

**I-821D Public Comments
Summary of Suggestions**

Category	#	COMMENT	RESPONSE
Form I-821D	1	On Page 1, Part 1. Add an “unknown” Option for requestors who may not know whether they have been subject to removal proceedings.	<p>Response:</p> <p>Thank you for your comment. Currently, USCIS cannot electronically capture an “unknown” answer for this field. USCIS will explore making technical changes to capture “unknown” as an answer for this question and consider amending the Form I-821D the next time it comes up for revision.</p>
	4	<p>Clarify the definition of Initial and Renewal Requests to avoid confusion on question 1.</p> <p>Recommendation: <i>Question 1 should be amended as follows (new language in bold italics):</i></p> <p>1. Initial Request – Consideration of Deferred Action for Childhood Arrivals (includes requestors who are re-applying after an earlier application was rejected or denied)</p> <p>OR</p> <p>2. Renewal Request – Consideration of Deferred Action for Childhood Arrivals (check this box regardless of whether USCIS or ICE initially deferred action in your case).</p>	<p>Response:</p> <p>Thank you for your comment. USCIS believes the instructions to Form I-821D as well as information on the USCIS website sufficiently clarifies which selection a requestor should make on Form I-821D. Therefore, USCIS declines to make the requested change at this time.</p>
	6	<p>Clarify that Renewal Requests can be filed within 1 Year of Expiration of the Previous DACA. Recommendation: <i>Question 2 should be amended to read: (new language in bold italics). For this Renewal request, my most recent period of Deferred Action for Childhood Arrivals expires on (mm/dd/yyyy)</i></p> <p>Note: You may file for a renewal within one year of the expiration date of your previous DACA. If you are filing beyond one year after your most recent period of DACA expired, you may still request DACA by submitting a new initial request.</p>	<p>Response:</p> <p>Thank you for your comment. USCIS believes the instructions to Form I-821D as well as information on the USCIS website sufficiently clarifies which selection a requestor should make on Form I-821D. Therefore, USCIS declines to make the requested change at this time.</p>

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	6	Move “Removal Proceedings Information” To Part 4. Question 5 should be moved To Part 4. (Requesting information about prior Removal proceedings at the beginning of the application has a chilling effect on community Members who already have a heightened fear of deportation)	<p>Response:</p> <p>Thank you for your comment. USCIS declines to move the “Removal Proceedings Information” section to Part 4 as Part 4 is specifically focused on Criminal, National Security, and Public Safety questions. Additionally, having the “Removal Proceedings Information” question in Part 1 assists USCIS with case processing.</p>
	1	Eliminate “Processing Information” section (Part 1., items 15-20) from the form entirely or alternatively, use similar language as found in the N-400 instructions which explain that the information collected will be used for the specific purpose of conducting the background check. Also, internal guidance to adjudicators should clearly advise that such information should not be taken into consideration when making a determination on a DACA case.	<p>Response:</p> <p>Thank you for your comment. USCIS declines to eliminate the “Processing Information” section. The USCIS public website explains the following:</p> <p>Items Numbers 15 – 20 comply with the Office of Management and Budget’s requirements for the collection of race and ethnicity as provided in its memorandum found at: http://www.whitehouse.gov/omb/fedreg_1997standards/</p> <p>USCIS uses biometrics and biographic information to perform the background checks that are required to make a DACA determination. Background checks require that the requestor appear at a USCIS ASC to provide the information required for the background check and their biometrics. USCIS is now collecting this information as part of the request to reduce the time you must spend at your USCIS ASC appointment.</p>
	1	Add ‘other’ or “other appropriate gender indicators” on Page 2, Part 1 Information About You, Question 9 and 16.	<p>Response:</p> <p>Thank you for your comment. This suggestion impacts the agency as a whole and is not one that can be addressed by a single form revision. Please see USCIS Policy Memo 602-0061, Adjudication of Immigration Benefits for Transgender Individuals, issued April 10, 2012, for additional information.</p>

