Deferred Action for Childhood Arrivals (DACA) Community Workshop

Presented by the Center for Immigrants’ Rights and the Pennsylvania Immigration Resource Center (PIRC)

Thursday March 21, 2013
6:00 p.m. - 7:30 p.m.
Pasquerilla Spiritual Center, Room 107

- Learn how young people without legal status can avoid deportation and potentially receive work authorization.
- Understand the eligibility requirements, application process, and potential risks of DACA.
- DACA helps people study and work with dignity.

*Food will be provided.*

Directions can be found at: [http://studentaffairs.psu.edu/spiritual/directions.shtml](http://studentaffairs.psu.edu/spiritual/directions.shtml)

Parking is available at the Nittany Lion Inn Parking Deck.
Closest CATA stop: Pavilion Theatre

Additional resources can be found at: [http://law.psu.edu/immigrants](http://law.psu.edu/immigrants),
[www.pirclaw.org](http://www.pirclaw.org) and [www.uscis.gov](http://www.uscis.gov)

Co-Sponsored by: The Latino Caucus, The Chinese Students and Scholars Association, The APA Caucus, and The Graduate Student Association

Penn State University is committed to affirmative action, equal opportunity, and the diversity of its workforce. U.Ed. LAW 13-39
Deferred Action for Childhood Arrivals (DACA)
Community Education Workshop

Presented on behalf of PIRC

March 21, 2013
The Pennsylvania Immigration Resource Center (PIRC)

- PIRC is a non-profit legal services organization in York, PA founded in the aftermath of the Golden Venture catastrophe.
- PIRC provides immigrants with legal and educational services which include a Legal Orientation Program, representation for immigrant victims of domestic violence, and more.
The Center for Immigrants’ Rights

The Center is an immigration clinic where students, supervised by Professor Shoba Sivaprasad Wadhia, produce legal policy work of national impact on behalf of its institutional clients like PIRC, the American Bar Association, and the Centre County Women’s Resource Center.

The Center trains students to understand immigration law, policy, politics, and the relationships between them.
Disclaimer:

- This is **not** a legal clinic.
- Even though Deferred Action for Childhood Arrivals (DACA) was established 9 months ago, USCIS guidance about DACA is continually evolving.
Purpose and Goals of the Workshop

- Demystify assumptions and myths surrounding Deferred Action for Childhood Arrivals (DACA).
- Educate students and community members about DACA, its benefits, and its limits.
Workshop Outline

I. The History and Development of DACA
II. DACA Requirements
III. The Application Process
I. The History and Development of DACA
June 15, 2012, DHS Secretary Janet Napolitano issued a memo to USCIS, CBP, and ICE creating DACA
What is Deferred Action (DA)?

A decision to defer removal of an individual is an act of prosecutorial discretion.

- Prosecutorial discretion (PD) is a decision by an executive agency to enforce or not enforce the law against an individual.
- PD and DA do not confer permanent lawful status.
  - It is a period of authorized stay.
- DA can be terminated at any time at the discretion of DHS.
- Like deferred action, DACA is a form of PD.
Executive agencies have always exercised some discretion in choosing who to enforce the law against.

Reasons:
- Economic
- Humanitarian

After the DREAM Act failed, key stakeholders channeled their advocacy towards an administrative solution for protecting Dreamers.
II. DACA Requirements
DACA Requirements

1. Must be **at least 15** years old to apply (in most cases);

2. Were **under** the age of **31** as of June 15, 2012;

3. Came to the U.S. **before your 16th birthday**;

4. Have **continuously resided** in the U.S. since June 15, 2007, until the present time;

5. Were **physically present** in the U.S. on June 15, 2012, and at the time of filing your request for DACA

Source: uscis.gov/childhoodarrivals
DACA Requirements (cont.)

