



UNDERSTANDING & PREPARING FOR ADMINISTRATIVE RELIEF

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SHIU-MING CHEER



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BACKGROUND

TIMELINE FOR DACA

- **June 15, 2012:** After facing intense organizing from immigrant youth, the Department of Homeland Security (DHS) issued a memo granting two-year deferred action status to certain young undocumented immigrants
- **August 14, 2012:** U.S. Citizenship and Immigration Services (USCIS) released an application for Deferred Action for Childhood Arrivals (DACA)



WHAT IS DEFERRED ACTION?

Deferred action occurs when DHS decides to put on hold the deportation (removal) of a person

This happens two ways:

- 1.** By not placing the individual in deportation (removal) proceedings in immigration court; or
- 2.** By not executing an order of removal already issued.

DACA is a type of deferred action that is granted to those who meet a strict set of requirements.

THE BIG PICTURE

11/20/14: Presidential announcement of executive action on immigration reform

- Changes described in ten separate executive action memos
- <http://www.dhs.gov/immigration-action>
 - See also
 - ICE: <http://www.ice.gov/immigrationaction>
 - USCIS: <http://www.uscis.gov/immigrationaction>
- **2 Presidential Memoranda:**
<http://www.whitehouse.gov/briefing-room/presidential-actions>
- **DOL Fact Sheets:** <http://www.dol.gov/dol/fact-sheet/immigration/>

SCOPE OF EXECUTIVE ACTION

- **Border Security**
- **Revised Removal Priorities**
- **Replacing Secure Communities with New Priority Enforcement Program**
- **Personnel Reform – ICE**
- **Entrepreneur Parole**
- **PIP for family members of enlistees**
- **New Efforts by DOL For U & T Visas**
- **DACA Expansion**
- **DAPA (for parents of USC's and LPRs)**
- **Expansion of Provisional Waivers**
- **Advance Parole Policy**
- **Naturalization Promotion**
- **Support for High-Skilled Business and Workers**