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	6	Questions 8 – 10 be moved to the beginning of the <i>Travel Information</i> Section...(A requestor who has never left the U.S. and thus does not answer questions 6 to 7 may glance over and skip the section on “Travel Information” altogether missing Questions 8 -10)	<p>Response:</p> <p>Thank you for your comment. The form instructions and Form I-821D require both initial and renewal DACA requestors to answer all questions in Part 2. Residence and Travel Information.</p>
	6	DACA renewal requestors should not be required to resubmit information and records that have been submitted for their initial DACA. Specifically, the form should include the following sentence at the beginning of Part 4: Note: For Renewal requests: With regard to criminal/national security and public safety questions, you need only report on incidents and provide records related to incidents that occurred since your initial DACA application was approved. You do not need to report on or re-submit records that you already reported on or provided to USCIS.	<p>Response:</p> <p>Thank you for your comment. This comment has already been addressed in the current version of the form instructions. Pages 10-11 of the I-821D form instructions state “you only need to submit any <i>new</i> documents pertaining to removal proceedings or criminal history that you have not already submitted to USCIS. If USCIS needs more documentation from you USCIS will send a Request for Evidence to you explaining the needed information.” Therefore, USCIS declines to make this requested change.</p>
	6	The form should not request information and records related to juvenile adjudications. Page 4, Part 4, Question 1 Recommendation: The form should be amended to read (new language in bold italics): Have you EVER been arrested for, charged with, or convicted of a felony or misdemeanor in the United States? <i>Do not include minor traffic violations unless they were alcohol- or drug-related. Do not include incidents handled in juvenile court.</i>	<p>Response:</p> <p>Thank you for your comment. Juvenile delinquency will not automatically disqualify a DACA requestor. Such criminal history will be evaluated on a case-by-case basis to determine whether, under the particular circumstances, discretion is warranted to defer removal under DACA. Sealed and expunged records will be evaluated according to the nature and severity of the criminal offense. While dispositions of juvenile delinquency are not considered convictions for immigration purposes, the underlying facts are relevant to USCIS’s exercise of it discretion to determine whether a requestor merits deferred action. Accordingly, requestors must provide documentation of these incidents, as well as a full explanation describing the circumstances of the incident. If the requestor is unable to provide the requested documentation or it is not available, the form instructions direct the requestor to provide an explanation for the inability to provide the documentation. Therefore, USCIS declines to make this requested change.</p>

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	5	Recommend USCIS limit evidence of criminal convictions to the record of conviction (plea agreements, plea colloquy transcripts, and verdict or judgement of conviction). Applicants should not be required to submit certified copies of documents, which are expensive for applicants to obtain. Limiting the evidence to the record of conviction would afford more predictability and accuracy in determining DACA eligibility.	<p>Response:</p> <p>Thank you for your comment. The decision whether to defer action in a particular case is an individualized, discretionary one that is made taking into account the totality of the circumstances. Therefore, the absence of the criminal history or its presence, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion Evidence certified as to its authenticity is valuable in determining, in the totality of the circumstances, whether discretion is warranted to defer removal under DACA. Therefore, USCIS declines to make the requested change.</p>
	3	On fields that require the DACA Requestor to provide dates <i>Page 1, Part 1, Question 5f; Page 3, Part 2 Questions 2a, 3a, 4a, 5a, 6a, 6b, 7a, 7b, and Part 3, Question 2, 5c:</i> should include the following language parentheticals after “mm/dd/yyyy”: <i>(an approximate date is acceptable).</i>	<p>Response:</p> <p>Thank you for your comment. Page 4 of the instructions to Form I-821D already provides guidance to requestors that individuals may provide approximate dates if the exact date is unknown. Therefore, USCIS declines to make the requested change.</p>
Form I-821D Instructions	1	Organize the instructions in a question-by-question format that follows the numbering of the form.	<p>Response:</p> <p>Thank you for your comment. USCIS believes the instructions to Form I-821D as well as information on the USCIS website sufficiently instructs requestors how to fill out the form. Therefore, USCIS declines to make the requested change.</p>
	1	Revise the checklist at end of instructions which lists all potential materials to be included in a request (including the optional G-1145 and passport-style photos for Form I-765) in helpful, visually logical way, grouping Form I-765 requirements together and placing evidentiary burdens under Form I-821D.	<p>Response:</p> <p>Thank you for your comment. Forms I-821D and I-765 are two separate adjudications. USCIS believes the instructions to Forms I-821D and I-765, as well as information on the USCIS website, sufficiently outlines the evidentiary requirements for each form. Therefore, USCIS declines to make the requested change.</p>