6. Entered **without inspection** before June 15, 2012, or your lawful immigration **status expired** as of June 15, 2012;

7. Are **currently in school**, have graduated from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran;

8. Have **not been convicted** of a felony offense, a significant misdemeanor offense, three or more other misdemeanor offenses, or do not otherwise pose a threat to national security or public safety

Source: uscis.gov/childhoodarrivals
Under the age of 31 as of June 15, 2012

Came to the U.S. before your 16th Birthday

Continuously resided in the U.S. since June 15, 2007, until now

Entered without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012

Physically present in the U.S. on June 15, 2012, and at the time of DACA filing

Currently enrolled in or graduated from school

Not been convicted of a felony offense or significant misdemeanor

Notice: Persons under 31 not allowed

Notice: Expired

Notice: CRIME
<table>
<thead>
<tr>
<th>What are the Benefits of DACA?</th>
<th>What DACA does NOT Provide</th>
</tr>
</thead>
<tbody>
<tr>
<td>DHS will defer removal of a successful DACA applicant.</td>
<td>Does not confer legal status.</td>
</tr>
<tr>
<td>After two years, successful applicants can reapply.</td>
<td>It is not a visa.</td>
</tr>
<tr>
<td>Individuals granted DACA may qualify for employment authorization.</td>
<td>Does not extend to family members of any kind.</td>
</tr>
<tr>
<td></td>
<td>It does not provide a path to permanent residency.</td>
</tr>
<tr>
<td></td>
<td>It is not a path to citizenship.</td>
</tr>
</tbody>
</table>
Miscellaneous Benefits of DACA

- **Driver’s License**
  - Pennsylvania and 34 other states have issued driver’s licenses to successful DACA applicants who have received work authorization.

- **In-State Tuition**
  - Pennsylvania does not offer in-state tuition to successful DACA applicants, but some states offer in-state tuition.

- **Health Care**
  - Successful DACA applicants do **NOT** qualify for any additional medical care such as Medicare or medical care provided by the Affordable Care Act.
Risks of Applying for DACA

- USCIS policy indicates that a Notice to Appear (NTA) will be issued in response to criminal conduct, fraud, or a threat to national security or public safety.
  - This is also a form of prosecutorial discretion.
- USCIS does not typically share any information provided by an applicant with ICE that will be used for enforcement purposes.
- However despite the memoranda, USCIS retains the ability to technically issue an NTA if the applicant is in violation of U.S. immigration law.
- When an NTA is filed with an immigration court, removal proceedings are commenced.
Continuously resided in the U.S. since June 15, 2007, until now

Came to the U.S. before your 16th Birthday

Under the age of 31 as of June 15, 2012

Entered without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012

Physically present in the U.S. on June 15, 2012, and at the time of DACA filing

Currently enrolled in or graduated from school

Not been convicted of a felony offense or significant misdemeanor
Examples of Types of Evidence

- **Primary Evidence:**
  - A high school transcript is primary evidence that an individual is “currently in school” because it directly shows that enrollment.

- **Circumstantial Evidence:**
  - A high school transcript is circumstantial evidence that an individual resided in the U.S. during the summer months because USCIS would have to infer that the individual remained in the country over the summer.

- **Affidavits:**
  - A voluntary, sworn, and written statement attesting that a high school student resided in the U.S. during the summer months is an example of an affidavit.

Source: Ballentine’s Law Dictionary
Applicants must be under the age of 31 as of June 15, 2012

- If a DACA applicant was not under the age of 31 as of June 15, 2012, he/she is not eligible for DACA.
- There are no exceptions.
- A DACA applicant must be at least 15 years old to apply, unless in removal proceedings, subject to voluntary departure, or subject to a final order of removal.
Applicants must have come to the U.S. before turning 16

- DACA is only for individuals who entered the U.S. before the age of 16 years old.
- If a person entered the U.S. at age 16 or older, he/she is not eligible to apply for DACA.
- Individuals who entered at age 16 or older will need to find a different solution in existing law or wait until U.S. immigration laws change.
Applicants must have continuously resided in the U.S. 

