ELIGIBILITY FOR DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

Disclaimer: This advisory has been created by The Legal Aid Society, Immigration Law Unit. This advisory is not intended as legal advice and is not a substitute for the advice of an immigration expert.

On June 15, 2012, the Obama administration announced that it would grant Deferred Action and work permits to young people who were brought to the United States as children, commonly referred to as “Dreamers.” Deferred Action means that the government will not deport you but it does not give you lawful status. A grant of Deferred Action will be valid for two years, subject to renewal. You may submit your application for Deferred Action for Childhood Arrivals (DACA) and employment authorization, with a filing fee of $495, on or after August 15, 2012. The eligibility requirements are as follows:

- You are now at least 15 years old, and were born on or after June 16, 1981
- Entered the U.S. before age 16 and were under 31 as of June 15, 2012
- Have continuously lived in the U.S. since at least June 15, 2007, and were physically present in the US as of June 15, 2012
- Entered the U.S. without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012
- Have not been convicted of a felony, a “significant” misdemeanor*, or three or more misdemeanors of any kind, and do not pose a threat to public safety or national security
- Are currently enrolled in school, graduated from high school or have a GED, or have been honorably discharged from the U.S. Armed Forces or Coast Guard

* A “significant” misdemeanor includes: a) any offense for which the authorized maximum term of imprisonment is one (1) year or less but greater than five (5) days and is also an offense of domestic violence, sexual abuse or exploitation, burglary; driving under the influence, unlawful possession or use of a firearm, or drug distribution or trafficking; or b) an offense not listed above, for which the individual was sentenced to more than 90 days in jail, as long as the sentence was actually served and not “suspended.”

IMPORTANT NOTICE: If you have ever been arrested or convicted of an offense, you should get a copy of the Certificate of Disposition. The Certificate will tell you which offense(s) you were charged with, which offense(s) if any you were convicted of, the date you were convicted, and the sentence imposed. If you have been arrested more than once, you must get a separate Certificate for each arrest. You should speak with a reputable immigration attorney familiar with the areas of immigration and criminal law before you apply for Deferred Action.
What documents will you need to demonstrate that you qualify for Deferred Action?

(1) Proof of Nationality
- Passport, or
- Birth certificate accompanied by photo identification, or
- Any national identity document from your home country with your photo and/or fingerprint.

(2) Evidence of Entry before age 16, Continuous Residence in U.S. since at least June 15, 2007, and Physical Presence in US on June 15, 2012:
- Employment records (pay stubs, W-2 Forms, IRS tax transcripts, state verification of filing state taxes, letters from your employer, letters from banks with whom you have done business).
- Rent receipts, utility bills (gas, electric, phone, etc.), receipts, or letters from companies showing dates you received service.
- School records (report cards, letters, etc.) from schools you or your children attended in the U.S., showing names of the schools and dates of attendance.
- Hospital or medical records relating to you or your children’s treatment, showing name of the medical facility or physician and the dates of treatment or hospitalization.
- Signed letters from churches, unions or other organizations, concerning your residence and identifying you by name.
- Other miscellaneous documents, such as birth certificates of children born in this country, dated bank transactions and wire transfers, letters, U.S. Social Security card, driver's license, Selective Service card, contracts, leases, mortgages, insurance policies, etc.

(3) Proof of ONE of these:
- currently enrolled in school
- have a high school diploma or GED certificate
- honorable discharge from the U.S. Armed Forces or Coast Guard

If you qualify for Deferred Action but ...
- Have a final Order of Removal/Deportation and DHS is about to remove you from the U.S. You should contact a reputable immigration attorney or legal services provider immediately. You can also contact the Law Enforcement Support Center’s hotline at 1-855-448-6903 or the ICE Office of the Public Advocate through the Office’s hotline 1–888-351-4024 for more information.
- Have a final Order of Removal/Deportation or You Are Currently in Removal Proceedings or Have an Order of Voluntary Departure, and You Are Not in Immigration Detention You should submit your deferred action application to USCIS on or after August 15, 2012. You can submit your application even if you are under the age of 15.
- Are currently in Immigration Detention DHS instructs that you should inform your deportation officer that you are eligible for Deferred Action or contact the ICE Office of the Public Advocate through the Office’s hotline at 1-888-351-4024 or by email at ERPublicAdvocate@ice.dhs.gov.
- Your Immigration Court case was Administratively Closed or Terminated under the Government’s Recent Prosecutorial Discretion Initiative You can submit your application to USCIS on or after August 15, 2012.