



DACA

Deferred Action for
Childhood Arrivals (I-821D)

WHAT IS DACCA?

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- DACA is a deferred action program that was created on June 15, 2012 by former president Barack Obama.
- In 2012, Barack Obama, through an executive order, introduced this program as a measure to shield from deportation qualified people who were brought into the United States as children and did not have U.S. citizenship or legal residency status (undocumented).
- DACA allows certain individuals, who meet specific guidelines, to request consideration of deferred action from U.S. Citizenship and Immigration Services (USCIS). Those individuals who receive DACA WILL NOT be placed in removal proceedings or removed from the United States for a specified period of time (2 yrs or more), unless terminated.
- So, "on June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several key guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. **Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time.** Deferred action does not provide lawful status." USCIS
- <https://www.youtube.com/watch?v=34EdDwEqKWY>

WHAT DACA OFFERS:

- Employment Authorization Document (EAD)
- Social Security Number
- Allows an opportunity to obtain State ID or/and Driver's License
- Permission to remain in the United States for a period of two years
- Renewal of DACA

WHAT DACA DOES NOT OFFER:

- A lawful status and
- Pathway to citizenship

WHY DACA??

- “DACA is intended, in part, to allow CBP and ICE to focus on priority cases. Under the direction of the Secretary of Homeland Security (DHS), if an individual meets the guidelines for DACA, CBP or ICE should exercise their discretion on a case-by-case basis to prevent qualifying individuals from being apprehended, placed into removal proceedings, or removed.



DACA ELIGIBILITY AND GUIDELINES

WHO IS ELIGIBLE FOR DACA?

- **Requirements- YOU may request DACA if you:**
 - Were under the age of 31 as of June 15, 2012;
 - Came to the United States before reaching your 16th birthday;
 - Have continuously resided in the United States since June 15, 2007, up to the present time;
 - Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
 - Had no lawful status on June 15, 2012 and continue to have no status;
 - Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a General Educational Development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
 - Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.
- These guidelines must be met for consideration of DACA. U.S. Citizenship and Immigration Services (USCIS) retains the ultimate discretion to determine whether deferred action is appropriate in any given case even if the guidelines are met.

7+ Required Guidelines

- 1) At least 15 years old when applying, but were under the age of 31 as of June 15, 2012
- 2) Under the age of 16 when entering the United States
- 3) Living in the U.S. continuously since June 15, 2007
- 4) Entered without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012, AND you currently have no lawful status
- 5) Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States
- 6) Not convicted of a felony, a significant misdemeanor or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.
- 7) Present in the U.S. on June 15, 2012, and at the time of applying
- 8) **You ARE NOT detained**
 - **If you are currently in immigration detention, you may not request consideration of DACA from USCIS**

GUIDELINE #1: You were under the age of 31 as of June 15, 2012.

- **1.** If you have **never been in removal proceedings**, or your proceedings were terminated before applying for DACA, then:
 - You must be at least 15 years old at the time you are filing your DACA application, AND
 - You were under the age of 31 as of June 15, 2012
- **2.** If you are in removal proceedings, have a final order of removal, or have a voluntary departure order, and you are not detained, then:
 - You may be younger than 15 years old at the time you are filing your DACA application, AND
 - You must have been under the age of 31 as of June 15, 2012.
- ****In all instances, you must have been under the age of 31 as of June 15, 2012, to be considered for DACA**

AGE GUIDELINES

Your situation	Age
I have never been in removal proceedings, or my proceedings have been terminated before making my request.	At least 15 years old at the time of submitting your request and under the age of 31 as of June 15, 2012.
I am in removal proceedings, have a final removal order, or have a voluntary departure order, and I am not in immigration detention.	Under the age of 31 as of June 15, 2012, but you may be younger than 15 years old at the time you submit your request.

GUIDELINE #2: You came to the U.S. before reaching your 16th birthday

- 1. Proof
- 2. What happens if you left the United States BEFORE turning 16 for some time before returning and beginning your current period of continuous residence. Can you be considered for deferred action under this process?
 - Yes

GUIDELINE #3: You have been continuously residing in the US since June 15, 2007.

