

San Diego State University

Deferred Action for Childhood Arrivals

Frequently Asked Questions

The information provided in this document is general in nature and does not constitute legal advice. Each individual case is different, and advice may vary depending on the situation. You should contact a licensed immigration attorney if you have specific questions about your situation.

General Information

Audience: All

1. What is DACA?

The *Deferred Action for Childhood Arrivals* (“DACA”) is an immigration policy established by Presidential Executive Order that allows undocumented immigrants who came to the United States as children and meet specific guidelines to request consideration for deferred action. Individuals approved for deferred action are granted temporary relief from deportation from the United States or from being placed in removal proceedings, for a period of two years, and may be eligible for employment authorization.¹

2. Is DACA the same as the DREAM Act / California DREAM Act?

No. The *Development, Relief, and Education for Alien Minors* (“DREAM”) Act is a legislative proposal for undocumented immigrants in the United States who meet specific guidelines to receive permanent residency. The proposal has been introduced several times in Congress, but failed to pass.²

The *California DREAM Act* is a set of California state laws that allow undocumented immigrants and non-resident documented students who meet specific guidelines to apply for state-administered financial aid.³

¹ “Deferred Action Overview” <https://www.dhs.gov/deferred-action-childhood-arrivals>

² “5 facts you need to know about the DREAM Act” <http://college.usatoday.com/2015/02/26/5-facts-you-need-to-know-about-the-dream-act/>

³ “California Dream Act Frequently Asked Questions (FAQ) for Parents and Students” http://www.csac.ca.gov/pubs/forms/grnt_frm/cal_grant_dream_act_faqs.pdf

4. Is DACA the same as AB 540?

No. *Assembly Bill 540* (AB 540) is a California state law that allows undocumented immigrants and non-resident documented students who meet specific guidelines to pay in-state tuition.⁴

5. What is the current status of DACA?

Currently, over 800,000 individuals in the United States have been approved for DACA.⁵

President-elect Trump has stated that he intends to rescind several of President Obama's Executive Orders, including DACA⁶, after taking office on January 20, 2017⁷. If he does, it will have an immediate impact on individuals – students, staff, and faculty – who are now or will be studying, traveling and/or working under the DACA program.

6. How quickly can DACA be ended?

Because DACA was created via executive order and is overseen by the department of Homeland Security, the policy may be immediately rescinded by the next Homeland Security secretary under the new Presidential administration.

7. What is the CSU's position on the status of DACA?

On November 17, 2016, in an open letter to all CSU students, faculty and staff – as well as remarks at the November 16th Board of Trustees meeting – Chancellor White said:

“Unless directed by California Government Code or required by law, the CSU will not enter into agreements with state or local law enforcement agencies, Homeland Security or any other federal department for the enforcement of federal immigration law. Our police departments will not honor immigration hold requests. And our University Police do not contact, detain, question or arrest individuals solely on the basis of being – or suspected of being – a person that lacks documentation.

Further...we are joining hands with other universities, colleges and educational

⁴ “What is AB540?” http://ab540.com/What_Is_AB540_.html

⁵ “Data Set: Form I-821D Deferred Action for Childhood Arrivals” <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-821d-deferred-action-childhood-arrivals>

⁶ “Trump: If I’m Elected, Obama’s Immigration Executive Order ‘Gets Rescinded’” <http://www.nbcnews.com/meet-the-press/video/trump-if-im-elected-obamas-immigration-executive-order-gets-rescinded-505818691739>

⁷ “Here Is What Donald Trump Wants To Do In His First 100 Days” <http://www.npr.org/2016/11/09/501451368/here-is-what-donald-trump-wants-to-do-in-his-first-100-days>

associations across America, to protect access, affordability, intellectual freedom, inclusivity and diversity for all students...including supporting DACA students...and the communities that support them.”

8. What is SDSU’s position on the status of DACA?

San Diego State University is committed to the success of all our students, and to provide a safe and welcoming campus environment for all our students, faculty, staff, alumni and members of the community. The University is working with our legislative representatives to ensure support for undocumented students.

Audience: Faculty/Staff

1. I have DACA students who need further guidance. To whom should I refer them for assistance?

Please refer students to the Dean of Students, or to the Assistant Dean for Student Affairs of their college for assistance.

Attending SDSU

Audience: Students

1. I am a DACA student considering applying to SDSU. How does DACA affect my admission eligibility?

It doesn’t. There is no consideration in the admissions process of a student’s immigration status, regardless of the status of DACA.

2. I am a DACA student currently enrolled at SDSU. Should I plan to continue at SDSU next semester?

Yes. All enrolled students should plan to continue their course of study, regardless of the status of DACA. Please contact the Assistant Dean for Student Affairs of your college if you need further guidance.

See “*What is the CSU’s position on the status of DACA?*” and “7. What is SDSU’s position on the status of DACA?” on the CSU’s and the university’s commitment to provide a safe and welcoming campus environment.

3. **I am a DACA student currently enrolled at SDSU, and internship is an academic requirement. How does DACA affect my ability to pursue an internship?**

If DACA is rescinded, the Assistant Dean for Student Affairs of your college will work collaboratively with you to ensure you can meet your academic requirements.

