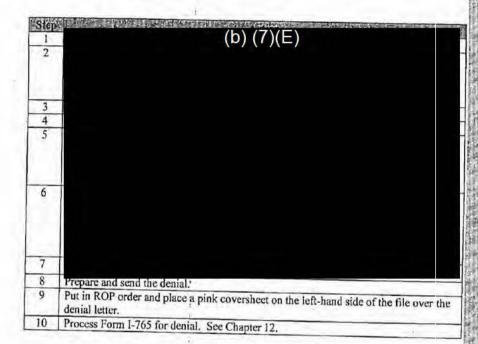
# D. Denials, Continued

Denial (continued) When the denial falls under one of the categories that requires supervisory review, ensure that concurrence has been obtained before processing the DACA request for denial.



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# D. Denials, Continued

# Denial Letters

Abandonment Abandonment denials are initiated on Form I-821D in the following

- The requestor fails to respond to an RFE or NOID;
- The requestor fails to appear at an ASC for biometrics collection within the specified time frame, after failure to respond to an RFE, Refer to Chapter 5 of this SOP.

### Abandonment Denials

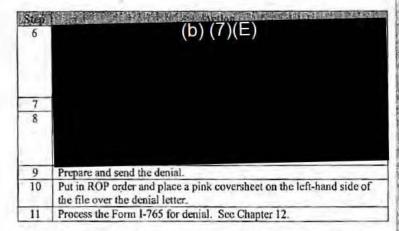
After ALL A-files have been retrieved when processing an I-821D (unless adjudicating in a T-file if unable to obtain the A-file), follow the steps below to process an abandonment denial.

1	Ensure that no other addresses exist:
	Review the file for any correspondence received;
	Review the returned envelope for any changes from the post office     Check C3, National Claims, and AR11 for an alternate address or an address change;
	Check the systems to see if a more recent DACA request was submitted with updated address; and
	<ol> <li>Check Forms I-821D and I-765 to ensure that there is no different address provided between the two forms</li> </ol>
2	(b) (7)(E)
4	
5	
	41

Continued on next page

### D. Denials, Continued

### Abandonment Denials (continued)



NOTE: If the RFE/NOID was not stamped as a "No Response," the officer should write it on the document. A "No Response" will ALWAYS remain on top of the application for proper ROP and the officer will place the denial/withdrawal letter on top of the "No Response."

### Denial for NSF

When Form I-765 has been "rejected" for NSF, for the \$380 I-765 fee and/or the \$85 biometrics fee, Form I-821D shall be denied as the DACA filing did not include a concurrently filed I-765 and I-821D. The officer shall select the appropriate denial box on the denial template and update C3 to reflect the denial. After processing the case for denial and updating the system, hold the A-file for 45 days and then forward to the NRC, if a request to review is not received through SRMT.

# Chapter 10: Post Denial Process

### Determining Appropriate Action After Denial

- 1. Review the grounds for denial.
- If the denial grounds do not involve criminal, national security, or public safety issues, hold the A-file for 45 days and then forward to the NRC, if a request to review is not received through SRMT.
- If the denial involves criminal, national security, or public safety issues, refer to the November 7, 2011, memorandum entitled, <u>Revised Guidance</u> for the Referral of Cases and <u>Issuance of Notices to Appear (NTAs) in</u> <u>Cases Involving Inadmissible and Removable Aliens.</u> Confirmed fraud denials also warrant NTA issuance. <u>See</u> Appendix B.
- The NTA unit will determine whether NTA issuance is appropriate under the NTA memorandum referenced above.

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# Chapter 11: Returned Mail

### Check for Address Changes

When notices are returned as undeliverable, the officer should:

- 1. Review the file for any correspondence received;
- Review the returned envelope for any changes from the post office, Check C3, National Claims, and AR11 for an alternate address or an address change;
- Check the systems to see if a more recent DACA request was submitted with an updated address; and
- Check both Form I-821D and the I-765 to ensure that there is no different address provided between the two forms.

### RFE, NOID, Intent to Terminate

When an RFE, NOID, or Intent to Terminate is returned to the Service Center as undeliverable, follow all procedures above to locate a new address and remail the RFE, NOIT or Intent to Terminate after updating C3.

