


Understanding  
DACA in 2021

Presented by  
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TODAY'S AGENDA

INTRODUCTIONS

DACA Overview

DACA History

DACA Criteria

Application Process

DACA Renewal

Advanced Parole

Recent Developments

Hypotheticals

Q&A

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Deferred Action for Childhood Arrivals

- What it is
- What it isn't

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DACA OVERVIEW: WHO DOES THIS PROGRAM IMPACT?



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DACA  
HISTORY/LEGAL  
OVERVIEW

- Introduced by the Obama Administration in 2012 as an Executive Order
- The Trump Administration in 2017 rescinds the EO, phasing out DACA by 2018
- Three Federal District Courts pause the full rescission, ordering that DACA renewals can continue but initial applications cannot
- The Supreme Court rules in June of 2020 that the rescission was "arbitrary and capricious" and DACA must be reinstated in full
- USCIS reinstates the program in full in December of 2020

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## DACA CRITERIA

Who is DACA for?

- 15 yrs or Older
- Arrived Before 16 yrs old
- Under 31 on 6/15/2012

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## DACA CRITERIA

Presence Requirements

- Proof of Presence-June 15, 2007 until the Present Date

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## DACA CRITERIA

Legal Troubles: No felonies, "significant misdemeanors," or 3 or more misdemeanors

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## DACA CRITERIA

**Educational**

- Enrolled in school
- HS Diploma
- GED/HSED Certificate
- Forced Military Service

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## DACA CRITERIA

- Educational: "Enrolled in School"**
  - "An education, literacy, or career/occupational training program that has a purpose of improving literacy, mathematics, or English or is designed to lead to placement in postsecondary education, job training, or employment."
- Grant-funded programs
- Non-profit organizations
- Other: "Programs of demonstrated effectiveness"
- Burden: Applicant to show effectiveness: program duration, track record, indicators of program quality

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## DACA APPLICATION PROCESS

- Applications: Initial & Renewal
- Forms: I-920, I-765, I-855WS
- DHS Fees: \$475
- Proof needed

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## DACA RENEWALS



- Renew within a year of expiration date
- Another two years of status
- Requires forms and proof of status, but not all other renewal DACA evidence

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## ADVANCED PAROLE

- What is it?
- Benefits: Ability to return to US after international travel!

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## NEW DEVELOPMENTS UNDER BIDEN ADMINISTRATION

- The Dream and Promise Act (H.R. 6) and The Dream Act (S. 264)
  - Both bills would provide paths to citizenship for Dreamers.
  - But H.R. 6 would also extend to two other humanitarian programs: Temporary Protected Status (TPS) and Deferred Enforced Departure (DED)
- Both offer a pathway to Legal Residence (Green Card) through Conditional Permanent Residence (CPR) established with higher education, military service, or employment

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## HYPOTHETICAL

- Juan came to US at age 6 and has never left the country. Juan is now 21 years old. He went to Pius High School, graduated and is now a student at UW-Milwaukee. No legal status.
- *Eligible for DACA?*

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## HYPOTHETICAL

- Teresa is 28, living in Milwaukee with her husband and 2 young children. Teresa came to the US at age 16, undocumented. She obtain her GED from MATC, and is working in a local factory.
- *Eligible for DACA?*

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## HYPOTHETICAL

- Ahmed, now 31, entered the US on a visitor visa at the age of 12 in 2002. He dropped out of high school to work full time and he never obtained a GED. He is enrolled in a literacy program so he can apply for a better job.
- *Eligible for DACA?*

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## HYPOTHETICAL

- Justin has all of the qualifications for an initial DACA application. However, last summer he was pulled over while driving drunk. He was later cited with an OWI 1st and driving with an expired license.
- Eligible for DACA?

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## HYPOTHETICAL

- Ius entered the US in 2004, but when his grandmother who lived in Mexico was sick in 2009, he left the US for 9 months and then returned.
- Eligible for DACA?

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## HYPOTHETICAL

- Karla was approved for DACA while she was enrolled in a GED program. Six months before her current status expires she comes to you for a renewal, but you learned she never obtained her GED and left the program early.
- Eligible for DACA renewal? Initial DACA?

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## HYPOTHETICAL

- Veronica is a former client whose DACA expired in May 2020. She was busy with school and campaigning for President Biden and forgot to renew her DACA. Can she renew now?
- *Eligible for DACA renewal? Initial DACA?*

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## HYPOTHETICAL

- Adrian has DACA. He would like to propose to his girlfriend who is a U.S. citizen. Her parents are retired and living in France. He wants to see them in person and more formally ask for her hand in marriage.
- *Eligible for travel through Advance Parole?*

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# DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA): A Q&A GUIDE

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## What is deferred action?

When an immigrant is granted “deferred action,” it means the Department of Homeland Security (DHS) has deemed the individual a low priority for immigration enforcement and has chosen to exercise its discretion and not deport the individual. Deferred action provides temporary relief from enforcement but may be revoked at any time. Deferred action is *not* amnesty or immunity. Currently, it does *not* provide lawful immigration status or a path to a green card or citizenship.

