MALDEF
The Latino Legal Voice for Civil Rights in America.

Immigrants' Rights Under a Trump Presidency:
FAQs for Students, Educators & Social Service Providers

During his campaign, President-elect Donald Trump called Mexican immigrants "criminals" and vowed to build a border wall, rescind the Obama Administration's DACA (Deferred Action for Childhood Arrivals) and DAPA (Deferred Action for Parents of Americans and Lawful Permanent Residents) initiatives, and "mass deport" millions of undocumented immigrants. Many families feel afraid and confused. Below are answers to common questions about what we know at this point about what a Trump presidency might mean for immigrants.

I am undocumented / have undocumented family members. Will we be immediately deported? No. We do not know at this time what approach the Trump Administration will take toward undocumented families. Individuals without status who are present in the U.S. have certain legal and constitutional rights. You have a right to a hearing and to have a judge review your case. That process can take years in some cases, and you can remain in the U.S. until a final decision is made. Other constitutional protections prevent certain enforcement tactics, and may present a basis to challenge overly aggressive attempts at immigration enforcement by the federal government.

I have DACA. Will my deferred action be terminated when Trump takes office in January? The new President may cancel DACA if he chooses. At this time, we do not know if Trump will immediately cancel the DACA initiative or when that might happen. Even if DACA is terminated, whether or not your lawful presence and work permit will cease right away depends on the announcement by the President and how it is implemented by the federal government.

I have DACA. Will the federal government use my information to find and deport me? Deporting over 700,000 DACA recipients would be very time-consuming and expensive. DACA recipients are also near the bottom of the government's priority list for deportation. However, Trump's actions are difficult to predict, so families should take precautions now by discussing other legal options with a qualified immigration lawyer. There would also certainly be a legal challenge to use of private data submitted under DACA for enforcement activity.

Should I apply for DACA now? The answer depends on your personal circumstances, which you should discuss with an immigration lawyer. Some considerations are your age, whether you need deferred action or work authorization urgently, and whether your situation would allow you to wait several months to see what happens to DACA. It is important to consider that applying for DACA will give your personal information to the government and may put you at risk should Trump rescind DACA. It is also important to note that current processing and review times indicate that any application filed now would not result in an answer until after the Trump Administration takes office.

Should I renew my DACA application or seek "Advance Parole" to travel as a DACA beneficiary? If your deferred action is set to expire within 150 days, you should apply to renew it now. If you have urgent humanitarian reasons to travel outside the U.S., you may seek permission to travel by seeking "Advance Parole" with USCIS (Form I-131). The government already has your personal information, so you are not creating a new risk by applying for renewal unless your situation has changed in a way that you might not be eligible for DACA any more, for example, a criminal conviction. If you travel on "Advance Parole," be sure to return before January 20, 2017.

What will happen with DAPA / Expanded DACA (DACA 2014)? Implementation of these initiatives has been halted by a lawsuit. MALDEF is vigorously defending these programs in court. However, the new President can rescind these initiatives if he chooses, effectively making that court process moot.

I have a pending immigration petition. What will happen with my application? For non-DACA applications pending with USCIS, there is no reason to believe that those applications will stop being normally processed according to current laws.

How can I find out if I have other options to avoid deportation? Seek assistance from a reputable immigration lawyer. Avoid *notario* scams. Visit immigrationlawhelp.org for more information about non-profit legal service organizations by state.

I've been placed in removal proceedings. What can I do? Talk to an immigration lawyer immediately to plan your next steps. You have the right to a hearing before any decision is made about whether you have to depart the country. You also have the right to an appeal.

Can my citizenship be taken away if my parents are undocumented? No. The U.S. Constitution grants citizenship to all people born in the U.S. regardless of their parents' immigration status. There is not enough support to amend the Constitution to remove birthright citizenship, and any attempt to amend the Constitution would take years and would likely apply only to those born after adoption of an amendment.

Will in-state tuition / admission for undocumented college students end? No. The laws that provide in-state tuition/admission for students are passed by states and cannot be changed by the President.

Should I worry about going to the hospital emergency room? No. Under federal law, your personal information should be kept private by doctors and staff.

Should I still report crime to the police? Yes. Most police officers are only interested in investigating crime and won't be interested in your immigration status. If you are a crime victim, you may be eligible for a visa that would allow you to stay in the U.S. Talk to an immigration lawyer about the facts of your case.

I plan to file an application for VAWA / U visa/ T visa. Should I wait? No. There is no reason to delay filing for this relief. It is established in U.S. law and cannot be changed by the President acting alone.

What can my family do to prepare for any interaction with ICE, for example, if my workplace is the target of an ICE raid? The Immigrant Legal Resource Center has created Red Cards that provide information about how to assert your constitutional rights during a raid. Visit ilrc.org/red-cards for details.

My family sends money to relatives in Mexico. Can the government confiscate that money? No. Companies that transfer money among relatives from the U.S. to Mexico do not track their clients' immigration status. Even if companies could distinguish between legal and undocumented immigrants in their clientele, seizing funds based on national origin or immigration status would be unconstitutional and would be immediately challenged in court.

I'm a Latino immigrant. Does half of the U.S. hate me? No. A 2016 poll shows 79% of Americans favor providing a way for undocumented immigrants to become U.S. citizens or legal permanent residents.