



**Privacy Impact Assessment Update
for the**

Deferred Action for Childhood Arrivals (DACA)

DHS/USCIS/PIA-045(b)

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Abstract

The Department of Homeland Security (DHS) United States Citizenship and Immigration Services (USCIS) is updating the Privacy Impact Assessment (PIA) for Deferred Action for Childhood Arrivals (DACA), originally published on August 15, 2012, and updated on April 17, 2014. This update discusses the supplemented DACA memorandum expanding the DACA guidelines and the resulting minor changes to Form I-821D, *Consideration for Deferred Action for Childhood Arrivals*.

Overview

On November 20, 2014, the President announced his Immigration Accountability Executive Action to strengthen border security, focus enforcement resources, and enhance accountability in the U.S. immigration system.¹ As part of this Executive Action, the Department of Homeland Security (DHS) is expanding the Deferred Action for Childhood Arrivals (DACA) program. Under the updated program, DHS expanded the population of those who may be considered for the DACA program to include people of any age who lived in the United States continuously since January 1, 2010, provided they meet the rest of the DACA guidelines. The announcement also extended the period of deferred action under DACA and work authorization from two years to three years.

On June 15, 2012, then-Secretary of Homeland Security, Janet Napolitano, issued a memorandum that allowed certain people who came to the United States as children and met several key guidelines, to request consideration for deferred action,² subject to renewal, and to be eligible for work authorization. On November 20, 2014, Secretary of Homeland Security Jeh Charles Johnson supplemented and amended that guidance.³ Effective February 18, 2015, an individual may request consideration of DACA if he or she:

- Came to the United States before reaching his or her 16th birthday;

¹ See Press Release, The White House, FACT SHEET: Immigration Accountability Executive Action (Nov. 20, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/11/20/fact-sheet-immigration-accountability-executive-action>.

² Deferred action is a discretionary determination to defer a removal action of an individual as an act of prosecutorial discretion. For purposes of future inadmissibility based upon unlawful presence, an individual whose case has been deferred is not considered to be unlawfully present during the period in which deferred action is in effect.

³ See Memorandum from Jeh Charles Johnson, Secretary of Homeland Security, to Leon Rodriguez, Director, U.S. Citizenship & Immigration Services, Thomas Winkowski, Acting Director, U.S. Immigration & Customs Enforcement, and R. Gil Kerlikowske, Commissioner, U.S. Customs & Border Protection, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents (Nov. 20, 2014), http://www.dhs.gov/sites/default/files/publications/14_1120_memo_deferred_action.pdf.



- Continuously resided in the United States since January 1, 2010, up to the present time;
- Was physically present in the United States on June 15, 2012, and at the time of making his or her request for consideration of DACA with USCIS;
- Had no lawful immigration status on June 15, 2012, meaning that:
 - He or she never had lawful immigration status on or before June 15, 2012, or
 - Any lawful immigration status or parole obtained prior to June 15, 2012, had expired as of June 15, 2012;
- Is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the United States Coast Guard or Armed Forces of the United States; and
- Has not been convicted of a felony, a significant misdemeanor, or three or more other misdemeanors, or does not otherwise pose a threat to national security or public safety;

Only individuals who can prove through verifiable documentation that they meet these guidelines may be granted deferred action. The use of prosecutorial discretion confers no substantive right or a pathway to citizenship. Each determination continues to be made on a case-by-case basis under the amended DACA guidelines.

Individuals requesting deferred action or renewal of their deferred action from removal must submit a Form I-821D. USCIS updated the Form I-821D to collect the Electronic Immigration System (ELIS) number⁴ from the requestor and his or her representative to verify existing ELIS accounts and facilitate future adjudications in ELIS.⁵

All individuals filing Form I-821D must also file Form I-765, *Application for Employment Authorization*, and a Form I-765WS, *Worksheet*. USCIS reviews all requests for completeness, including submission of the required fee, initial evidence, and supporting documents. Individuals requesting consideration for deferred action under DACA may complete these forms on their personal computer or through the assistance of the myUSCIS Application Wizard, which is an interactive tool that helps individuals complete the entire immigration benefit request forms.⁶ All forms must be mailed and submitted to USCIS. USCIS rejects any Form I-821D that is submitted without Form I-765, I-765WS, and the required fee. All forms are

⁴ The ELIS Account ID is a 12-digit number unique to the individual's ELIS account. USCIS Customers receive an ELIS Account ID when they submit an application, petition, or benefit request.