- 1. To prove my continuous residence in the United States since June 15, 2007, must I provide evidence documenting my presence for every day, or every month, of that period?
 - You must provide documentation to account for as much of the period as reasonably possible
- 2. Proof

GUIDELINE #4: You entered without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012, AND you currently have no lawful status

- To show that you had no lawful status on June 15, 2012, you can submit the following evidence:
 - Form I-94/I-95/I-94W with authorized stay expiration date
 - Final order of exclusion, deportation, or removal issued as of June 15, 2012
 - A charging document placing you into removal proceedings
 - Such as a Notice To Appear (NTA)

GUIDELINE #5: You are currently in school, have graduated, have obtained a GED, or are an honorably discharged veteran of the Coast Guard or US Armed Forces

- 1. Currently in school
 - you must be enrolled in school on the date you submit your request for DACA
- 2. Graduated HS
- 3. Obtained a GED
- 4. You are an honorably discharged veteran of the Coast Guard or US Armed forces

EDUCATION AND MILITARY SERVICE

Your school or military status at the time of requesting DACA	Meet education or military service guidelines for DACA
<p>I graduated from:</p> <ul style="list-style-type: none">• Public or private high school; or• Secondary school. <p>Or</p> <ul style="list-style-type: none">• I have obtained a GED.	Yes
<p>I am currently enrolled in school.</p> <p>See the Education section of the FAQs for a full explanation of who is considered currently in school.</p>	Yes
<p>I was in school but dropped out and did not graduate. I am not currently in school and am not an honorably discharged veteran of the Coast Guard or Armed Forces of the U.S.</p>	No
<p>I am an honorably discharged veteran of the Coast Guard or Armed Forces of the U.S.</p>	Yes

GUIDELINE #6: Not convicted of a felony, a significant misdemeanor or three or more other misdemeanors...

- Not convicted of a felony, OR
- Not convicted of a significant misdemeanor, OR
- Not convicted of three or more other misdemeanors, AND
- Do not otherwise pose a threat to national security or public safety.
- **Immigration-related offenses characterized as felonies or misdemeanors by state immigration laws will not be treated as disqualifying felonies or misdemeanors for the purpose of considering a request for consideration of deferred action under this process
- **Expunged convictions and juvenile convictions will not automatically disqualify you. Your request will be assessed on a case-by-case basis to determine whether, under the particular circumstances, a favorable exercise of prosecutorial discretion is warranted. If you were a juvenile, but tried and convicted as an adult, you will be treated as an adult for purposes of the DACA process

GUIDELINE # 7: You must have been present in the U.S. on June 15, 2012, and at the time of applying.

○ Proof

- Rent receipts or utility bills
- Employment records (pay stubs, W-2 Forms, etc)
- School records (letters, report cards, etc)
- Military records (Form DD-214 or NGB Form 22)
- Official records from a religious entity confirming participation in a religious ceremony
- Copies of money order receipts for money sent in or out of the country
- Passport entries
- Birth certificates of children born in the U.S.
- Dated bank transactions
- Automobile license receipts or registration
- Deeds, mortgages, rental agreement contracts
- Tax receipts, insurance policies

ISSUES

1. TRAVEL ISSUES

- Certain travel outside the United States may affect the continuous residence guideline. Traveling outside the U.S. **before Aug. 15, 2012, will not interrupt your continuous residence** if the travel was brief, casual, and innocent. If you travel outside the United States after Aug. 15, 2012, and before we decide your request for DACA, you will not be considered for DACA.

TRAVEL DATES	TYPES OF TRAVEL	DOES IT AFFECT CONTINUOUS RESIDENCE
On or after JUNE 15, 2007, but BEFORE AUG. 15, 2012	<ul style="list-style-type: none"> BRIEF CASUAL INNOCENT 	NO
	<ul style="list-style-type: none"> For an extended time Because of an order of exclusion, deportation, or removal To participate in criminal activity 	YES
AFTER Aug. 15, 2012, and BEFORE you have requested DACA	<ul style="list-style-type: none"> ANY 	Yes. You cannot apply for advance parole unless and until DHS has determined whether to defer action in your case and you cannot travel until you receive advance parole.
AFTER Aug. 15, 2012, and AFTER you have requested DACA	<ul style="list-style-type: none"> ANY 	Yes. You cannot travel while your request is under review. You cannot apply for advance parole unless and until DHS has determined whether to defer action in your case. In addition, if you have previously been ordered deported and removed and you depart the United States without taking additional steps to address your removal proceedings, your departure will likely result in your being considered deported or removed, with potentially serious future immigration consequences.
On or after Aug. 15, 2012, and receiving DACA	<ul style="list-style-type: none"> ANY 	It depends. If you travel after receiving advance parole, the travel will not interrupt your continuous residence. However, if you travel without receiving advance parole, the travel will interrupt your continuous residence.

