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).
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.

Immigration enforcement has increased dramatically under the current administration. All undocumented immigrants are at risk of deportation, as are immigrants with status, such as lawful permanent residents, asylees, refugees and visa holders, if they have certain criminal convictions. Immigrants who are most at risk include:

1. individuals in jail or detention;
2. individuals who have been arrested, have pending criminal cases and/or prior criminal convictions; and
3. individuals with final removal orders. Immigrants who are at particular risk for detention and deportation are individuals who are on orders of supervision or have stays of deportation.
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 signed by a Federal Court Judge.

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

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, try to take notice of agents’ names and badge numbers. Even though the officers have gained entry to your home, remember to say “I do not consent to this search.” This can be said in your native language if you are not fluent in English.

Even if immigration agents have a valid warrant does not mean you have to answer their questions. If immigration agents are questioning you and you wish to remain silent, you should say aloud that you wish to remain silent or show the agents your Know Your Rights card.
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. If you have such a document, carry it with you.

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.

Immigration agents or the police need a valid warrant or the permission of your employer to enter your workplace. Even if they have a valid warrant, you are not required to answer their questions. If immigration agents or the police are questioning you and you wish to remain silent, you should say aloud that you wish to remain silent or show the officials your Know Your Rights card.
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, $9.30 per hour.

*Exceptions:* Workers who earn tips. But the wages plus the tips must equal at least $9.30 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.
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 may 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:**

- Whether you have any criminal convictions
- Your length of time in the United States
- Your family and community ties
- Your employment history
- Any other positive equities
- Whether you are a flight risk
- Whether the government believes that you are a national security risk.
- 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.
If you are not eligible for immigration relief and/or have a final removal order, you may request a stay of removal or 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. Please keep in mind that under the current administration, ICE has all but halted the practice of granting prosecutorial discretion.

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.

Join us the first Saturday of every month at noon at the Not One More deportation table where folks fighting their deportation share strategies, tactics and support each other.

Call Gabriela at 720-841-9608 for more information.
Deferred Action for Childhood Arrivals (DACA) was an executive action announced by President Obama on June 15, 2012. The program protected eligible individuals who came to the United States as children from deportation and gave them permission to work. However, because DACA was an executive action—and not a law passed by Congress—the president has the authority to end it.

On Sept. 5, 2017, Attorney General Jeff Sessions announced that the administration is officially ending DACA, which it would phase out over the next six months.

Here’s what you need to know:

**I have never applied for DACA but I am eligible. Can I apply now?**

If you have never applied for DACA, you cannot file an initial application anymore. If you filed an initial DACA application with the United States Citizenship and Immigration Service (USCIS) and it was pending on or before Sept. 5, 2017, your initial application will continue to be processed by USCIS.

**I have DACA now. Can I renew it?**

You can renew your DACA application:

1. If your application is already pending with USCIS as of Sept. 5, 2017 OR
2. If your status is expiring between Sept. 5, 2017 and March 5, 2018, and you filed a renewal application on or before Oct. 5, 2017.

**I was approved for advance parole. Can I still travel?**

If you were granted advance parole based on DACA and it is still valid, you can use it now to travel abroad—although it is not recommended. You should consult with an immigration attorney before traveling on advance parole, especially if you have ever been arrested or had any contact with law enforcement.
Can I apply for advance parole now?
No. It is no longer possible to file a new application for advance parole based on DACA. If you had filed an application for advance parole with USCIS and it was pending with the USCIS on Sept. 5, 2017, USCIS will not decide your application. Your application and fee payment will be returned to you.

What happens to my work permit after it expires?
Your work permit will continue to be valid until it expires or if the government requires you to return it. As of Sept. 5, 2017, the administration has said that it will allow work permits to expire on their own. You may continue to work lawfully unless either of those things happens to you.

What can I do to protect myself?
In addition to renewing your DACA status if you are eligible, you should also consult with a trusted and knowledgeable immigration attorney to see if you may be eligible for other forms of immigration relief.

What will happen in six months?
A lot is unknown at this time. There are currently several legislative bills pending that, if passed by Congress, would protect DACA recipients. Stay informed through news outlets and social media—including AFSC on Facebook (facebook.com/americanfriendsservicecommittee) and Twitter (@afsc_org)—in the weeks and months ahead.
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.
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

To find out if and when an individual has an Immigration Court hearing, you can call the automated 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.

To report a possible raid, document your case of being picked up by ICE or find support for your deportation case, call the Your Voice Is Your Power hotline: 1-844-864-8341.