

Know your rights as an immigrant

This booklet was originally produced by the American Friends Service Committee (AFSC) in North Carolina with thanks to the following people and organizations: North Carolina Justice Center, Southern Coalition for Social Justice, Casa de Maryland, The Center for New North Carolinians, NC Immigrant Rights Project, and Eric Francisco Jonas (artist).



**American Friends
Service Committee**

Introduction

These are difficult times. As immigrants, we face a lot of discrimination in this country. But we all deserve to be treated with dignity and respect, and it is more important than ever to know our rights and work for justice.



None of the information in this resource should be considered legal advice. Please speak to an immigration attorney or Board of Immigration Appeals (BIA) accredited representative about your particular case.

Who can enforce immigration law?

In most places across the country, local law enforcement can easily share information with Immigration and Customs Enforcement (ICE). If you are arrested, your fingerprints could be run through national immigration and criminal databases. Local jails may let ICE know when someone is released that ICE wants to deport.

Currently, the Priority Enforcement Program (PEP) sets priorities of who ICE will deport. All undocumented people are still at risk of deportation, but people most at risk include those who:

1. Are a threat to national security, convicted of a felony or gang crime, or apprehended at the border.
2. Have 3+ misdemeanors or a significant misdemeanor, such as driving under the influence (DUI), domestic violence, illegal guns, drug charges, or a 90+ day sentence.
3. Entered the U.S. on or after Jan. 1, 2014 without papers or received a deportation order after Jan. 1, 2014 (in some cases earlier) but have not left the country yet.

Prepare yourself in case of emergency



Develop a family plan

Talk with your friends and family and make a plan of what to do in case you are detained. Write down important information about your children (their schools, doctors, medicine, etc.).

Designate a power of attorney

Designate a person who will be in charge of your property and accounts in case you are detained. Choose only a very well-known and trusted individual. You can give this person the power to sell your car or land and manage money in your bank accounts, if it becomes necessary to do so. You can also give someone the power to enroll your children in school and make certain medical decisions for them.

How to find people in detention

To find people in detention you can use the Online Detainee Locator System at:

<https://locator.ICE.gov>

or call the Immigration Court phone number:

1-800-898-7180

But you must know the Alien Registration number, or “A” number, assigned to the detainee when calling.

Your rights at home

You do not have to open the door to any immigration agent or to the police unless they have a valid arrest or search warrant.



If you open the door, the officials will consider that you are giving them permission to enter. Once they are inside, an Immigration and Customs Enforcement (ICE) agent will likely ask for documents of everyone inside.

You can ask the agent to pass the warrant under the door. You do not have to sign it if it is not valid.

What is a warrant?

A warrant is a document signed by a judge—not just ICE officials—that authorizes officials to enter your house.

For an **arrest warrant** to be valid:

1. The warrant must have the name of the person they are looking for.
2. That person must live at the address listed on the warrant.
3. That person must be present in the home.

A valid **search warrant** must specify:

1. The address they are going to search.
2. Which places, in detail, they are going to search.
3. What they are looking for.

If the agents have a warrant, review it to determine if they have searched an area that is not authorized in the warrant.

If the agents enter the house without a valid warrant, ask for the names and badge numbers of the agents. You can state that you do not consent to the search.

Your rights in the car



If immigration agents or the police signal you to stop your car, you should do so.

Immigration officials and the police can ask for your name, driver's license, registration, and insurance. You should show these documents if you have them.

You have the right to remain silent.

If they stop you while you are driving, you must give your name. You do not have to answer any other question.

If an official questions a passenger, that person has the right not to answer. But you might want to give your name or it will seem suspicious.

You can refuse consent to search your car.

If an official wants to search your car, you have the right to give or refuse permission, but you should not interfere with their actions.

You can ask if you are free to go or if you are under arrest. If they tell you that you are under arrest, remember you always have the right to remain silent.

Identification

Always carry a valid photo ID from the U.S. with you, even if you are not eligible for a driver's license, such as:

- A student ID.
- A bank card.
- A Costco card, etc.

