

DACA: THE ESSENTIAL LEGAL GUIDE

4TH EDITION

TABLE OF CONTENTS

Chapter 1	Introduction	
§ 1.1	Introduction	1
§ 1.2	Background	2
§ 1.3	Efforts of the Trump Administration to End DACA.....	3
§ 1.4	Current Status of the DACA Program.....	5
§ 1.5	About This Manual.....	6
Chapter 2	DACA Eligibility Requirements	
§ 2.1	What Is Deferred Action for Childhood Arrivals (DACA)?	7
§ 2.2	Who Qualifies for DACA?.....	10
§ 2.3	What Does an Approval of DACA Provide?	11
§ 2.4	Age Requirements	12
§ 2.5	Physical Presence on June 15, 2012	13
§ 2.6	Continuous Residence from June 15, 2007 Through the Present.....	13
§ 2.7	Travel After August 15, 2012.....	17
§ 2.8	Entered Without Inspection Before June 15, 2012 or Lawful Immigration Status Expired as of June 15, 2012.....	18
§ 2.9	Entry into the United States Before Age 16	21
§ 2.10	Educational Requirements.....	22
§ 2.11	Eligibility for Honorably Discharged Veterans of the U.S. Coast Guard and U.S. Armed Services	29
§ 2.12	Ineligibility Due to Criminal Conduct or Being a Threat to National Security or Public Safety	29
§ 2.13	Special Circumstances: Removal Proceedings, Final Removal Orders, and Voluntary Departure Orders	30
§ 2.14	Employment Authorization Requirements	31
Chapter 3	The Criminal Bars to DACA	
§ 3.1	Overview of Criminal Bars	33
§ 3.2	Criminal Convictions That Are Automatic Disqualifiers Absent Exceptional Circumstances	34
§ 3.3	Exceptions to the DACA Criminal Bars	42
§ 3.4	All Criminal History Will Be Considered as Part of the Totality of the Circumstances and as a Potential Public Safety & National Security Threat	46
§ 3.5	Risks of Applying with a Criminal Record	48
§ 3.6	Using Expungements and Other Post-Conviction Relief.....	52
§ 3.7	Obtaining, Reviewing and Disclosing Criminal Records.....	55

Chapter 4	Working with DACA-Eligible Clients	
§ 4.1	Overview of Working with DACA-Eligible Clients	65
§ 4.2	Explaining the DACA Requirements and DACA Request Process to Clients	68
§ 4.3	Advantages and Disadvantages of Applying for DACA.....	73
Chapter 5	Document Gathering for DACA Requests	
§ 5.1	Overview	79
§ 5.2	Proof of Identity & Age.....	81
§ 5.3	Residence Proofs: Proving Entry before Turning 16 Years Old, Continuous Residence since June 15, 2007, and Physical Presence on June 15, 2012.....	84
§ 5.4	Immigration Status	98
§ 5.5	Educational Requirements.....	98
§ 5.6	Documents That Demonstrate an Applicant Is an Honorably Discharged Veteran	106
§ 5.7	Documents Related to Criminal Offenses	106
§ 5.8	Documents in Support of I-765 or I-765WS	107
Chapter 6	DACA Request Process and Completing the Forms	
§ 6.1	Overview	109
§ 6.2	Completing Form I-821D (Consideration for DACA).....	111
§ 6.3	Completing Form I-765 (Application for Employment Authorization).....	122
§ 6.4	Completing Form I-765WS (Employment Authorization Worksheet)	125
§ 6.5	Completing Form G-1145 (E-Notification of Application/Petition Acceptance).....	126
§ 6.6	Additional Documentation Required to Prove DACA Eligibility.....	127
§ 6.7	Quick Application and Mailing Tips.....	128
§ 6.8	Filing Fees	129
§ 6.9	Biometrics	130
Chapter 7	DACA Requests for Applicants with Removal Issues	
§ 7.1	Understanding Removal Proceedings	133
§ 7.2	Requesting Records from Immigration Court	134
§ 7.3	How Removal Proceedings and Detention Impact DACA Requests	136
§ 7.4	DACA Denials and Removal Proceedings.....	140
Chapter 8	DACA Rejections, RFEs, NOIDs, Decisions, and Renewals	
§ 8.1	DACA Rejections.....	145
§ 8.2	Request for Evidence (RFE).....	146
§ 8.3	Notice of Intent to Deny (NOID)	147
§ 8.4	DACA Decisions: Approvals and Denials	148
§ 8.5	Requesting Review of a DACA Denial.....	149

Chapter 9	What Happens After Receiving DACA	
§ 9.1	Introduction	153
§ 9.2	Obtaining a Social Security Number	154
§ 9.3	Obtaining a State Driver’s License or Identification Card	154
§ 9.4	Financial Aid for Education	155
§ 9.5	Public Benefits and Healthcare	156
§ 9.6	Taxes	157
§ 9.7	Traveling outside of the United States and Requesting Advance Parole	157
§ 9.8	Renewals	168
§ 9.9	Other Forms of Relief.....	171

INDEX OF APPENDICES

Appendix A	DACA Standard Operating Procedures
Appendix B	Template Verification of Enrollment Letter
Appendix C	2012 USCIS DACA Policy Memorandum
Appendix D	FAQ on the Unlawful Presence Bars
Appendix E	Chart on the Unlawful Presence Bars
Appendix F	DACA Eligibility Guidelines for Individuals with Criminal Records and/or Gang Affiliation (English and Spanish)
Appendix G	How to Obtain FBI and DOJ Criminal Records
Appendix H	Letter to ICE regarding disclosure of Juvenile Documents
Appendix I	Juvenile Delinquency Disclosure Cover Page
Appendix J	Expungements Practice Advisory
Appendix K	How Will DACA Help Me (English and Spanish)
Appendix L	Sample DACA Workshop Intake Form for Initial and Renewal Applicants (English and Spanish)
Appendix M	Complete Sample of 2012 DACA Intake Materials
Appendix N	What Documents Will I need (English and Spanish)
Appendix O	Document Checklist and Missing Documents Worksheets
Appendix P	Worksheet for Applicant’s Past Residences
Appendix Q	Worksheet for Applicant’s Absences
Appendix R	Worksheet for Applicant’s Finances
Appendix S	Immigration Preparedness Toolkit
Appendix T	Sample Immunization Records
Appendix U	Sample Request for Student Records
Appendix V	Sample Notice to Appear (NTA)
Appendix W	Sample Final Order of Removal
Appendix X	Sample WIC Document

Immigrant Legal Resource Center
January 2021

Appendix Y	Sample DACA Cover Letter with Evidence Chart
Appendix Z	Certificate of Translation
Appendix AA	Correct Mailing Address
Appendix BB	Fee Exemption Info
Appendix CC	Sample Request for Evidence (RFE)
Appendix DD	Official SSA Information for DACA Recipients