If there is no other address to use and the response time indicated has not passed, the file should be placed on hold in accordance with local procedures for the remainder of the response time.

If there is no other address found and the response time has passed on the	Then	
RFE	Deny as an abandonment denial.	
NOID (with NO criminal content),	Deny for cause.	
Intent to Terminate,	Terminate DACA.	

### **Denial Notice**

When a denial is returned to the Service Center as undeliverable, follow all procedures above to locate a new address and re-mail the denial.

If there is no new address and the	Then., Francisco Service Constitution of the C
Have NOT passed,	Hold file
Have passed,	Send to the NRC if no further communication is received

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# **Chapter 12: Employment Authorization**

### A. General Information

(c)(33) Eligibility Category The eligibility category for employment authorization based on a grant of deferred action is 8 C.F.R. § 274a.12(c)(14). To distinguish DACA-related EADs from other deferred action EADs, the (c)(33) code will be used.

Evidentiary Requirements For a (c)(33) EAD, the individual must be approved for DACA.

The information needed to assess economic necessity is collected on the Form I-765WS. This worksheet should have been reviewed during the adjudication of Form I-821D.

Before proceeding with the adjudication of the Form I-765, review C3 to ensure that there is no outstanding RFE, as the RFE would have been issued during the adjudication of Form I-821D.

Validity Period of (c)(33) EAD

The "valid from" date is the date of approval and the "valid to" date is 2 years minus one day from the date of approval or to the end date of the deferred removal date under DACA, whichever is earlier.

8 C.F.R. § 274a.13(d) – 90 Day Time Period to Issue an EAD Pursuant to 8 C.F.R. § 274.12(c)(14), the EAD is predicated on a grant of deferred action. Since Forms I-821D and I-765 are filed concurrently for DACA, Form I-821D will be adjudicated first. If Form I-821D is approved, then Form I-765 would be approved under the (c)(33) code to distinguish the DACA related EADs from other deferred action EADs. Since approval of the Form I-821D is a prerequisite, and since the EAD is based upon a grant of DACA, the 90-day EAD clock begins after Form I-821D is approved for DACA.

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# A. General Information, Continued

Reasons for Filing The DACA requestor should indicate one of the following reasons for filing:

- Permission to accept employment: The initial request for employment authorization under an eligibility category; or
- Replacement (of lost or stolen employment authorization document): A request to replace a lost, stolen, mutilated, or incorrect EAD.

If neither of these boxes is checked, verify the Form I-821D approval in C3 to ensure that removal has been deferred under DACA and then check the Form I-765 history in C3 to see if a prior EAD has been issued under the (c)(33) eligibility category. If yes, process the Form I-765 EAD as a replacement. If no, process the Form I-765 EAD as an initial EAD. If a prior replacement EAD under the (c)(33) eligibility category has been issued, refer the case to CFDO.

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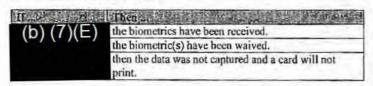
# B. Adjudication

Verification of Forms I-821D and I-765 Access C3 and follow the steps below to verify the information:

1	Verify that the requestor has a pending or an approved initial I- 821D on file. (If no, see the denial section for processing instructions.)
3	Check the signatures on Form I-765.     Verify that the biometries are present.

Biometrics

Officers must check the (b) (7)(E) to determine if the requestor's biometrics (photograph, fingermints, signature) have been received. (b) (7)(E)



If the requestor is a child less than 14 years of age, there should be a Waiver (W) for fingerprint and signature.

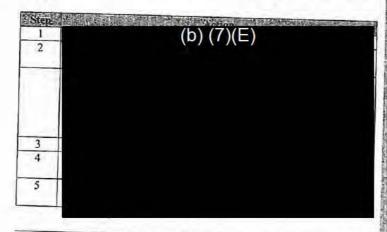
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Approvals

All corrections made to the information contained on Form I-765 must be made on the face of the application in red.

Application Annotations When approving Form I-765, follow the steps below for proper annotation of the form:



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CLAIMS Updating for Approvals Follow the steps below to update C3 for 1-765 approval.