## Who may be eligible for deferred action?

Individuals may request deferred action if they:

- came to the U.S. before their 16th birthday;
- were under age 31 and had no valid immigration status on June 15, 2012;
- have continuously resided in the U.S. between June 15, 2007 and the present;
- are currently in school, graduated from high school, obtained a GED, or were honorably discharged from the Armed Forces; and
- have not been 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.

Requests for deferred action will only be considered for immigrants who are 15 or older, unless they are currently in removal proceedings or have a final order of removal or voluntary departure, in which case they may apply if they are under 15.

## How long does deferred action last?

Under the childhood arrivals initiative, deferred action will be granted for a two-year period, after which recipients may request a renewal. According to DHS, individuals will be eligible for future renewals of deferred action so long as they were under age 31 on June 15, 2012.

## Can a person who is granted deferred action work legally in the U.S.?

Yes. Under existing regulations, individuals with deferred action may receive an Employment Authorization Document (EAD). Individuals who wish to request an extension of deferred action after two years will also have to apply for a renewal of their EAD.

## How and when can people request deferred action?

Individuals may request deferred action by submitting a series of application forms and supporting documentation to USCIS. Requests and supporting documentation may not be submitted in person or online, but instead must be mailed to the USCIS “lockbox” assigned to

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Source: Updated and adapted from the American Immigration Council’s DACA Fact Sheet, Published August 2012.

the state in which the applicant resides. Once USCIS determines the request is complete, it will issue a receipt notice and schedule an appointment for the individual to have his or her fingerprints taken.

The only individuals who may not directly request deferred action from USCIS are those who are currently in immigration detention. Such individuals should contact their deportation officer or the Immigration and Customs Enforcement (ICE) Office of the Public Advocate at (888) 351-4024 or [EROPublicAdvocate@ice.dhs.gov](mailto:EROPublicAdvocate@ice.dhs.gov).

#### **What forms must individuals submit to be considered for deferred action?**

Individuals requesting deferred action *must* submit three forms:

- Form I-821D, Consideration of Deferred Action for Childhood Arrivals;
- Form I-765, Application for Employment Authorization; and
- Form I-765WS, Form I-765 Worksheet.

Applicants will want to consult the instructions for Form I-821D and the instructions for Form I-765. Applicants wanting to be notified by e-mail or text message that their forms have been accepted should also submit Form G-1145, E-Notification of Application/Petitioner Acceptance. Attorneys and accredited agencies assisting an individual in applying should also include Form G-28, Attorney of Record so that USCIS correspondences are also mailed to the representative's office.

#### **How much will it cost to submit a request for deferred action?**

According to USCIS, individuals requesting deferred action must pay \$495 in fees. The request for deferred action will not be processed without the EAD application form and its worksheet.

#### **What evidence must be submitted with a request for deferred action?**

Applicants should consult the instructions for Form I-821D to determine the precise types of documentation that must be submitted. If USCIS finds the evidence insufficient, it may issue a "Request for Evidence" (RFE) asking for the submission of additional documentation. The failure to respond to an RFE within the stated time limit may result in a request being denied.

#### **What does "currently in school" mean for those applying on this basis?**

To qualify for deferred action, applicants must be enrolled on the date of the application in (1) elementary school, middle or junior high school, or high school; (2) an education, literacy, or career training program; or (3) a program to assist students in obtaining a high school diploma (or its equivalent) or passing a GED or other equivalent state-authorized exam.

#### **Will individuals who receive deferred action be permitted to travel outside the country?**

Yes, but only if they first apply for and receive a special travel document known as "advance parole." Generally, advance parole is only granted for travel relating to humanitarian, educational, or employment purposes, and requires a DHS fee of \$575.

#### **What is a "felony"?**

For purposes of the deferred action initiative, a felony is any federal, state, or local criminal offense *punishable* by imprisonment for more than one year. Thus, offenses that are considered

misdemeanors under state or local law may qualify as felonies if the maximum punishment is more than a year in prison.

**What is a “misdemeanor”?**

For purposes of the deferred action initiative, a misdemeanor is any federal, state, or local offense punishable by more than five days but one year or less in jail.

**What is a “significant” misdemeanor?**

DHS will deem significant any misdemeanor for which an individual received a sentence of more than 90 days in jail. Regardless of the sentence imposed, DHS will also deem significant any misdemeanor involving burglary, domestic violence, sexual abuse or exploitation, unlawful possession of firearms, driving under the influence, or drug distribution or trafficking.

**Are there any exceptions to the criminal grounds of ineligibility?**

Yes. Minor traffic offenses or non-criminal citations will not be considered misdemeanors under the initiative, even if punishable by more than five days in jail. For example, most OWI arrests in Wisconsin result in a noncriminal citation and as a result will not preclude an applicant from qualifying for deferred action.