Some cities have begun issuing IDs to residents regardless of legal status. **Do not carry false identifications with you!**

Your rights on the job

At work you have certain rights. You can protect yourself from immigration officials coming to your workplace and from employers who may abuse or not know the law.

E-Verify and your rights at work

E-Verify is an internet-based system that quickly tells your boss if you are authorized to work in the U.S. It compares information from an employee's I-9 Form against data from the Department of Homeland Security and the Social Security Administration to confirm employment eligibility. More and more employers are required to use this system in many states.

You have the right to refuse to sign any document.

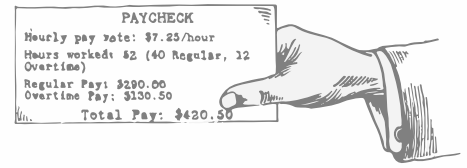
You are not obligated to sign anything from immigration or from your employer. You have the right to understand anything they give you or ask you to sign.



Keep in mind:

- An employer should only ask you for your documents once they offer you a job, not before.
- If you are authorized to work but your employer says that your documents do not match, you can appeal. You have eight business days to appeal to the Social Security Administration. The employer cannot fire you while you are appealing. You should also correct your records with U.S. Citizenship and Immigration Services.
- If your employer refuses to accept your documents even though they match or asks you to produce more documents than required, contact a lawyer.

Your labor rights



You cannot be fired or deported simply for exercising your rights under the law, regardless of your immigration status. Some of those rights are:

Minimum wage

Everyone deserves at least the minimum wage under the law, \$7.25 per hour. Some states have a higher minimum wage.

Exceptions: *Workers who earn tips. But the wages plus the tips must equal at least \$7.25 per hour.*

Overtime

If you work more than 40 hours per week, you should receive overtime pay for every hour you work over 40. That should be 1.5 times your normal wages.

Exceptions: *Many agricultural and domestic jobs and some professional or management jobs don't qualify for overtime.*

Workers' compensation

If a worker is injured or gets sick because of work, they have a right to medical treatment and in some cases lost wages due to illness.

Exceptions: *It depends on how many employees the company has.*

Safe & healthy job

Everyone deserves a work place that is healthy and safe. You should not have to work in dangerous conditions. For specialized jobs, the employer should provide protective clothing and equipment.

Your rights in detention

You have the right to remain silent.

You do not have to respond to questions about where you were born, where you are from, or your legal status, but you should never lie. Once you are detained, you will have to give your name, address, and birthdate, but you do not have to answer other questions.

You have the right to refuse to sign.

You can refuse to sign any paper until you consult with a lawyer. Do not sign anything you do not understand.

You have the right to make a phone call.

You have the right to call a family member, a lawyer, or your country's consulate.

When you call your family, tell them the name of the jail where you are detained and your Alien Registration Number, or "A" number. This number should appear in all immigration or detention documents. It is nine digits and starts with the letter "A."

You have the right to a lawyer... but you have to find one and pay for it.

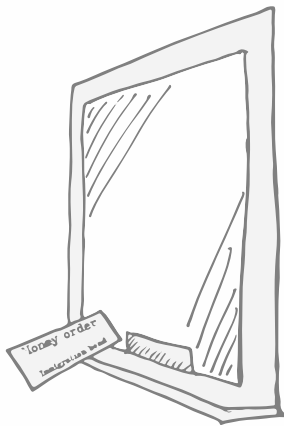
The government will NOT provide a lawyer for immigration cases. You must find your own lawyer.

It is important to find an immigration lawyer who specializes in deportation cases. You should not trust anyone who is not authorized to represent you in your immigration case.



Bonds

A bond is what you pay the court to ensure that you will show up to your hearings and comply with all final orders of your case. If you do comply, you should get your money back. There are immigration bonds for immigration cases and separate criminal bonds for criminal offenses.



Criminal bonds

If you are charged with a criminal offense and are undocumented, you may end up in Immigration and Customs Enforcement (ICE) custody depending on the nature of the offense.

