



U.S. Citizenship and Immigration Services

**Deferred Action for Childhood Arrivals (DACA)
under the guidelines established in 2012**

May 2014

Authority for Deferred Action

- INA 103
 - DHS Secretary has the authority to administer immigration laws.
 - Includes authority to exercise his **discretion**
 - Deciding when and how to remove individuals from the United States.
- NO specific deferred action provisions in statute or regulations, other than regulation on discretionary EAD for alien provided deferred action (see 8 C.F.R. §274a.12(c)(14) and I-821D form instructions which are regulatory per 8 C.F.R. §103.2(a).
 - Deferred action does NOT:
 - Constitute a benefit
 - Confer any status.
 - Lead to any status.
 - Deferred action DOES:
 - Defer action to remove someone
 - Allow decision to pursue removal to be revisited at some point in the future.



Announcement of DACA

- June 15, 2012
 - Memorandum from Secretary Napolitano
 - “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.”
- Memo addressed
 - How prosecutorial discretion may be exercised
 - Cases involving certain young people
 - Who arrived in the United States as children.
 - Emphasis Added:
 - This population lacked the intent to violate the law
 - Ensure enforcement resources would NOT be expended on these low priority cases.



DACA Guidelines

- Individual considerations for initial DACA grant includes:
 - Under age of 31
 - As of June 15, 2012;
 - Came to the United States before reaching 16th birthday;
 - Continuously resided in the US
 - Since June 15, 2007
 - Up to the present time;
 - Physically present in the US
 - On June 15, 2012, and;
 - At time of making request for consideration of deferred action



DACA Guidelines, continued

- No lawful status
 - As of June 15, 2012;
- Education Requirements
 - Currently in school
 - Graduated/obtained certificate of completion from high school
 - Obtained GED
 - Honorably discharged veteran of Coast Guard or U.S. Armed Forces
- Criminal History – Not Convicted of;
 - A felony
 - Significant misdemeanor
 - 3 or more other misdemeanors
- Do not pose a threat to national security or public safety.



DACA Overview

- 15 years of age or older at the time of requesting DACA, unless;
 - In removal proceedings
 - Have a final removal order
 - Have a voluntary departure order, and;
 - Not in immigration detention.
- If under age 15 on June 15, 2012
 - Can request consideration of DACA once reach age 15.
- Initial Request
 - Must be **UNDER** age 31 as of June 15, 2012.
- Renewal
 - May be **OLDER** than age 31 at time of requesting renewal



Submitting a DACA Request

- Request package must include:
 - Form I-821D
 - Revised 6/4/14
 - Form I-765
 - Form I-765WS (Worksheet)
 - \$380 filing fee
 - \$85 biometric services fee



Initial DACA Request

- Exercise of prosecutorial discretion
 - Determined on a case-by-case basis.
 - Must meet all guidelines.
 - Must pass biometric and biographic background checks.
 - Must merit a positive exercise of discretion, considering all the circumstances
- Employment authorization possible
 - Must show an economic necessity to work.



DACA Renewal Request

- Must have met all the criteria for an initial grant.
- No departure from the United States on or after August 15, 2012 without advance parole.
- Continuously resided in the U.S.
 - Since submitting most recent DACA request that was approved and up to the present time.
- Not convicted of a felony, significant misdemeanor, or three or more other misdemeanors.
- Do not pose a threat to national security or public safety.
- Recommended filing window is 150 to 120 days before expiration of current DACA.



Reminder Notices

- Reminder notices are sent
 - 180 days prior to expiration of current DACA.
 - Submit renewal request 150-120 days before expiration.



Customer Service

- Service Request Management Tool (SRMT)
 - May inquire about request status
 - If pending more than 105 days.
 - <https://egov.uscis.gov/e-request>.



Processing Goals

- Initial DACA
 - 6 months or 180 days.
- Renewal of DACA
 - 4 months or 120 days.
- Currently processing both within processing goals.





QUESTIONS ?



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About this Presentation

- Author: USCIS OLA
- Date of last revision: May 11, 2015
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