NUMBERS OF PEOPLE PROTECTED

4.4 million parents of U.S. citizens and LPRs

290,000 more people eligible for DACA



LOS ANGELES COUNTY NUMBERS



331,000 parents
of U.S. citizens
and LPRs

135,000 total
people eligible
for DACA

BENEFITS & LIMITATIONS OF DAPA & DACA

Benefits

Protection from deportation
for 3 year period

Work authorization

Social security number

Non AB 60 driver's license

May request permission to
travel abroad

Limitations

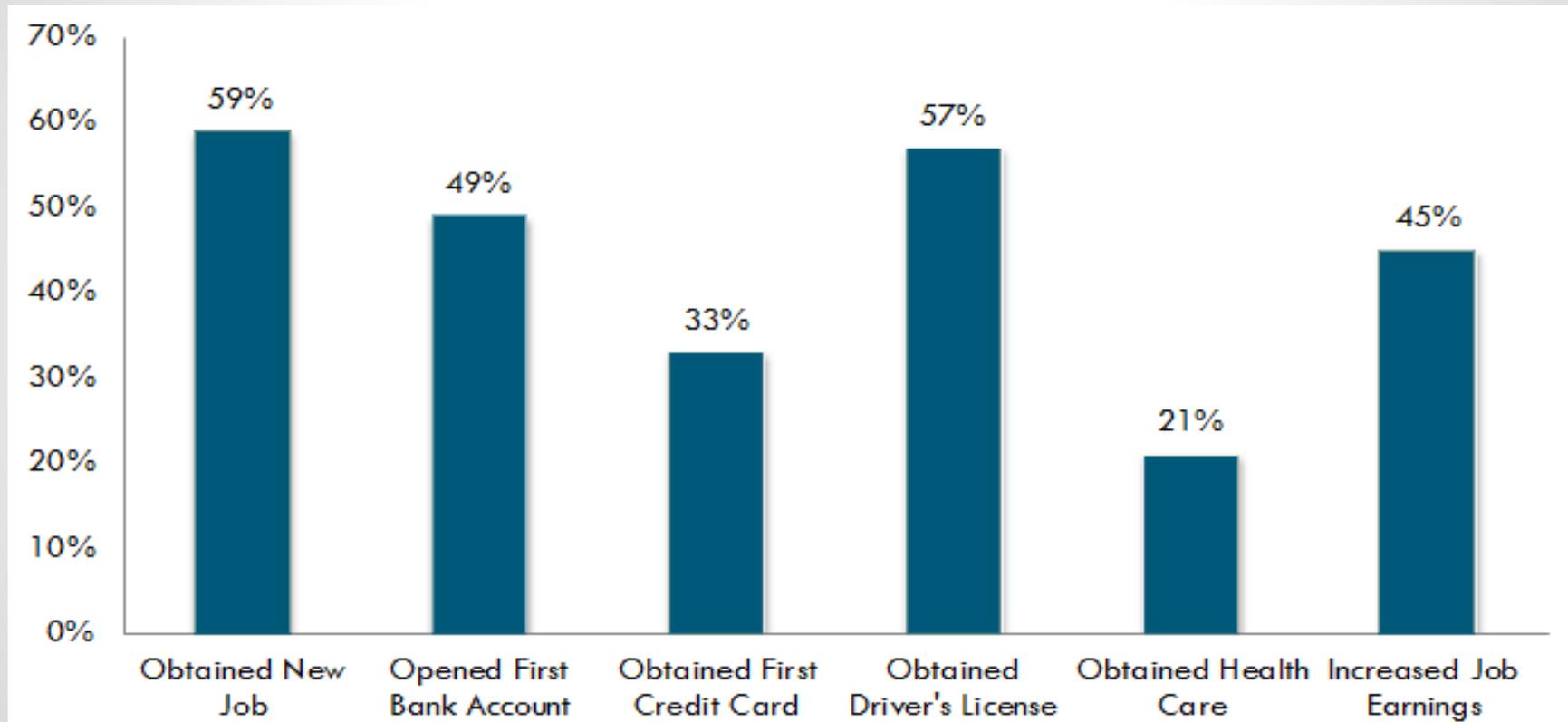
Not a green card or
visa

Not a path to
citizenship

Put on hold by Texas
Judge

Attacked in Congress

BENEFITS OF DACA



From: http://www.immigrationpolicy.org/sites/default/files/docs/two_years_and_counting_assessing_the_growing_power_of_daca_final.pdf

DAPA

**(DEFERRED ACTION FOR PARENTS OF U.S.
CITIZENS AND LAWFUL PERMANENT
RESIDENTS)**

DAPA: WHO QUALIFIES?

- **Continuous residence in U.S. since before 01/01/10**
- **As of 11/20/14, have USC or LPR son or daughter**
- **Physical presence in U.S. on 11/20/14 and at time of application**
- **No lawful status on 11/20/14**
- **Not an enforcement priority**
- **No other factors to make USCIS deny the application**

DAPA: EXPOSURE TO ENFORCEMENT

If my DAPA or DACA request is denied, will I be placed in deportation proceedings?

- If you are denied DAPA or DACA, USCIS will refer your case to Immigration & Customs Enforcement (ICE) only if it involves a criminal offense, fraud, or a threat to national security or public safety.
- ***Before you request deferred action, it is really important that you first consult with a reputable attorney or legal services program if you have ever been arrested or convicted of any kind of crime.***

