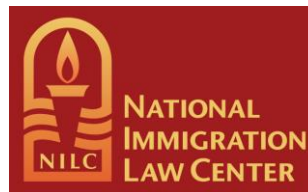


Side by Side: DACA and Provisions of Dream Act of 2019 and American Dream and Promise Act of 2019

Last updated JUNE 22, 2019

	Deferred Action for Childhood Arrivals (DACA) ¹	American Dream and Promise Act of 2019 (H.R. 6) ²	2019 Dream Act ³
Age limits	<p>Must have been born after June 15, 1981 (or have been no older than 30 on June 15, 2012).</p> <p>Must have entered the U.S. before age 16.</p> <p>Must be at least 15 years old at the time of application for DACA.</p> <p>EXCEPTION: A person who is currently in deportation proceedings, has a voluntary departure order, or has a deportation order, and is not in immigration detention, may apply for DACA even if not yet 15 years old.</p>	<p>Must have entered the U.S. before age 18.</p> <p>No upper age-limit.</p> <p>Removal proceedings may be stayed for those who are under 18 years.⁴</p>	<p>Must have entered the U.S. before age 18.</p> <p>No upper age-limit.</p> <p>Removal proceedings may be stayed for those who are at least 5 years old, who are enrolled in school, and who meet additional requirements.⁵</p>
Continuous presence in the U.S.	<p>Must have lived continuously in the U.S. since June 15, 2007.</p> <p>May not have traveled outside the U.S. between June 15, 2007, and August 15, 2012, unless the time outside the U.S. is considered brief, casual, and innocent.</p> <p>Travel outside the U.S. without advance parole, i.e., travel not authorized by the U.S. Dept. of Homeland Security (DHS), on or after</p>	<p>Must have been continuously physically present in the U.S. for 4 years before the date of enactment.</p> <p>May not have left the U.S. for any one period exceeding 90 days or for any periods exceeding 180 days total.</p> <p>EXCEPTION: If the failure to timely return is due to extenuating circumstances beyond the individual's control, these time limits may be extended.</p> <p>Period of travel outside the U.S. authorized by DHS may not be counted toward any period of departure</p>	<p>Must have been continuously physically present in the U.S. for 4 years before the date of enactment.</p> <p>May not have left the U.S. for any one period exceeding 90 days or for any periods exceeding 180 days total.</p> <p>EXCEPTION: If failure to timely return is due to extenuating circumstances beyond the individual's control.</p> <p>Travel authorized by DHS may not be counted toward any period of departure from the U.S.</p>