Step	A CONTRACTOR OF THE AMERICAN CONTRACTOR OF THE O
1	(b) (7)(E)
2	
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7	
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9	Place a pink coversheet on the left-hand side of the file.
10	In the alternative, the approval may be updated using 1-765 Express per existing protocols.

NOTE: If you go back into the approval screen to view the data before exiting the form after approving, then you must press the "save" button again to retain the approval. If the information is not saved, then a card will not be generated.

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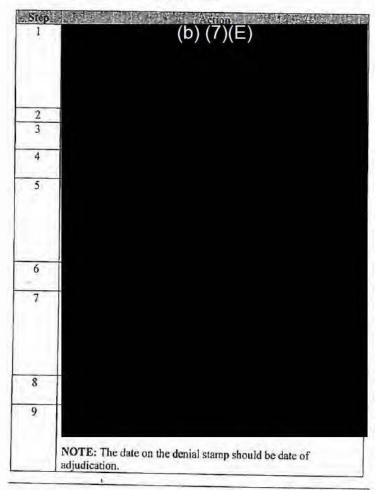
Notice of Intent Officers will prepare the intent to deny letter, annotate the worksheet, and update CLAIMS as follows:

Step	(b) (7)(E)
2	
3	
4	
5	
6	Prepare and send the NOID.

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Denials

Follow the steps below when denying a case.



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Denials (continued)

# For cases NOT going to the NTA team: The denial for the Form I-765 is included in the DACA Denial Template. See Appendix F. Place a pink coversheet on the left-hand side of the file over the denial letter. NOTE: When denying only the Form I-765 for abandonment, an officer should use the standard abandonment denial used at his/her center.

Charge out the file using local procedure.

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# C. Replacement Cards

### Evidence Required

The following evidence is required for replacement cards:

- · Biometrics from the applicant's most recent ASC visit.
- Original signature. All applicants age 14 and over must sign their own application. The contractor can obtain the signature from Form 1-765 and waive the fingerprint when scanning and producing an EAD.
- Current card issued with validity dates that have NOT expired.
- Valid fingerprints are not required in order to issue a replacement EAD.

### Validity Dates

When issuing a replacement card the validity period should mirror the dates authorized under the previous card.

### Biometrics

Upon receipt, the contractor will clone from biometrics from the applicant's most recent ASC visit.

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# Chapter 13: Use of Service Request Management Tool (SRMT) to Respond to Request to Review Certain Denials

### Introduction

USCIS will accept SRMTs from DACA denials based on a claim that the denial is incorrect <u>and</u> the denial is based on an <u>administrative</u> <u>error</u>. Specifically, USCIS will accept SRMTs where the requestor believes that USCIS incorrectly denied his/her DACA request for one or more of the reasons listed in this chapter of the DACA SOP.

### History Action Codes (HAC)

When responding to a request to review a denied DACA request, C3 must be updated with the appropriate History Action Code (HAC) created to track the specific action taken and to denote that the SRMT involved a denied DACA request. The following HACs will be used:



### Templates

When providing an interim response to review a denied DACA request, standard response templates must be used for the interim response and when the denial is affirmed. When the denied DACA request is approved on Service Motion, the standard approval notice will be generated from C3. Appendix G contains the following templates:

- · DACA SRMT call-ups for interim SRMT responses.
- DACA SRMT call-ups to respond that the denial was correct and is affirmed.

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Errors related to Material Facts

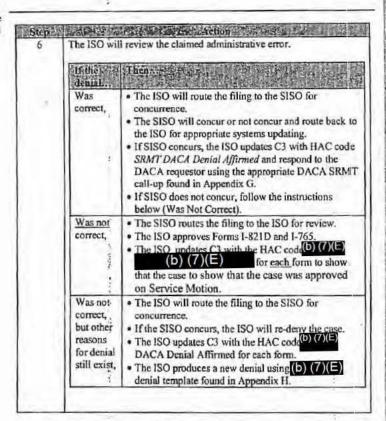
Administrative Follow the steps below when an SRMT is filed due to a claimed administrative error related to:

- . The denial of the DACA request on the grounds that the requestor did not come to the United States prior to reaching his/her 16th birthday, but the evidence submitted at the time of filing shows that the requestor did, in fact, arrive before the required age; or
- The denial of the DACA request on the grounds that the requestor was under age 15 at the time of filing, but not in removal proceedings, but the evidence submitted at the time of filing and/or systems checks show that the requestor was, in fact, in removal proceedings when the DACA request was filed; or
- The denial of the DACA request on the grounds that the requestor was not under the age of 31 on June 15, 2012, but the evidence submitted at the time of filing shows that the requestor did not exceed the upper age limit on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not in an unlawful immigration status as of June 15, 2012, but the evidence submitted at the time of filing shows that the requestor was, in fact, in an lawful status on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not physically present in the United States on June 15, 2012, up through the date of filing, but the evidence submitted at the time of filing establishes that the requestor was, in fact, present.

Step"	Late of the water to be determined to the state of the st
1	Request the file.
2	Respond to the SRMT with an interim response.
3	Update C3 (with HAC code). (h) (7)(=)
4	(b) (7)(E)
5	Route the file to the reviewing ISO.

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Administrative Errors Related to Material Facts (continued)



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Collected at a USCIS ASC

Requestor did Appear to Have Biometrics

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's biometrics collection.

1	Review the electronic systems to see his/her biometrics taken. Request the	whether the requestor had
2	Reopen Forms I-821D and I-765 on Sea	rvice Motion
3	Update C3 with HAC codes (b) (7)(E) for both forms.	(b) (7)(E)
4	Send an interin(b) (7)(E) response using	(b) (7)(E)

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Requestor did Appear to Have Biometrics Collected at a USCIS ASC (continued)

If ther	Then:	
Did not have his/her biometrics taken,	The reviewing officer sh  Returned Mail  Address Change  Rescheduling Re  The BPU ASC R	S
	Stroom Street	Then.
	Locate returned mail, an address change, or a rescheduling request,	Initiate ASC appointment rescheduling. After the biometrics results are received, adjudicate the case. If Form I-821D is approved, approve Form I-765. Update C3 with HAC(b) (7)(E) (b) (7)(E) or each form. If denied, issue a denial using the (b) (7)(E) denial template. Update C3 with HAC(b) (7)(E) Denial Affirmed for each form.
	Do not locate any returned mail, address change, or rescheduling request,	Respond to the SRMT that the denial stands, using the SRMT denial template.

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Requestor did Appear to Have Biometries Collected at a USCIS ASC (continued)

requestor	
Did have his/her biometrics	The ISO will adjudicate Forms I-821D and I-765. If Form I-821D is approved, ISO approves Form I-765. ISO updates C3 with HAC (b) (7)(E) for each form.
taken,	If denied, ISO issues a denial using the SRMT denial template.
	ISO updates C3 with HAC     for each form.  (b) (7)(E)

Requestor requested that His/Her Biometrics Appointment at a USCIS ASC be Rescheduled Prior to the Scheduled Date Follow the steps below when an SRMT is filed due to a claimed administrative error related to the request to reschedule the ASC appointment.

1	Request the A-file.
2	Reopen Forms I-821D and I-765 on Service Motion.
3	Update C3 with HAC code (b) (7)(E) for both forms.
4	Send an interim SRMT response using (b) (7)(E)

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Requestor requested that His/Her Biometries Appointment at a USCIS ASC be Rescheduled Prior to the Scheduled Date (continued)

Mitte requestor.	
Requested to have his/her biometries appointment rescheduled, prior to the scheduled date,	<ul> <li>The ISO will schedule a new ASC appointment and route the A-file to the appropriate holding shelf to await the biometrics results.</li> <li>Adjudicate the case after the biometrics results are received.</li> <li>If Form I-821D is approved, approve Form I-765.</li> <li>Update C3 with HAC Approved on Service Motion for each form.</li> <li>If denied, issue a denial using the SRMT denial template.</li> <li>Update C3 with HAC for each form.</li> </ul>
Did not request to have his/her biometrics appointment rescheduled, prior to the scheduled date,	Respond to the SRMT that the denial stands, using the SRMT denial template.

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Requestor Paid the Filing and Biometric fees for the I-765

Follow the steps below when an SRMT is filed due to a claimed administrative error related to Non-Sufficient Funds.

Review the electronic systems to see whether the requestor paid the associated fees with the filing.