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	2	<p>The renewal process should not distinguish between those granted DACA by ICE and those granted by USCIS.</p> <p>Recommended language: USCIS should make the following changes on Form I-821D Instructions, page 1, <i>When Should I Use Form I-821D</i>:</p> <p>“NOTE: <i>If U.S. Immigration and Customs Enforcement (ICE) initially deferred action in your case and you are seeking a Renewal for the first time, you must file Form I-821D and select and complete Item Number 2. In Part 1. Of Form I-821D. You must also respond to ALL subsequent questions on the form. You must also submit documentation to establish how you satisfy the guidelines as if you were filing an Initial request for consideration of deferred action. However, if ICE initially deferred action in your case and you previously applied as an initial requestor to renew your deferred action, then you may apply as a renewal requestor.”</i></p>	<p>Response:</p> <p>Thank you for your comment. USCIS believes the instructions to Form I-821D as well as information on the USCIS website sufficiently instructs requestors how to fill out the form. Therefore, USCIS declines to make the requested change.</p>
	2	<p>Inform requestors that they may submit a copy of an Internal Revenue Service (IRS) letter confirming tax exempt status for an education program to demonstrate that the program is administered by a non-profit entity and therefore satisfies DACA’s educational requirement. Accordingly, USCIS should make the following changes on Form I-821D, page 9, <i>Evidence for Initial Requests Only</i>:</p> <p>“(4) A U.S. public . . . If you are enrolled in an educational, literacy, or career training program . . . representative’s contact information. <i>Alternatively, if you are enrolled in an education program administered by a non-profit entity, you may submit a copy of the IRS letter confirming tax exempt status under 501(c)(3) for the education program to demonstrate its non-profit status.</i>”</p> <p>Clarify whether other education programs satisfy the education requirement. Page 8, Section 9. Recommendation: Clarify whether online GED instruction, online private high school training and home schooling satisfy the education requirement for DACA requests.</p>	<p>Response:</p> <p>Thank you for your comment. USCIS believes the instructions to Form I-821D as well as information on the USCIS website sufficiently instructs requestors how to fill out the form. Therefore, USCIS declines to make the requested change.</p>

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	5	<p>Clarify that renewal requests can be filed even after the current DACA expires.</p> <p><i>Page 1, When Should I Use Form I-821D?-Renewal Requests After Expiration</i></p> <p>It is not clear to many that renewal requests can be filed even after the current DACA expires. This information is provided in the June 15, 2015 FAQ. But is only implied in a confusing way in the instructions, which state: “If...you are filing within one year after your last period of deferred action expired, please follow the instructions...”</p> <p>Recommendation: Amend the “Note” section to state: NOTE: You may file for a renewal within one year of the expiration date of your previous DACA. If you are filing more than one year after your latest period of DACA expired, you may still request DACA by submitting a new initial request. However, if you file for a renewal after your previous DACA expires, you will accrue unlawful legal presence AND you will not be authorized to work in the United States starting from your DACA expiration date</p>	<p>Response:</p> <p>USCIS believes the instructions to Form I-821D as well as information on the USCIS website sufficiently clarifies which selection a requestor should make on Form I-821D. Therefore, USCIS declines to make the requested change at this time.</p>
	1	<p>Clarify what information provided in DACA requests will be disclosed to ICE, which will subject the requester to DHS enforcement priorities per ICE FAQs. If such information is to be disclosed to ICE, recommend that USCIS add prominent notice language on Form I-821D instructions, warning requesters that disclosure of such information will subject them to Enforcement Priorities by ICE.</p>	<p>Response:</p> <p>Thank you for your comment. Publically available information, such as DACA FAQ 19, specifically addresses what information is shared with ICE. USCIS declines to make the requested change.</p>