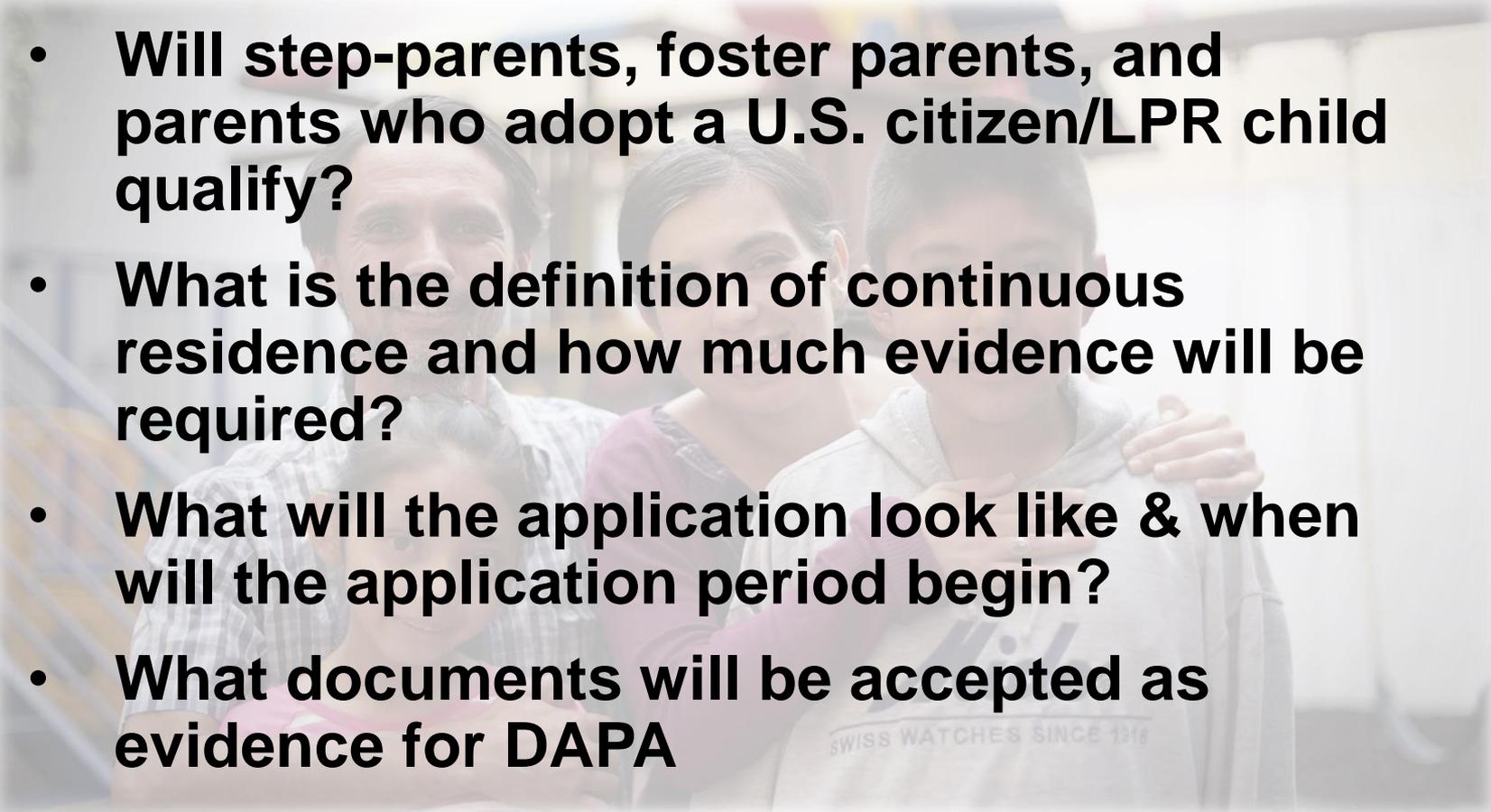
DAPA HYPOS

- **Maria and Brian entered the United States without inspection in May of 2007 and have never left. They have two children. Both children were born in the United States.**
 - Maria has not had any contact with law enforcement. Is Maria eligible for DAPA?
 - Brian had no trouble with the police but he does have a final order of removal issued against him in 2010. He did not leave the U.S. after receiving this removal order. Is Brian eligible for DAPA?

