

Ten Years of DACA: State and Federal Implications

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What is DACA?

Deferred Action for Childhood Arrivals

- Prosecutorial discretion to defer removal (deportation) of undocumented individuals who were brought to US at a young age and do not have lawful immigration status
- Two-year renewable employment authorization (EAD)
- With EAD, can get SSN and driver's license
- “Lawfully present” but no lawful status
- Not a permanent solution or path to green card or citizenship
- Travel authorization possible if urgent humanitarian need
- Cannot get DACA if certain criminal convictions

Why was DACA needed in the first place? (a.k.a. Why can't they just get legal?)

- Children who entered the U.S. without inspection at a young age through no fault of their own have no way to get lawful immigration status.
- Millions of undocumented immigrants living in the U.S. cannot fix their status because the immigration laws are broken.
- Entry Without Inspection (EWI) cannot fix status.
- 3/10 year bar: Overstay of 180 days = 3 year bar; 1 year = 10 year bar.
- Can't stay and can't go unless eligible for waiver of inadmissibility.
- Undocumented immigrants are not eligible for SS number or driver's license.
- Congress failed to act and pass immigration reform legislation.

Ten Years of DACA

- Administrative action under Obama Administration in June 2012
- Trump Administration rescinded DACA, but renewals still accepted while appeals play out in court
- SCOTUS held that DACA rescission was arbitrary and violated APA
- DACA being challenged again in Texas and currently at Fifth Circuit, argued July 6th
- Will likely end up at SCOTUS again sometime October 2022-June 2023
- Biden Administration promulgated rule to codify DACA expected 2022

Strong Legal Foundation for DACA

- “Deferred Action” has long existed for certain populations.
- “Prosecutorial Discretion” is longstanding and customary tool used by courts and law enforcement to prioritize use of resources.
- States challenging DACA must prove “standing” which means injury or harm caused by DACA.
- Has been lifechanging for over 800,000 dreamers.
- Government lack of resources to deport all undocumented and DACA individuals.
- Harm to economy to end the DACA program.
- Need permanent solution through rule or legislation.

Challenges

- No in-state tuition or state financial aid for undocumented students in Indiana.
- DACA recipients may qualify as Indiana residents for tuition purposes.
- Both DACA and undocumented ineligible for state and federal financial aid.
- Enrollment offices not consistent on how DACA students are identified.
- Funding limitations through private and foundation scholarships.
- How to guide donors who want to support students.
- How to fill out FAFSA or create similar form for institutional aid.
- Never claim to be a U.S. citizen or provide false information.

Funding Sources and Options

- Private and Foundation scholarships
- School scholarships and FAFSA
- Private loans
- Working for university with DACA/EAD
- Payment plans
- Employers and private companies
- Professional and service organizations
- Alternatives to four-year degree

What can your campus do?

Three things campuses can do to prepare for post-DACA world:

1. Create non-employment-based funding opportunities;
2. Engage in state efforts to assure students are eligible for in-state tuition and financial aid; and
3. Have an advocacy plan if Fifth Circuit issues negative decision.

[From *Inside Higher Ed* Op-Ed by Miriam Feldblum and Jose Magaña-Salgado of Presidents' Alliance for Higher Education and Immigration:](https://www.insidehighered.com/views/2022/07/06/colleges-must-prepare-possible-post-daca-world-opinion)

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Additional Resources

Court Refresher on DACA from *Informed Immigrant*:
<https://www.instagram.com/p/CeI0TFvFKY1/?hl=en>

National Immigration Law Center Explainer:
<https://www.nilc.org/2022/06/29/what-is-going-on-with-daca-in-the-courts-torch/>

Additional Resources

Presidents' Alliance Updated Checklist for Campuses to Support Undocumented Campus Members (attached):

<https://www.presidentsalliance.org/beyond-daca-an-updated-checklist-for-campuses-to-support-undocumented-campus-members/>

National Immigration Forum Summary on State of DACA:

<https://immigrationforum.org/article/the-current-state-of-daca-challenges-await-in-litigation-and-rulemaking/>

Scholarship Resources

La Plaza-Indy <https://www.laplazaindy.org/scholarship-fund/>

MALDEF <https://www.maldef.org/resources/scholarship-resource-guide-2021-2022/>

LULAC <https://www.lnesc.org/scholarships/lulac/>

Central Indiana Community Foundation <https://www.cicf.org/scholarships/>

Hispanic Scholarship Fund <https://www.hsf.net/scholarship>

USHLI <https://www.ushli.org/dr-juan-andrade-scholarship-for-young-hispanic-leaders/>

Golden Door Scholarship <https://www.goldendoorscholars.org/>

Ivy Tech Community College Financial Aid <https://www.ivytech.edu/financial-aid/index.html>

Questions?

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