⁵ See DHS-USCIS-PIA-056 USCIS ELIS: Form I-90, available at www.dhs.gov/privacy.

⁶ See DHS-USCIS-PIA-057 myUSCIS, available at www.dhs.gov/privacy.



currently processed in Computer Linked Adjudication Information Management System 3 (CLAIMS 3)⁷ and the forms and supplemental documents are stored in the Alien File (A-File).⁸

Reason for the PIA Update

DHS amended the DACA guidelines to expand the population of individuals who may be considered for DACA to include people of any age who lived in the United States continuously since January 1, 2010, provided they meet the rest of the DACA guidelines. The amendment also extends the period of DACA and work authorization from two years to three years.

USCIS updated Form I-821D to collect the ELIS number from the requestor and his or her representative to facilitate future adjudications in ELIS. Lastly, USCIS allows a DACA requestor and his or her representatives to complete and save DACA-related forms in the myUSCIS Application Wizard. The myUSCIS Application Wizard guides the individual through a series of screens that ask for information required to determine benefit eligibility. After the individual completes the benefit request form, the myUSCIS Application Wizard displays a PDF of the completed benefit request. Individuals may not submit benefit requests using myUSCIS. The customer or his or her representative must print and mail the benefit request to USCIS according to the form instructions for processing.

Privacy Impact Analysis

In each of the below sections consider how the system has changed and what impact it has on the below fair information principles. In some cases there may be no changes and indicate as such.

Authorities and Other Requirements

In addition to the SORNs listed in the original PIA, the Form I-821D now receives coverage under the ELIS-2 SORN.⁹

⁷ See DHS/USCIS/PIA-016 Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum (CLAIMS 3), available at www.dhs.gov/privacy.

⁸ DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, 78 FR 69864 (Nov. 21, 2013).

⁹ *Id.*



Characterization of the Information

USCIS continues to collect the information provided on Form I-821D and the associated evidence directly from the individual or his or her representative. Form I-821D and its corresponding instructions were updated to discuss the November 20, 2014 memorandum expanding the DACA guidelines and the resulting minor changes to the form. The form was updated to capture the ELIS Number from the requestor and his or her representative to match existing ELIS accounts and facilitate future adjudication in ELIS.

Uses of the Information

Individuals may use the myUSCIS Application Wizard to fill out their DACA forms. The myUSCIS Application Wizard allows individuals to complete and save benefit request forms. The Application Wizard uses the collected information from the requestor and his or her representative to provide instructions in context of the question asked and gives him or her a checklist of required documents to be submitted as evidence. The individual must mail the DACA forms according to the corresponding instructions to officially submit his or her DACA request. USCIS reviews DACA request forms after the form is officially submitted for processing and continues to collect information from the individual to establish the individual's identity and history with USCIS, as well as his or her appropriateness for consideration of deferred action under DACA.

Notice

USCIS is providing notice about this change through this PIA update. Furthermore, USCIS provides notice of these enhancements to individuals through the updated form instructions and USCIS website. Additionally, the ELIS-2 SORN provides notice regarding the collection and use of ELIS Numbers. USCIS also updated the Privacy Act Statement to include the ELIS-2 SORN.¹⁰

Data Retention by the project

There is no change to data retention from the DHS/USCIS/PIA-045 DACA PIA.

Information Sharing

There is no change to external sharing and disclosure of information from the DHS/USCIS/PIA-045 DACA PIA.

Redress

There is no change to redress from the DHS/USCIS/PIA-045 DACA PIA.

¹⁰ See *id.*



Auditing and Accountability

There is no change to auditing and accountability from the DHS/USCIS/PIA-045 DACA PIA.

Responsible Official

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Approval Signature

Original signed copy on file with the DHS Privacy Office.

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