- An applicant must show that he/she "more likely than not" has continuously resided in the U.S. since June 15, 2007.
- Continuous residence requirement does not require uninterrupted physical presence for five years.
- Pay stubs, home electric and gas bills are helpful to show continuous residence.
The “physical presence” requirement

- An applicant must show that he/she was **physically present** in the U.S. on June 15, 2012.
- Rent, utility bills, credit card statements, and pay stubs are helpful to show “physical presence.”
Unlawful Status Requirement

Applicants must show that they entered the U.S. without being inspected by border officials or that their lawful immigration status expired as of June 15, 2012.
The Education Requirement

- An applicant who has graduated from high school or obtained a GED meets this requirement.
- An applicant may be considered to be “in school” if enrolled in elementary, middle, or high school, GED classes, certain English as a second language classes, literacy classes, or job training.
- To be considered "currently in school", an applicant must be enrolled in school on the date he/she submits a request for DACA.
Disqualifying Crimes

- An individual will **not** be eligible for DACA if he/she has been convicted of a **felony**, a **significant misdemeanor**, or **three or more non-significant misdemeanors** unless DHS determines there are “exceptional circumstances.”

- If a person has had any arrests, charges, or convictions, he/she will need to obtain a copy of any court dispositions.
Disqualifying Crimes (cont.)

An individual has committed a **felony** if he/she was convicted of a crime that is punishable by a maximum term of imprisonment (TI) of **one year or more**.
<table>
<thead>
<tr>
<th>Significant Misdemeanors</th>
<th>Non-significant Misdemeanors</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Any of the following are a categorical bar to DACA regardless of sentence imposed:</td>
<td></td>
</tr>
<tr>
<td>▪ Burglary</td>
<td></td>
</tr>
<tr>
<td>▪ Domestic violence</td>
<td></td>
</tr>
<tr>
<td>▪ Sexual abuse or exploitation</td>
<td></td>
</tr>
<tr>
<td>▪ Unlawful possession of a firearm</td>
<td></td>
</tr>
<tr>
<td>▪ Drug trafficking or distribution</td>
<td></td>
</tr>
<tr>
<td>▪ Driving under the influence (DUI)</td>
<td></td>
</tr>
<tr>
<td>• Furthermore, other crimes can be significant misdemeanors if they have a maximum term of imprisonment of one year or less but more than five days, and</td>
<td></td>
</tr>
<tr>
<td>• The sentence must include time served in custody of <strong>more than 90 days</strong>.</td>
<td></td>
</tr>
<tr>
<td>• An individual with <strong>three or more</strong> non-significant misdemeanors is ineligible for DACA.</td>
<td></td>
</tr>
<tr>
<td>• Non-significant misdemeanors also have a maximum term of imprisonment of one year or less but more than five days, and</td>
<td></td>
</tr>
<tr>
<td>• The must sentence include time served in custody of <strong>90 days or less</strong>.</td>
<td></td>
</tr>
</tbody>
</table>
Threats to Public Safety or National Security

- An individual will not be eligible for DACA if determined to be a threat to public safety or national security unless DHS determines that there are “exceptional circumstances.”

- Individuals could be deemed a public safety or national security threat if they participate in gang activities, criminal activities, or activities that threaten the U.S.
Will an applicant be permitted to travel?

- While an application is **pending**, an applicant may not travel.
- **After** an applicant has been approved for DACA, he/she may apply for a travel document.
- An applicant may travel outside the U.S. **only after** he/she has received his/her travel document.
- A successful applicant **may** be able to travel outside of the country, even if he/she accrued 6 months of unlawful presence or more at the time his/her DACA applications is approved. Applicants should consult an attorney before doing so.
Documents to Prove Eligibility:

- Birth certificate
- Passport – passport entries, I-94/I-95/I-94W
- School records (i.e. report cards, transcripts)
- GED certificate or High school diploma
- Employment records
- Rent receipts, utility bills
- Financial records, taxes, bank transactions, mortgage
- Medical records
- Court disposition, if needed
- Official records from a religious entity

*See I-821D Instructions for more suggestions*
Is Rebecca eligible for DACA?

- Rebecca is 19 years old and came to the U.S. in 1997 with her mother without documentation or inspection.
- She first lived in Texas until 2005, but has lived in Harrisburg since 2005.
- She visited Mexico on two occasions in 2008 to visit her ailing father, and each trip lasted one week.
- Since 2011 she has been working at a local dog grooming spa, but dreams of going to veterinary school.
- After graduating high school, Rebecca started taking classes at a local community college.
- She has two speeding tickets.
Is Rebecca still eligible for DACA?

