjustment applications filed in this posture.

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<sup>3</sup> *Matter of Arrabally and Yerrabelly*, 24 I&N Dec. 771 (BIA 2012)

<sup>4</sup> [USCIS Policy Alert](#), Effect of Travel Abroad by Temporary Protected Status Beneficiaries with Final Orders of Removal, PA-2019-12 (Dec. 20, 2019)

<sup>5</sup> See USCIS Policy Manual, Vol. 7, Part A, Ch. 3 at footnote 19.

## 8. How can leaving and returning on advance parole help me qualify for adjustment of status?

Entry with advance parole may make some DACA recipients eligible for adjustment of status under INA § 245(a). This typically will only benefit "immediate relatives" (the spouses or children of U.S. citizens or the parents of adult U.S. citizens). For example, a DACA recipient who entered the United States without inspection but subsequently left and returned under advance parole would now be considered to have been "inspected and admitted or paroled." If that person has an immigrant visa immediately available, is not inadmissible, and is not subject to any of the 245(c) bars to adjustment, he or she may qualify to adjust status under section 245(a).