See “*Employment*” for more information.

4. **I am a DACA student currently enrolled at SDSU, and studying abroad is an academic requirement. How does DACA affect my ability to study abroad?**

If DACA is rescinded, the Assistant Dean for Student Affairs of your college will work collaboratively with you to ensure you can meet your academic requirements.

See “*Travel*” for more information.

Financial Aid

Audience: Students

1. **I am a DACA student considering applying for financial aid. How does DACA affect my financial aid eligibility?**

It doesn't. While your immigration status does restrict eligibility for federal-administered financial aid, it does not affect eligibility for state-administered financial aid. To apply, submit a *California Dream Act Application* instead of the *Free Application for Federal Student Aid* (FAFSA). Please contact the *Office of Financial Aid & Scholarships* if you have additional questions.

See “*Is DACA the same as the DREAM Act / California DREAM Act?*” for more information.

Employment

Audience: Faculty, Staff

1. **I have DACA students who are or will be employed by me, including paid internships. Will I be able to continue employing them after the Presidential inauguration?**

It depends on whether DACA is rescinded under the new Presidential administration. If DACA is rescinded, we will no longer be allowed to employ DACA students, including

paid internships even if they have a valid, unexpired Employment Authorization Document (EAD) card.⁸

The University will be working with the Assistant Deans to ensure that students can remain enrolled at SDSU even if they cannot pursue paid internships or job opportunities.

Audience: All

2. I have a valid Employment Authorization Document (EAD) card under DACA. Will I be able to continue to work, including paid internships after the Presidential Inauguration?

It depends on whether DACA is rescinded under the new Presidential administration. If DACA is rescinded, you will no longer be able to work in the United States, including paid internships even with a valid, unexpired EAD card.⁸

If you are a student, and the employment is part of your academic requirement, please contact the Assistant Dean for Student Affairs of your college to explore options to meet your requirements. If you require financial assistance, contact the *Office of Financial Aid & Scholarships* to explore financial aid options.

Travel

Audience: Faculty, Staff

1. I know students who are or will be studying abroad under DACA. What should I tell them?

Given the possibility that DACA may be rescinded under the new Presidential administration, the Chancellors Office, in consultation with General Counsel, strongly recommend for you to:

- a. Immediately inform your students who are already abroad that unless they return by January 19, 2017, there is no assurance they will be allowed to return to the United States and that there is a realistic possibility they will be denied re-entry.

⁸ "University of California Undocumented Legal Services Center Post-Election Frequently Asked Questions (FAQ)" https://www.facebook.com/permalink.php?story_fbid=1274430579294622&id=1036677409736608

- b. Immediately advise students who are already abroad to consider returning to the United States as early as practicably possible given the uncertainty of the situation.
- c. Immediately inform students who are considering study abroad that if they are outside the United States as of January 20, 2017, there is no assurance they will be allowed to return to the United States and that there is a very realistic possibility they will be denied re-entry. Those same students should be advised to consult an immigration attorney about the consequences of leaving the United States on a study abroad program.

Audience: All

1. Can I travel outside of the United States under DACA?

Yes, but not automatically. If you have been approved for deferred action, and you want to travel outside the United States, you may apply for Advance Parole. Advance Parole allows individuals who meet specific guidelines to re-enter the United States after traveling abroad without an immigrant visa or non-immigrant visa.⁹

2. I am planning to study and/or travel abroad. Should I apply for Advance Parole under DACA?

No. Given the possibility that DACA may be rescinded under the new Presidential administration, if you travel, there is no assurance that you will be allowed to return to the United States, and that there is a realistic possibility you will be denied re-entry after January 19, 2017.

If you are a student, and studying abroad is part of your academic requirement, please contact the Assistant Dean for Student Affairs of your college to explore options to meet your requirements.

3. I applied for Advance Parole under DACA and my application is pending. Should I withdraw the application?

No, it is not necessary to withdraw your application. Keep in mind, however, that even if your application is approved, given the possibility that DACA may be rescinded under the new Presidential administration, if you travel, there is no assurance that you will be

⁹ "Frequently Asked Questions" <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions#travel>

allowed to return to the United States, and that there is a realistic possibility you will be denied re-entry after January 19, 2017.

4. I received Advance Parole under DACA to study abroad next semester. Should I go on my trip?

No. Given the possibility that DACA may be rescinded under the new Presidential administration, if you travel, there is no assurance that you will be allowed to return to the United States, and that there is a realistic possibility you will be denied re-entry after January 19, 2017.

If studying abroad is part of your academic requirement, please contact the Assistant Dean for Student Affairs of your college to explore options to meet your requirements.

5. I received Advance Parole under DACA to visit family in December, and return in the beginning of January. Should I go on my trip?

Maybe. Given the uncertainty of the situation, there is a heightened risk that you may not be allowed to return to the United States, even with Advance Parole under DACA. Please consult an immigration attorney about the consequences of leaving the United States.

6. I am currently abroad and plan to return with Advance Parole under DACA. When should I come back?

You should consider returning to the United States as early as practicably possible given the uncertainty of the situation.