- All the same facts as the previous slide.
- Instead of traveling to Mexico on two occasions for one week each, Rebecca visited her grandfather in Mexico on one occasion for 6 months in 2009 and then returned to the U.S.
Is Hong eligible for DACA?

- Hong is 22 years old, came to the U.S. in 2005 on a visitor’s visa, fell in love with American hip-hop culture, decided to overstay his visa and become the next big hip-hop artist.
- He has lived in Los Angeles since coming to the U.S.
- Hong is a DJ and works at several night clubs.
- He is not a high school graduate, but after hearing about DACA, he enrolled in a qualifying GED program.
- After having a few drinks after work with MC Hammer, he was driving home and was pulled over by the police which lead to a DUI conviction.
- Hong has had no other contacts with the law.
III. The Application Process
DACA Application Process

First - determine applicant eligibility for DACA.

Second – To apply –

- Complete the I-821D Consideration of Deferred Action for Childhood Arrivals and I-765/I-765WS application for Work Authorization (translated documents are also available);
  - Attach all necessary documents including the fee;
  - Attach a check or money order to the applications;
  - Mail the applications to the correct USCIS Service Center.

- These applications can be downloaded for free from the USCIS web site: www.uscis.gov. (Do not pay anyone for the application forms!)
If someone is in detention and thinks they are eligible for DACA, they should identify themselves to their detention officer or contact the ICE Office of the Public Advocate so that ICE may review their case.

If someone is in removal proceedings, has a voluntary departure order, or has a final order of removal and thinks they are eligible for DACA, they should submit their application to USCIS.
The Fees:

- There is no fee for the DACA application.
- The application fee for a work card is $380 plus a biometrics fee of $85.
- The total fee is $465.
- *These applications must be filed together or both applications will be rejected!*
- There is no fee waiver, but there is a fee exemption in very limited cases.
After the DACA application is filed

1. File the application
2. Receive receipt notice from USCIS
3. Schedule biometrics appointment
4. Review Application
5. Decision made on Request

Source: uscis.gov/childhoodarrivals
After the DACA application is filed:

**USCIS will:**

1) Send a receipt notice for each application.
2) Schedule a biometrics appointment at the York Application Support Center.
3) Review the application to determine if additional documents are needed. If more documents are needed, the applicant will be sent a letter.
4) Make a decision on the request.
## DACA Current Statistics

**245,493 DACA Applications Approved**

<table>
<thead>
<tr>
<th>INTAKE Numbers</th>
<th>Accepted</th>
<th>Rejected</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>453,589</td>
<td>15,941</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Average Intakes Per Day</th>
<th>Monthly average 3,261 per day</th>
</tr>
</thead>
<tbody>
<tr>
<td>March</td>
<td>1,678 per day</td>
</tr>
</tbody>
</table>
DACA Current Statistics Cont..

<table>
<thead>
<tr>
<th>Top 10 Countries of Origin</th>
<th>Received to Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexico</td>
<td>338,334</td>
</tr>
<tr>
<td>El Salvador</td>
<td>18,449</td>
</tr>
<tr>
<td>Honduras</td>
<td>12,183</td>
</tr>
<tr>
<td>Guatemala</td>
<td>11,395</td>
</tr>
<tr>
<td>Peru</td>
<td>6,495</td>
</tr>
<tr>
<td>South Korea</td>
<td>5,599</td>
</tr>
<tr>
<td>Brazil</td>
<td>5,487</td>
</tr>
<tr>
<td>Colombia</td>
<td>4,875</td>
</tr>
<tr>
<td>Ecuador</td>
<td>4,733</td>
</tr>
<tr>
<td>Philippines</td>
<td>3,241</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Top 10 States of Residence</th>
<th>Received to Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>128,412</td>
</tr>
<tr>
<td>Texas</td>
<td>73,258</td>
</tr>
<tr>
<td>New York</td>
<td>25,735</td>
</tr>
<tr>
<td>Illinois</td>
<td>23,602</td>
</tr>
<tr>
<td>Florida</td>
<td>20,245</td>
</tr>
<tr>
<td>North Carolina</td>
<td>16,554</td>
</tr>
<tr>
<td>Arizona</td>
<td>16,009</td>
</tr>
<tr>
<td>Georgia</td>
<td>14,861</td>
</tr>
<tr>
<td>New Jersey</td>
<td>14,050</td>
</tr>
<tr>
<td>Colorado</td>
<td>9,658</td>
</tr>
</tbody>
</table>
If an Application is Approved:

Source: dreamact.info and cwsrdtu.files.wordpress.com
Denied Applications:

There is **no** appeals process.