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	Deferred Action for Childhood Arrivals (DACA) ¹	American Dream and Promise Act of 2019 (H.R. 6) ²	2019 Dream Act ³
	Aug. 15, 2012, automatically terminates the person’s DACA.	from the U.S. Being served a notice to appear does not terminate any period of continuous presence.	Being served a notice to appear does not terminate any period of continuous presence.
Physical presence in the U.S. on a specific date	Present in the U.S. on June 15, 2012.	Not applicable.	Not applicable.
Immigration status and pathway to permanent residence	<p>May <i>not</i> have had lawful immigration status on June 15, 2012. (Any lawful immigration status or parole obtained prior to June 15, 2012, must have expired as of June 15, 2012.)</p> <p>A person may apply for DACA even if they have a final order of removal.</p> <p>A pathway to lawful permanent residence is not provided. However, adjusting status to lawful permanent resident (LPR) is not precluded under existing legal channels.</p>	<p>Conditional permanent resident (CPR) status will be valid for a period of 10 years (unless it is extended by the secretary of DHS).</p> <p>These people qualify for CPR status:</p> <ul style="list-style-type: none"> • people who have no lawful immigration status • certain people who were deported from or left the U.S. voluntarily on or after Jan. 20, 2017 • DACA recipients and those who are DACA-eligible (Current and former DACA recipients will qualify for a more streamlined process for CPR and LPR status.⁶) • people with temporary protected status (TPS) or deferred enforced departure (DED) ⁷ <p>Person applies, and government decides to grant CRP <i>or</i> LPR status. LPR status will be granted to first-time American Dream and Promise Act applicants if they meet all requirements for LPR status at the time of filing.</p> <p>CPRs may apply for LPR status within the 10-year CPR period if they:</p> <ol style="list-style-type: none"> 1. have no criminal issues as outlined in the act 2. have not abandoned their residence in the U.S. while they had CPR status 3. have done one of the following: <ul style="list-style-type: none"> • acquired a degree from an institution of higher education, <i>or</i> 	<p>CPR status will be valid for 8 years (unless it is extended by the secretary of DHS).</p> <p>These people qualify for CPR status:</p> <ul style="list-style-type: none"> • people who have no lawful immigration status • people with final orders of removal • people with TPS • people with DACA <p>DACA recipients must apply for CPR status.</p> <p>People who do <i>not</i> have DACA must apply for CPR status.</p> <p>CPRs may apply for LPR status (have conditions removed) within the 8-year CPR period if they:</p> <ol style="list-style-type: none"> 1. have no criminal issues as outlined in the act 2. have not abandoned their residence in the U.S. 3. have done one of the following: <ul style="list-style-type: none"> • acquired a degree from an institution of higher education, <i>or</i> • completed at least 2 years in a bachelor’s degree or higher degree program, <i>or</i> • served for at least 2 years in the uniformed services, <i>or</i> • been employed for periods totaling at least 3 years, at least 75 percent of which time was working with valid employment authorization (If the person was not working, they must

	Deferred Action for Childhood Arrivals (DACA) ¹	American Dream and Promise Act of 2019 (H.R. 6) ²	2019 Dream Act ³
		<ul style="list-style-type: none"> completed at least 2 years of a bachelor’s degree program or higher degree or recognized postsecondary credential from an area career and technical education school providing education at the postsecondary level,⁸ <i>or</i> served for at least 2 years in the uniformed services, <i>or</i> demonstrates earned income for periods totaling at least 3 years,⁹ at least 75 percent of which time was working with valid employment authorization (Periods of school, career and technical education school, or educational program enrollment will be deducted from the 3-year requirement.¹⁰) <p>(A hardship exception may be available for people who do not meet at least one of the four requirements listed immediately above.)</p> <ul style="list-style-type: none"> pass a background check 	<p>show that they were enrolled in school or an education program.)</p> <p>(A hardship exception may be available for people who do not meet at least one of the four requirements listed immediately above.)</p> <ul style="list-style-type: none"> pass background checks
<p>Education Track and Military Service Track guidelines</p>	<p>Must have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, be an honorably discharged veteran of the Coast Guard or U.S. armed forces, <i>or</i> “be in school” on the date DACA application is submitted.</p>	<p>Education requirement for CPR status:</p> <ul style="list-style-type: none"> admitted to an institution of higher education, or admitted to an area career or technical educational school at the postsecondary level;¹¹ <i>or</i> earned high school diploma or commensurate alternative award from a public or private high school, or obtained a general education development (GED) certificate, high school equivalency diploma, or another similar state-authorized credential; a credential or certificate from an area career and technical education school at the secondary level; or a <i>recognized</i> postsecondary credential;¹² <i>or</i> enrolled in a secondary school or in an education program assisting students in getting a regular high school diploma, recognized equivalent, GED, a certificate from an area career and technical education school providing 	<p>Education requirement for CPR status:</p> <ul style="list-style-type: none"> admitted to an institution of higher education; <i>or</i> earned high school diploma or commensurate alternative award from a public or private high school, or obtained a GED certificate; <i>or</i> enrolled in a secondary school or in an education program assisting students in getting a regular high school diploma, recognized equivalent, or GED