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	5	<p>Update the Cautionary Message. <i>Page 1, When Should I Use Form I-821D?</i> Provide clarity on filing dates for renewal by making changes to the I821D instructions language identical to FAQ #50.</p> <p>Recommendations: CAUTION: <i>If you file this request more than 150 days prior to the expiration of your current period of deferred action, USCIS will accept your application; however, this could result in an overlap between current DACA and your renewal. USCIS encourages renewal requestors to file as early in the 150-day period as possible- ideally at least 120 days prior to the DACA expiration date.</i></p> <p>OR</p> <p>“CAUTION: If you file Filing this request more than 150 days prior to the expiration of your current period of deferred action, USCIS may reject your submission and return it to you with instructions to resubmit your request closer to the expiration date. could result in an overlap between your current DACA and your renewal. This means your renewal period may extend for less than a full two years from the date that your current DACA period expires. USCIS encourages renewal requestors to file as early in the 150-day period as possible – ideally, at least 120 days prior to the DACA expiration date.”</p>	<p>Response:</p> <p>Thank you for your comment. USCIS believes the instructions as well as information on the USCIS website sufficiently informs individuals of the recommended filing period for renewal requests.</p>
	5	<p>Recommends exploring fee exemptions for individuals whose household income is below 150% of the U.S. poverty level and immediate family members who are residing in the same household.</p>	<p>Response:</p> <p>Thank you for your comment. There is no filing fee for Form I-821D. Therefore, no changes are necessary based upon this comment. .</p>

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General	6 5	<p>DACA requestors should not accrue unlawful presence if their DACA expires during the renewal adjudication process.</p> <p>Page 1, What is the Purpose of This Form?</p> <p>Recommendation: USCIS should add the following language:</p> <p>Note: A DACA renewal request receipt notice will serve as proof that you are in deferred Action status to avoid the accrual of unlawful Presence while your renewal request remains pending.</p>	<p>Response:</p> <p>Thank you for your comment. This suggestion would require a change in policy regarding the accrual of unlawful presence and is outside the scope of the extension of the current information collection.</p>
	4	<p>USCIS should issue an automatic extension of Work authorization upon filing a timely request For renewal to protect employees and employers from significant disruptions that result from lapses in work authorization.</p>	<p>Response:</p> <p>This comment suggests policy changes to deferred action under DACA which are beyond the scope of the extension of this information collection.</p>
	5	<p>Clarify that an individual’s homeless status is sufficient to qualify for a fee exemption. Current language seems to read that a requestor must be under 18 <i>and</i> homeless or in foster care.</p>	<p>Response:</p> <p>Thank you for your comment. There is no filing fee for Form I-821D. The USCIS language on fee exemption eligibility referenced in your comment does not apply to Form I-821D. Therefore, no form changes are necessary based on this comment.</p>
General	1	<p>Renewal requests should be used as a substitute for replacement of an EAD by allowing DACA recipients to file for renewal at <i>any time</i> during their DACA period, for those recipients who lost their EAD and would rather just extend their period of DACA for two-years for the same cost as replacing an EAD.</p>	<p>Response:</p> <p>This comment suggests policy changes to deferred action under DACA which are beyond the scope of the extension of this information collection.</p>
	5	<p>USCIS should consider other types of debt, including school loans, mortgages, etc. in addition to Medical Debt.</p>	<p>Response:</p> <p>Thank you for your comment. There is no filing fee for Form I-821D. Therefore, USCIS declines to make the requested change. No form change is requested based on your comment.</p>

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	2	<p>Clarify evidentiary requirement</p> <p><i>Page 6, What documents may show you came to the U.S. before your 16th birthday?</i></p> <p>Recommendation: USCIS should clarify that affidavits are acceptable to establish entry before the age of sixteen. This change would also require revising Question 41 of the FAQs.</p>	<p>Response:</p> <p>This comment suggests policy changes to deferred action under DACA which are beyond the scope of the extension of this information collection.</p>
	2	<p>Clarify evidentiary requirement</p> <p><i>Page 6, What documents may show you continuously resided in the U.S. since June 15, 2007, up to the present date?</i></p> <p>Recommendation: USCIS should require one form of evidence per year to establish continuous presence and accept affidavits plus proof of school enrollment to establish arrival before June 15, 2007.</p>	<p>Response:</p> <p>This comment suggests policy changes to deferred action under DACA which are beyond the scope of the extension of this information collection.</p>
	5	<p>USCIS remove the 12-month limitation on debt accumulation; rather, USCIS should consider the total amount of debt accrued.</p>	<p>Response:</p> <p>Thank you for your comment. There is no filing fee for Form I-821D. The 12-month limitation on debt accumulation does not apply to Form I-821D. Therefore, no form changes are necessary based on this comment.</p>
	5	<p>USCIS should adjudicate Fee Exemptions through InfoPass to allow sufficient time for a decision and reduce delay in DACA renewal.</p>	<p>Response:</p> <p>Thank you for your comment. There is no filing fee for Form I-821D. The fee exemption referenced in your comment does not apply to Form I-821D. Therefore, no form changes are necessary based on this comment.</p>