2. CRIMINAL BACKGROUND ISSUES

- As mentioned previously, you will not be considered for DACA if you have been convicted of:
 - A felony offense;
 - A significant misdemeanor offense; or
 - Three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct.
- and
 - You are otherwise deemed to pose a threat to national security or public safety.

FELONY

SIGNIFICANT MISDEMEANOR

NON-SIGNIFICANT MISDEMEANOR

A felony is a federal, state or local criminal offense punishable by imprisonment for a term exceeding one year.

A significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and:

1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

A crime is considered a non-significant misdemeanor (maximum term of imprisonment is one year or less but greater than five days) if it:

1. Is not an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; and
2. Is one for which the individual was sentenced to time in custody of 90 days or less

3. FILING FEE

- DACA fees cannot be waived
- BUT, there are very limited fee exemptions available.
 - 1. Your request for a fee exemption must be filed and favorably adjudicated before you file your DACA request without a fee. In order to be considered for a fee exemption, you must submit a letter and supporting documentation to USCIS demonstrating that you meet one of the following conditions:
 - You are under 18 years of age, have an income that is less than 150 percent of the U.S. poverty level, and are in foster care or otherwise lacking any parental or other familial support; or,
 - You are under 18 years of age and experiencing homelessness; or,
 - You cannot care for yourself because you suffer from a serious, chronic disability and your income is less than 150 percent of the U.S. poverty level; or,
 - You have, at the time of the request, accumulated \$10,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses for yourself or an immediate family member, and your income is less than 150 percent of the U.S. poverty level.
- Submit the following types of evidence:
 - Affidavits from community-based or religious organizations to establish a requestor's homelessness or lack of parental or other familial financial support.
 - Copies of tax returns, bank statement, pay stubs, or other reliable evidence of income level.
 - An affidavit from the applicant or a responsible third party attesting that the applicant does not file tax returns, has no bank accounts, and/or has no income to prove income level.
 - Copies of medical records, insurance records, bank statements, or other reliable evidence of unreimbursed medical expenses of at least \$10,000.



FILING PROCESS FOR DACA

1. Required Forms and documents

- Cover Letter
- Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative
- Form I-821D, Consideration of Deferred Action for Childhood Arrivals
- Form I-765, Application for Employment Authorization
- Form I-765WS, Worksheet
- Filing fee of \$495
- Two Passport-sized Photographs (w/Name, and DOB or A#)
- **Not required, but highly recommended- Form G-1145, E-Notification of Application/Petition Acceptance

2. Supporting Documentation showing you meet the required guidelines for DACA eligibility

- 1. Proof of Identity
- 2. Proof you came to the U.S. before your 16th birthday
- 3. Proof that you don't have lawful immigration status
- 4. Proof of your presence in U.S. on June 15, 2012
- 5. Proof that you have continuously resided in the U.S. since June 15, 2007
- 6. Proof of your student status at the time of requesting DACA or your military service status
- 7. Proof of your criminal background to show you are not a threat to national security

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3. Mail USCIS DACA forms and fees
 4. Wait for USCIS Receipt Notice
 5. Biometrics Appointment
 6. Wait for a decision

6. FINAL DECISION

- USCIS Grants DACA
 - You will receive an I-821D approval notice
 - You will receive your I-765 approval notice
 - You will receive your EAD Card
- USCIS sends a Request for Evidence asking for additional documentation
- USCIS Denies DACA
 - You cannot appeal
 - You cannot file a motion to reopen or reconsider
 - You CAN request an administrative review if:
 - You believe USCIS denied your request because of an administrative error (there is a list of possible errors)

QUESTIONS?

Community Immigration Law Center (CILC)

608-640-4444

info@cilcmadison.org

Immigrant Justice Clinic (IJC)

608-890-3753

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