

Deferred Action for Childhood Arrivals (DACA)



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History of DACA: *How this all got started.*

- Program outline announced as an executive action in June 2012.
- Secretary of Department of Homeland Security directive to USCIS Director to implement.
- Program developed and announced from the Executive Branch of the Federal Government only.
- Part of a continuum of evolution of thought on exercise of Prosecutorial Discretion.
- Prompted by failure of Congress to act on Comprehensive Immigration Reform in the face of extraordinary investment of resources in enforcement with little effect.

Common Sense of DACA

The reality of limited enforcement resources:

2013 EOIR Yearbook Stats	2014 EOIR Yearbook Stats
277,277 New Cases Filed in Immigration Courts.	306,045 New Cases Filed in Immigration Courts.
254,197 Cases Completed by the Immigration Courts.	248,078 Cases Completed by the Immigration Courts.
Immigration Court Case Load Deficit: 23,080 more new cases filed than closed.	Immigration Court Case Load Deficit: 57,967 more new cases filed than closed.
356,030 total pending caseload (immigration courts and cases on appeal before the BIA).	418,861 total pending caseload (immigration courts and cases on appeal before the BIA).
21,532 In Absentia Orders of Removal entered by Immigration Courts (15% of all Orders).	26,066 In Absentia Orders of Removal entered by Immigration Courts (19% of all Orders).
<small>(Source: EOIR Statistics Yearbook http://www.justice.gov/eoir/statistical-year-book)</small>	



Framework of DACA: *How to think about it.*

DISCRETIONARY RELIEF

- Sometimes the police officer chooses not to write a ticket.
- If you get a ticket, you or your lawyer might negotiate with prosecutor.
 - Sometimes the prosecutor will reduce a charge or dismiss a charge as part of plea negotiation.
- Cannot demand any of this as a MATTER OF RIGHT.
- Governed by the discretion of the enforcement authorities.

Have you ever been stopped for speeding on the highway?

LEGAL RELIEF

- You have a legal right to a trial by a jury.
- You have a right a full trial process.
- You have a right to an appeal.
- You have a right to only be punished within certain limits as established by law.
- You have the right to raise certain defenses to a conviction.
- You have the right to demand these procedural and substantive protections as a MATTER OF RIGHT.
- Governed by Statute or Regulation.



What is DACA : *Temporary Reprieve from Removal Only.*

- Recognition of an enforcement mandate that is infinitely greater than resources budgeted by Congress.
- Decision within the Executive Branch to apply a “triage” approach to allocation and expenditures of enforcement resources.
- Derived from the Executive Branch’s constitutionally protected right to exercise discretion to enforce or not enforce the law on a case by case basis in order to target resources in a way to get the most “bang for the enforcement dollar”.
- ***Exercise of discretion by the Executive Branch to identify individuals who are NOT an enforcement priority and not remove them.***



What is DACA NOT: *Temporary Reprieve from Removal Only.*

- DACA is not a change in any law or regulation.
- DACA is not a benefit of legal right.
 - No one is ENTITLED to an approved DACA application even if they meet the stated qualifications.
- DACA is not any immigration status.
- DACA is not any legal benefit or relief. A person with an approved DACA application is as out of status as before filing the approval.
- DACA is not a pathway to any status or citizenship.
- DACA is not permanent. ***No three year expansion or expansion for parents to date.***
- DACA, in and of itself, is not an entitlement to any state or local benefit.



Who Qualifies for DACA: *I don't even remember coming to America!*

- Last entered the United States on or before June 15, 2007, physically present on that date and continuously resided in the United States from that date until time of applications.
- Out of status on June 15, 2012.
- Last entered the United States before age of 16.
- No older than 30 as of June 15, 2012.
- Clean Criminal Record.
 - No Felonies
 - No significant Misdemeanors
 - No more than two minor misdemeanors
- Educational Requirement:
 - Graduated from High School, or
 - Received GED or
 - Making Progress towards GED.



Benefits of DACA: *I get to stay in America (For Now)!*

- Grant of deferred action in two year increments.
- Renewable in two year increments -- so long as the Executive Branch *chooses* to continue program. (Could be terminated at any time and then no more renewals).
- Unrestricted Work Authorization during time of deferred action grant.
- Application for valid Social Security Number.
- Application for valid driver's licenses in most states.
- Ability to apply for Advance Parole to travel out of the United States and back.