DAPA HYPOS

- **Susanna has been living in the United States since 2000, when she entered without inspection. She has never left. She has three U.S. citizen children. Last year, Susanna was convicted of driving without a license, which is a misdemeanor in the state where she lives. Susanna has had no other trouble with the police.**
 - Is Susanna eligible?
- **What if Susanna has a DUI conviction but didn't serve any time for this offense?**

DAPA: WHAT WE DON'T KNOW YET

- **Will step-parents, foster parents, and parents who adopt a U.S. citizen/LPR child qualify?**
 - **What is the definition of continuous residence and how much evidence will be required?**
 - **What will the application look like & when will the application period begin?**
 - **What documents will be accepted as evidence for DAPA**
- 

APPLYING FOR DAPA

- **\$465.00 Fee**
- **Biometrics**
- **Limited fee exemptions, no waivers**
- **Application period supposed to begin by May 19, 2015 but has been blocked**
- **Approved applicants get deferred action and work permit for 3 yrs**



DACA

**(DEFERRED ACTION FOR CHILDHOOD
ARRIVALS)**

BASIC REQUIREMENTS FOR DACA

In order to apply for DACA, each applicant must meet the following requirements:

- Establish Identity and Age Requirements
- Prove Continuous Residence for a certain period of time
- Prove Physical Presence on a particular day
- Meet the Educational or Military Requirement
- Meet the Criminal History Requirement



BASIC REQUIREMENTS FOR DACA: IDENTITY & AGE

In order to be eligible for DACA, applicants must:

1. Establish identity;
2. At the time of filing, be at least 15 years old IF they are not currently in removal proceedings;
 - Or can be 14 years old or younger ONLY IF they are in removal proceedings, or has a final removal order / voluntary departure order and is not in immigration detention;
3. Have been born AFTER 6/15/1981; and
4. Have entered the United States before their 16th birthdate.

BASIC REQUIREMENTS FOR DACA: RESIDENCE, PRESENCE, STATUS

In order to be eligible for DACA, applicants must:

- Have continuously resided in the United States since 6/15/2007 through the time of filing;
- Have been physically present in the United States on 6/15/2012;
 - Any exits outside the U.S. must have been brief, casual, and innocent;
- Have no valid immigration status on 6/15/2012.

BASIC REQUIREMENTS FOR DACA: EDUCATION LEVEL OR MILITARY SERVICE

In order to be eligible for DACA, applicants must:

- Show that they have graduated from high school
- OR obtained a GED
- OR are currently attending school
- OR they were honorably discharged from the U.S. Coast Guard or Armed Forces.

BASIC REQUIREMENTS FOR DACA: CRIMINAL HISTORY

Automatic Disqualification for Certain Criminal Convictions:

- All Felonies
- Serious Misdemeanors
 - 90 days or more in jail
 - Domestic Violence (with physical harm)
 - Drug Trafficking
 - Gun Possession
 - DUI
 - Burglary
- More than 2 Misdemeanors

Disqualification if you are found to be a (1) Public Safety Threat OR (2) a National Security Threat, which can be determined by:

- Participation in Criminal Activities
- Gang Membership
- Certain Juvenile Delinquency Adjudications
- Expunged Convictions

**DHS will consider the
“totality of the
circumstances”**

EXPANDED DACA ELIGIBILITY

- **No Age Cap**
- **Revised Eligibility Entry Date: moved to January 1, 2010 (from June 15, 2007)**
- **Three-year deferred action and work permit**



EXPANDED DACA ELIGIBILITY: WHEN AND HOW?

- **Supposed to be on 2/18/15 but blocked by a Texas court**
- **Expect DACA Form to be revised to reflect new changes**
- **People eligible for DACA under the June 15, 2012 Napolitano Memo should apply for Initial DACA and DACA Renewal**

NOT ELIGIBLE FOR DACA BEFORE, ELIGIBLE NOW

- Maricel, from the Philippines, is 17- years-old. She entered the U.S. with a tourist visa **in 2008** and has been in the U.S. since then, attending school. She wasn't eligible for DACA before, is she now?
- Paula, from Mexico, is **35-years-old**. She entered the U.S. without documents 20 years ago when she was 15, and she completed high school here. She was too old to qualify for DACA before, is she eligible now?