Existing policy on whether or not to issue a Notice to Appear (before an Immigration Judge) will determine whether any action is taken against a denied applicant.

Applicants who make any misrepresentations in their applications will be treated as an immigration enforcement priority.
Additional Resources


- American Immigration Lawyers Association: www.aila.org

- United We Dream: http://unitedwedream.org/

- Pennsylvania Immigration Resource Center (PIRC): http://www.pirclaw.org

- Penn State Law’s Center for Immigrants’ Rights: www.law.psu.edu/immigrants
Questions?
Thank you to all of our co-sponsors!
Thank you for attending the DACA community workshop!
Deferred Action for Childhood Arrivals (DACA) Community Education Workshop

Presented by: Penn State Law’s Center for Immigrants’ Rights (CIR) and Pennsylvania Immigration Resource Center (PIRC)

What is DACA?

- On June 15, 2012, the Department of Homeland Security announced the Deferred Action for Childhood Arrival (DACA) program, which allows people who came to the U.S. as children to request Deferred Action (DA) and work authorization for a period of two years, if they meet specific eligibility requirements.

Eligibility Requirements

- Must be at least **15** year old to apply (in most cases);
- Were **under** the age of **31** as of June 15, 2012;
- Came to the United States **before your 16th birthday**;
- Have **continuously resided** in the United States since June 15, 2007 until the present time;
- Were **physically present** in the United States on June 15, 2012 and at the time of filing your request for Deferred Action;
- Entered **without inspection before June 15, 2012** or your lawful immigration status expired as of June 15, 2012;
- Are currently in school, have **graduated** from high school, have obtained a **general education development (GED) certificate**, or are an honorably discharged veteran;
- Have not been **convicted** of a felony offense, a significant misdemeanor offense, three or more other misdemeanor offenses, or otherwise pose a threat to national security or public safety.

Source: uscis.gov/childhoodarrivals

Benefits

- DHS will defer removal against a successful DACA applicant;
- After two years, successful applicants can renew;
- Individuals granted DACA may qualify for employment authorization.

Limitations

- DACA does not confer legal status and it is not a visa;
- It does not extend to family members of any kind;
- It will not help you receive a green card and it is not a path to citizenship.

Documents to Complete to Apply

- Complete the I-821D Consideration of Deferred Action for Childhood Arrivals and I-765/ I-765WS Application for Work Authorization (translated documents are also available);
- These applications can be downloaded for free from the USCIS website: www.uscis.gov.
Confidentiality Clause/ Risks of Applying

- USCIS will **not** share any information provided by an applicant with ICE that will be used for enforcement purposes, unless an applicant is an immigrant enforcement priority due to criminal conduct, fraud, or a threat to national security or public safety.

Fees to Apply for DACA

- There is no fee for the Consideration of Deferred Action for Childhood Arrival application.
- The application fee for a work card is **$380** plus a biometrics fee of **$85**.
- The total fee is **$465**.
- **These applications must be filed together or both applications will be rejected!**
- There is **no** fee waiver, but there is a fee exemption in very limited cases.

Additional Resources

- American Immigration Lawyers Association: [www.aila.org](http://www.aila.org)
- Pennsylvania Immigration Resource Center (PIRC): [http://www.pirclaw.org](http://www.pirclaw.org)
- Penn State Law’s Center for Immigrants’ Rights: [www.law.psu.edu/immigrants](http://www.law.psu.edu/immigrants)

What is PIRC?

- PIRC is a non-profit legal services organization founded in the aftermath of the Golden Venture catastrophe.
- PIRC provides immigrants with legal and educational services.

What is the Center for Immigrants’ Rights?

- The Center is an immigration clinic where students produce legal policy work of national impact on behalf of its institutional clients like PIRC, the American Bar Association and the Centre County Women’s Resource Center.
- The Center trains students to understand immigration law, policy, politics, and the relationships between them.