1	Records Division reviews electronic systems to determine if the feet was paid timely and properly (if necessary, Request the A-file)		
2 -	Reopen Forms I-821D and I-765 on Service motion.		
3	Update C3 with HAC code (b) (7)(E) for both forms.		
4	Send an interim SRMT response using (b) (7)(E)		

If the Records Division	Then.
The appropriate fees, were not paid,	<ul> <li>Respond to the SRMT that the denial stands, using the SRMT denial template.</li> </ul>
The appropriate fees were paid,	<ul> <li>The ISO obtains the file and schedules a new ASC appointment and routes the A-file to the appropriate holding shelf to await the biometrics results.</li> <li>Adjudicate the case after the biometrics results are received.</li> <li>If Form I-821D is approved, approve Form I-765.</li> <li>Update C3 with HAC code (b) (7)(E) for each form.</li> <li>If denied, issue a denial using the SRMT denial template.</li> <li>Update C3 with HAC code (b) (7)(E) for each form.</li> </ul>

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USCIS Denied the Request for DACA Based on Abandonment and the Requestor Claims He/She did Respond to a RFE Within the Prescribed Time Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's response to a RFE.

Step	214 1 Action Action			
1	Request the A-file.			
2	Reopen Forms I-821D and I-765 on Service motion,			
3	Update C3 with HAC code (b) (7)(E) or both forms.			
4	Send an interim SRMT response using (b) (7)(E)			
5	Review A-file and local systems to determine if a response to the RFI was received before the due date.			
	At the requestor Then 2 v. J. s.			
	Responded to the RFE within the prescribed time,  Route the filing to the reviewing officer.  Adjudicate based on the evidence submitted initially and the RFE response.  If Form I-821D is approved, approve Form I-765.  Update C3 with HAC code (b) (7)(E) for each form.  If denied, issue a denial using the SRMT denial template.			
	Route to SISO for denial concurrence Update C3 with HAC cod (b) (7)(E)  (b) (7)(E)  for each form.			
	Did not respond within the required time, or no response was received.  Respond to the SRMT that the denial stands, using the SRMT denial template.			

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USCIS Mailed the RFE to the Wrong Address and the Requestor Submitted a COA Prior to the RFE Issuance

USCIS Mailed Follow the steps below when an SRMT is filed due to a claimed the RFE to the administrative error related to the requestor's change of address.

1	Request the A-file.	
2	Reopen Forms I-821D and I-765 on Service Motio	1
3.	Update C3 with HAC code (b) (7)(b) (r)(E) for both forms.	=)
4	Send an interim SRMT response using (b)	(7)(E)
5	Verify the requestor's address.	

it the requestors in	THE WASHINGTON TO PERSONAL WATER AND ASSESSMENT OF THE PERSONAL PROPERTY OF THE PERSONAL PROPERT
Filed a change of address, prior to the issuance of an RFE,	Re-issue the RFE with a new 87-day response time to the correct address and route the A-file to the RFE hold shelf.  After the RFE response is received, adjudicate Forms I-821D and 1-765 based on the evidence submitted initially and the RFE response.  If Form I-821D is approved, approve Form I-765.  Update C3 with HAC code  (b) (7)(E)  If denied, issue a denial using the SRMT denial template.  Update C3 with HAC code  (b) (7)(E)  (c) (7)(E)  (d) (7)(E)

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USCIS Mailed the RFE to the Wrong address and the Requestor Submitted a COA Prior to the RFE Issuance (continued)

li the requestor.	thoen	10000000000000000000000000000000000000		
Did not file a COA prior to the	Review that the RFE was sent to the correct address.			
issuance of an RFE,	fi the RIE was seat to:	Then the state of		
	The correct address,	<ul> <li>Respond to the SRMT stating that the denial stands, using the SRMT denial template.</li> </ul>		
	An incorrect address,	Route the filing to the SISO. The ISO shall re-issue the RFE with a new 87-day response time to the correct address and route the A-file to the RFE hold shelf. After the RFE response is received, adjudicate Forms I-821D and I-765 based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E)  (b) (7)(E) for each form. Update C3 with HAC code (b) (7)(E) (c) (7)(E) (d) (7)(E) (e) (7)(E) (f) (7)(E)		

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