Pitfalls and Red Flags of DACA: *Think (or consult) before you file!*

- For many applicants, this will be their first interaction with the Federal Government.
- Application will become part of the applicant's **permanent** record (A File).
- DACA is not an application to adjust status **but** will require revelation of information that touches on adjustment of status issues in later applications.
 - i.e. Issues related to Permanent Lifetime Bar to adjustment.
 - Minor Misdemeanor criminal offenses that might bar adjustment or removal defenses but not DACA
- NOTE However: USCIS has repeatedly assured that information on a denied DACA application will NOT be shared with ICE for removal purpose.



DACA Statistics: *America's future coming out of the shadows.*

U.S. Citizenship and Immigration Services									
Number of I-821D, Consideration of Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics and Case Status: 2012-2015 (June 30)									
Period	Requests by Intake, Biometrics and Case Status								
	Intake ¹			Biometrics		Case Review ²			
	Requests Accepted ³	Requests Rejected ⁴	Total Requests Received ⁵	Average Accepted/Day ⁶	Biometrics Scheduled ⁷	Requests Under Review ⁸	Approved ⁹	Denied ¹⁰	Pending ¹¹
Fiscal Year - Total¹²									
2012	152,424	5,395	157,819	4,765	124,055	29,747	1,685	-	150,739
2013	427,602	16,352	443,953	1,704	445,013	76,762	471,196	11,111	96,033
2014	238,895	24,889	263,784	952	209,670	100,983	158,188	21,110	155,021
2014 Initial	122,418	19,128	141,546	488	N/A	N/A	135,903	21,116	61,432
2014 Renewal	116,477	5,761	122,238	1,370	N/A	N/A	22,285	0	94,187
2015	387,759	31,525	419,284	2,074	442,955	60,586	428,043	17,331	98,006
2015 Initial	68,430	6,413	74,843	366	N/A	N/A	72,561	16,064	41,237
2015 Renewal	319,329	25,112	344,441	1,708	N/A	N/A	355,482	1,267	56,767
Total Cumulative	1,206,679	78,161	1,284,840	1,674	1,221,693	60,586	1,059,112	49,561	98,006
Total Cumulative Initial	770,873	47,288	818,161	1,069	N/A	N/A	681,345	48,291	41,237
Total Cumulative Renewal	435,806	30,873	466,679	1,596	N/A	N/A	377,767	1,270	56,769
Fiscal Year 2015 by Quarter									
Q1. October - December	143,360	9,181	152,541	2,350	154,597	79,001	155,650	6,353	136,978
Q1. October - December Initial	24,647	2,288	26,935	404	N/A	N/A	30,208	6,296	49,572
Q1. October - December Renewal	118,713	6,893	125,606	1,946	N/A	N/A	125,442	57	87,406
Q2. January - March	142,322	15,272	157,594	2,333	148,656	90,487	119,494	5,155	154,651
Q2. January - March Initial	21,625	2,541	24,166	355	N/A	N/A	24,461	4,825	41,914
Q2. January - March Renewal	120,697	12,731	133,428	1,979	N/A	N/A	95,033	330	112,737
Q3. April - June	102,077	7,072	109,149	1,570	138,633	60,586	152,899	5,823	98,006
Q3. April - June Initial	22,156	1,584	23,742	341	N/A	N/A	17,892	4,943	41,237
Q3. April - June Renewal	79,919	5,488	85,407	1,230	N/A	N/A	135,007	880	56,769

D Data withheld to protect requestors' privacy.
 - Represents zero.
¹ Refers to a request for USCIS to consider deferred removal action for an individual based on guidelines described in the Secretary of Homeland Security's memorandum

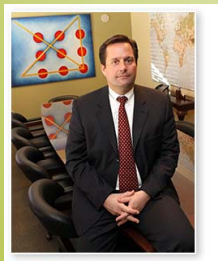


DACA Resources: *Tell me more!*

- From USCIS: <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>
- US Legal Solutions, LLC: www.us-legalsolutions.com;
Kschmitt@us-legalsolutions.com
- Saint Francis Community Services; Catholic Legal Assistance Ministry Program
(Hanna Sullivan and Christine Walintek)
www.sfcsstl.org
- Universidad Ya!: <http://www.hispanicartsCouncilstl.org/universidad-ya>
- Scholarship Foundation: www.sfstl.org
- MPI (Migration Policy Institute): <http://www.migrationpolicy.org/research/daca-three-year-mark-high-pace-renewals-processing-difficulties-evident>
- American Immigration Council: <http://immigrationimpact.com/2015/08/12/who-and-where-are-the-actual-and-potential-beneficiaries-of-daca/>
- Labor Council For Latin American Advancement: www.lclaa.org



For More Information *Contact Your Presenter:*



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