PREPARING TO APPLY

WHAT CAN POTENTIAL DAPA & DACA APPLICANTS DO NOW?

- **Gather evidence**
- **Save money for fee**
- **Do NOT travel abroad**
- **BE ON GUARD AGAINST FRAUD**



GATHERING EVIDENCE

Proof of identity

- Passport from home country
- ID card from home country
- Birth certificate from home country and photo ID
- School or military ID with photo
- U.S. immigration document with photo and name



GATHERING EVIDENCE

Documents showing relationship with U.S. citizen or LPR child

- Birth certificate of child
- Copy of green card of child
- Naturalization certificate of child
- Adoption decree of child, if adopted child
- Marriage certificate, if stepchild

GATHERING EVIDENCE

Proof of continuous residence in U.S. for past 5 years and on November 20, 2014

- **Rent receipts, rental agreements, or utility bills**
- **School records (letters, report cards, etc.)**
- **Military records**
- **Records from a religious organization confirming participation in a religious ceremony**
- **Money order receipts for money sent in or out of the country**

MORE PROOF FOR PRESENCE IN U.S.

Presence for past 5 years

- **Passport entries**
- **Birth certificates of children born in the U.S.**
- **Dated bank activity**
- **Car license, registration, insurance, DMV records**
- **Rental agreement, contracts, receipts, mortgage**
- **Tax receipts**
- **Medical records and insurance**

CRIMINAL HISTORY

Get documents related to any contact with police or law enforcement

State criminal records

FBI report

Court records

LEGAL ADVICE

WARNING

Remind potential applicants of the following:

- You are not giving them legal advice
- Every case is different
- They should **NOT** take advice from a notary public or an immigration consultant. They should contact **ONLY** a qualified immigration lawyer or an accredited representative for legal advice on their case

WHAT IS “LEGAL ADVICE?”

- Giving advice about any laws (local, state, federal law, international)
- Advising which forms to file with CIS
- Advising what to do in a case

WHO CAN GIVE LEGAL ADVICE?

- **Only lawyers licensed to practice in state or federal courts can give legal advice, and represent a person in court.**
 - Accredited representatives can represent people in immigration court.
- **Notaries public, paralegals, accredited representatives and immigration consultants are not necessarily lawyers.**

WHO CANNOT PRACTICE LAW?

It is against the law for an non-attorneys to give legal advice.

A non-attorney can only give non-legal help such as:

- Research
- Investigating details
- Translating answers to the questions on the DACA forms
- Gathering supporting documents
- Submitting the forms to USCIS

UNAUTHORIZED PRACTICE OF LAW

“Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to one thousand dollars (\$1,000), or by both that fine and imprisonment.”

ELIGIBILITY FOR HEALTH BENEFITS

HEALTH PROGRAMS - ACA

Affordable Care Act (ACA)

- **DACA & DACA+ recipients cannot access ACA benefits**
 - No access to the marketplace to purchase a qualified health plan with subsidies or at full cost
 - Exempt from the individual mandate
- **DAPA recipients: expect the same**
- **DACA & DAPA recipients will have to get employer coverage or purchase their own coverage through Covered CA**
- **DACA & DAPA recipients may still apply on behalf of eligible family members and may be counted in household size and income calculations.**

HEALTH PROGRAMS - MEDI-CAL

- **Medi-Cal is no cost or low cost health coverage that provides access to doctor visits, medications, dental services and vision.**
- **Medi-Cal has traditionally been available only to children, people with disabilities, seniors, or pregnant women. Medi-Cal is now available to childless adults.**
- **If they meet the other eligibility requirements, people with deferred action are eligible for full-scope Medi-Cal under CA law**
- **The adult eligibility level for Medi-Cal is 138% FPL, less than \$33,000/year for a family of 4**

RESOURCES

www.nilc.org/relief.html

www.adminrelief.org

www.iamerica.org

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ADMINISTRATIVE RELIEF

RESOURCE CENTER

www.adminrelief.org