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General	1	<p>Permissible travel dates for Form I-512L</p> <p>Recommendation: Insert language on page 3, <i>General Instructions</i>:</p> <p>IMPORTANT: If USCIS approves your request for advance parole, you will receive Form I-512L, <i>Authorization for Parole of an Alien Into the United States</i>. This form will contain two important dates. The date under “Date Issue” represents the beginning validity period of the advance parole document. You must only depart on or after the “Date Issued” date. The second date under “PAROLE” is the date by which you must be paroled back into the country. Sometimes, this section instead gives a numerical count of days, for example “30 days.” In those cases, you must be paroled back into the country before that number of days have elapsed after the “Date Issued” date.”</p>	<p>Response:</p> <p>Thank you for your comment. On August 9, 2016, USCIS revised Form I-512L for DACA recipients approved for Advance Parole. The revised Form I-512L provides additional clarification surrounding the permissible dates of travel.</p>

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General	1	<p>Travel without advance parole will cause DACA recipients to break continuous residence and make them ineligible for renewal.</p> <p>Recommendation 1: Insert language on page 3, <i>General Instructions</i>:</p> <p>Travel Warning. On or after...return to the United States.</p> <p>IMPORTANT: Even if USCIS approves your request for advance parole and issues you an Advance Parole Document, Form I-512L, authorizing your parole, you must still leave on or after the “Date Issued” date on Form I-512L and return on or before the expiration of your parole. Departing before your “Date Issued” date, even with an advance parole document, may impact your ability to obtain renewal of DACA. Additionally, failure to return before the expiration of your parole may impact your ability to re-enter the country and obtain renewal of DACA.”</p> <p>Recommendation 2: Make the following changes on page 2,</p> <p>“An individual may be considered for Renewal of DACA if he or she met the guidelines for consideration of Initial DACA (<i>see above</i>) AND he or she:</p> <ol style="list-style-type: none"> 1. Did not depart the United States on or August 15, 2012 without advance parole; <p>IMPORTANT: Departing without advance parole includes both individuals who leave the country without a valid grant of advance parole and individuals who obtain advance parole and leave before the issuance date of their grant of re-enter after expiration.”</p>	<p>Response:</p> <p>Thank you for your comment. USCIS believes the instructions to Form I-821D, Form I131, Form 512L as well as information on the USCIS website sufficiently provides a number of travel warnings for DACA requestors and recipients. Therefore, no form changes are necessary based on this comment.</p>

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General	1	<p>Use and retention of Form I-512L</p> <p>USCIS fails to provide any guidance regarding the use of the form, including informing the applicant that: (1) U.S. Customs and Border Protection (CBP) will permanently retain one copy of the form; (b) CBP must stamp both copies; (c) CBP should allow the applicant to keep a copy of the form; and (d) the applicant (particularly DACA recipients) should endeavor to maintain a copy of the form for future immigration applications and requests for relief.</p> <p>Recommendation: USCIS should insert the following language in the appropriate section of the instructions:</p> <p>“Form I-512L. If approved, USCIS will issue you two identical copies of Form I-512L, <i>Authorization for Parole of an Alien Into the United States</i>. Travel with both original forms as both are necessary to be paroled back into the country. At a port-of-entry, a CBP officer will stamp both forms and retain one copy. You should keep the other stamped form in order to include a copy with your application when applying for renewal of DACA.”</p>	<p>Response:</p> <p>Thank you for your comment. The issue pertains to the use of form 512L. Therefore, no changes to the Form I-821D are required based on this comment.</p>

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