If you are in criminal custody and pay the criminal bond, you may be transferred directly to ICE custody, depending on the nature of the offense that you are charged with.

Immigration bonds

If you are eligible for a bond, a bond may be set automatically. If no bond has been set for you or if you can't afford the bond that was set, then you can request a bond hearing.

At the bond hearing, the immigration judge makes a decision to give you a bond or not, or to lower the amount of your current bond.

You probably will not be eligible for a bond if you already have a deportation order, or if you have certain criminal convictions, or if the government thinks you are a threat.

At a bond hearing the judge will consider things such as:

- The seriousness of your crimes.
- If you will attend your hearings.
- Whether or not you are likely to win your case.

If it seems that you are eligible to stay in the country, you are more likely to get a lower bond.

When facing deportation

Your lawyer might suggest you request “Prosecutorial Discretion” (PD) from Immigration and Customs Enforcement (ICE). This means that ICE can decide how and when they will enforce the law in a particular case.

You might be eligible for PD if you:

- Have no negative immigration history; have never been deported or detained.
- Have been a resident of the U.S. for a long time, especially since you were a child.
- Have no history of violent crime or felony convictions.
- Are pregnant or nursing.
- Have children or a spouse who are U.S. citizens.
- Are pursuing higher education.
- Have served in the military.
- Have a serious health condition.
- Are a caregiver of someone who is disabled or seriously sick.
- Are a minor or are elderly.
- Have strong ties to the United States, including your role in your community.

Gathering public support around an individual case can raise awareness and can even help stop deportations in some cases.



DACA Q&A (Jan. 2017)



Deferred Action for Childhood Arrivals (DACA) was announced by President Obama in 2012. It protects eligible young people from deportation for two years, authorizes work in the U.S., and can be renewed for now. Because it was an Executive Action, the president can end the program. In his campaign, President Donald Trump pledged to end it, but many people are urging him to keep it.

If DACA is ended, will DACA recipients be deported?

Those who receive or apply for DACA will not necessarily be targeted for deportation. Administrative programs like this have never been used for wholesale deportation in the past. It would be extremely costly for the government to try to deport all 700,000 DACA recipients. However, President Trump is more unpredictable than past presidents, so we do not know what to expect. Each individual has a unique immigration history, so we recommend that DACA recipients consult with a trusted immigration attorney to be screened for possible immigration options other than DACA for which you may qualify, or for defense options in the case of being placed into removal proceedings.

What about my DACA work permit?

If President Trump ends DACA, United States Citizenship and Immigration Services would no longer issue work permits. We don't know what might happen to existing DACA work permits. It is possible that these permits would be revoked, which would mean losing the legal right to work in the United States, or it is possible that they will be valid until their expiration date.

Should I renew my DACA?

Choosing to renew a DACA application, if you have not moved and have already shared your address with the government, may be less risky. DACA renewals are currently processed in two to three months, however it is important to keep in mind that if DACA ends before your renewal is approved, you will not get the filing fee back. Note that the filing fee increased to \$495.

I think I qualify for DACA. Should I still apply?

The decision is yours to make, but many lawyers recommend against filing any new DACA application because that application would require you to give personal information to the federal government, possibly placing you at risk. Ordinarily, a DACA denial does not place a person in removal proceedings, but given President Trump's position on DACA, it may be best to wait for clarity regarding his plans prior to filing a new application.

Know your rights!



You have the right to remain silent.

You do not have to answer any questions...

...but there is a risk in not giving your name; it may seem suspicious.

You do not have to reveal your immigration status to government officials...

...but you cannot lie either.

You can refuse to sign any document.

Even if you do not have a lawyer, you are not obligated to sign anything.

If you have one, you can ask your lawyer to be present. You always have the right to understand what you are signing.

If you have been mistreated, you have the right to file a complaint. Remember that knowing your rights does not necessarily mean that the authorities will follow the law or respect your rights.

The information contained in this resource should not be in any way considered legal advice. For information and advice about specific cases, you should consult with an immigration attorney.