**Does any departure from the U.S. between June 15, 2007 and August 15, 2012 break the “continuous residence” requirement for DACA?**

No, as long as the departure is considered “brief, casual, and innocent.” To meet this standard, a departure must have been (1) “short and reasonably calculated” for the purpose of the travel, (2) not the result of a removal order or order of voluntary departure, and (3) not made for unlawful purposes. However, this standard only applies to foreign travel completed before August 15, 2012. Unless an individual has already received deferred action, a departure from the U.S. after August 15, 2012, will break the continuous residence requirement and result in denial.

**Will recipients of deferred action be eligible for driver’s licenses and other state benefits?**

The answer depends on the law of the state in which the applicant resides. In Wisconsin, an individual with a valid EAD can apply for a driver's license and limited benefits such as unemployment. Presently, students enrolled in public institutions of higher education like the University of Wisconsin system do not qualify for in-state tuition, unfortunately. Though some universities within the UW system provide reduced tuition options for some immigrant students.

**Will information in deferred action requests be kept confidential?**

According to DHS, any information individuals provide about themselves in a deferred action request will not be used in immigration enforcement proceedings. Information individuals provide about their family members or guardians will not be used in immigration enforcement proceedings.

**Will individuals who are denied deferred action be placed in removal proceedings?**

According to DHS, persons will only be placed in removal proceedings if they engaged in fraud during the application process, have been convicted of an offense making them removable from the U.S., are under investigation or have been arrested for an “egregious public safety” criminal offense, or pose a threat to national security.

## Milwaukee Area Program Members

- **Adult Learning Center**

Jon Gilgenbach, Executive Director  
1916 Vel R. Phillips Ave. | Milwaukee, WI 53212  
Tel: 414.263.5874  
Email: [jon@alcmke.org](mailto:jon@alcmke.org) Tutoring, GED classes

- **International Institute of Wisconsin**

Estela Vazquez  
1110 North Old World Third Street, Suite 420 | Milwaukee, WI 53203  
Tel: 414-225-6220  
Email: [evazquez@iivisconsin.org](mailto:evazquez@iivisconsin.org) classes for immigrants

- **Journey House Center for Family Learning and Youth Athletics**

Glorianne Mather, Adult Education Director  
2110 W. Scott Street | Milwaukee, WI 53204  
Tel: 414-647-0548  
Email: [gmather@journeyhouse.org](mailto:gmather@journeyhouse.org). ESL Classes, GED prep

- **Literacy Services of Wisconsin**

Holly McCoy, Executive Director  
555 N. Plankinton Ave. | Milwaukee, WI 53203  
Tel: 414-344-5878  
Email: [holly@literacyservices.org](mailto:holly@literacyservices.org). ESL Classes, GED and \*5.09 program, general tutoring

- **Milwaukee Public Library Drop-In Adult Tutoring Program**

Eric Johnson, Foreign Language and Adult Literacy Librarian  
814 W. Wisconsin Ave. | Milwaukee, WI 53233  
Tel: 414 286-0816  
Email: [EAJohns@milwaukee.gov](mailto:EAJohns@milwaukee.gov) ESL and conversation classes, drop-in tutoring

- **Neighborhood House of Milwaukee International Learning Program**

Cynthia Zarazua, Manager  
639 N. 25th St. | Milwaukee, WI 53233  
Tel: 414-344-4777  
Email: [czarazua@nh-milw.org](mailto:czarazua@nh-milw.org) ESL classes including very lowest levels

- **Social Development Commission**

Steve Wysocki , Coordinator  
1730 West North Avenue | Milwaukee, WI 53205  
Tel: 414-906-2836  
Email: [Swysocki@cr-sdc.org](mailto:Swysocki@cr-sdc.org) GED and \*5.09 classes

- **SS Michael and Rose Literacy Program**

Deborah Lindberg, ESL Program Coordinator  
1445 N. 24th Street | Milwaukee, WI 53205  
Tel: (414) 933-3143  
Email: [deborah.lindberg@att.net](mailto:deborah.lindberg@att.net) ESL Classes including lowest levels tutoring

- **UMOS, Inc.**

Maria Madrigal-Alvarez, UMOS Education  
Barb Felske, Vice President/CIO  
2701 S. Chase Ave. | Milwaukee, WI 53207  
Tel: 414-389-6260  
Email: [maria.madrigal@umos.org](mailto:maria.madrigal@umos.org) ESL, GED Classes, \*5.09 in Spanish

- **YWCA Southeast Wisconsin**

Jake Gorges, Education Director  
Community Adult Learning Lab  
1915 N. Dr. Martin Luther King, Jr. Dr. | Milwaukee, WI 53212  
Tel: (414) 374-1800  
Email: [jgorges@ywcacasew.org](mailto:jgorges@ywcacasew.org) GED and \*5.09 classes

\*A 5.09 program offers an HSED credential in as few as 12 weeks. There is no traditional GED testing, successful completion is based on demonstrated skills. An HSED is comparable to a GED.