	Deferred Action for Childhood Arrivals (DACA) ¹	American Dream and Promise Act of 2019 (H.R. 6) ²	2019 Dream Act ³
		education at the secondary level, or a recognized postsecondary credential	
Work Track instead of an Education Track requirement?	No.	Yes. Can apply for LPR status within 10-year conditional period based on employment (see “Immigration status and pathway to permanent residence” row, above).	Yes. Can apply for LPR status within 8-year conditional period based on employment (see “Immigration status and pathway to permanent residence” row, above).
Good moral character and background check	<p>Must not have been convicted of a felony offense.</p> <p>Must not have been convicted of a “significant misdemeanor” offense or three or more misdemeanor offenses. A minor traffic offense will not be considered a misdemeanor for purposes of DACA.</p> <p>Regardless of the sentence imposed, a “significant misdemeanor” is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or driving under the influence.</p> <p>Must not pose a threat to national security or public safety.</p> <p>Must pass a background check.</p>	<p>Must not have been convicted of certain crimes (other than state offenses due to undocumented status or minor traffic offenses), including of any felony offense, 3 or more misdemeanors (excluding certain cannabis-related offenses and nonviolent civil disobedience offenses) not occurring on the same date, etc., or a misdemeanor offense of domestic violence (with exceptions).¹³</p> <p>People with expunged and similar convictions are eligible to adjust.</p> <p>Inadmissibility for certain crimes, may be waived — for humanitarian purposes or family unity, or if the waiver is otherwise in the public interest.¹⁴</p> <p>A waiver is also available for crimes of domestic violence and for certain misdemeanor offenses older than 5/10 years.</p> <p>Must pass a background check.</p> <p>Secondary review:</p> <p>Regardless of the above, the DHS secretary may provisionally deny an application under this act if the applicant is deemed a public safety threat or has knowingly, willfully, and voluntarily participated in criminal gang offenses.</p>	<p>Must not have been convicted of certain crimes (other than state offenses due to undocumented status).¹⁵</p> <p>Expunged convictions will not automatically disqualify the applicant from eligibility for CPR status.</p> <p>Inadmissibility for certain crimes may be waived — for humanitarian purposes or family unity, or if the waiver is otherwise in the public interest.¹⁶</p> <p>Must pass a background check.</p>
Path to U.S. citizenship	No path to U.S. citizenship beyond what is available under existing immigration laws.	May apply for U.S. citizenship after being in LPR status for 5 years, presumably.	May apply for U.S. citizenship after being in LPR status for 5 years, presumably.

	Deferred Action for Childhood Arrivals (DACA) ¹	American Dream and Promise Act of 2019 (H.R. 6) ²	2019 Dream Act ³
Fees and back taxes	<p>\$495, which consists of a \$410 fee for the employment authorization application and an \$85 fee for biometrics.</p> <p>Fee waivers are not available. However, fee exemptions are available in very limited circumstances.</p>	<p>CPR status: Fees determined by DHS, with fee exemption possibility for qualifying individuals. The fee may not exceed \$495.</p> <p>LPR status: Fees determined by DHS, with fee exemption possible for qualifying individuals. There is no fee limit. Those who are able to adjust directly to LPR status as initial applicants are not subject to paying CPR fee.</p>	<p>CPR status: Fees determined by DHS, with fee exemption possible for qualifying individuals.</p> <p>LPR status: Fees determined by DHS, with fee exemption possible for qualifying individuals.</p>
Confidentiality provisions	<p>USCIS has maintained that it will share information about applicants with immigration enforcement authorities only when issues of fraud, national security, or conviction are present. Otherwise, confidentiality of the requestor will be maintained. Furthermore, the <i>CASA de Maryland</i> court order prohibits DHS from rescinding, modifying, or superseding this guidance for the time being. In addition, under the order, if DHS wants to use any DACA recipient's information against them for enforcement purposes, DHS is required to make this request to the court directly and have the court do a confidential review of the request.</p>	<p>Prohibits information provided in applications filed under this act or in DACA applications from being disclosed or used for immigration enforcement.</p> <p>Prohibits referrals to U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) based solely on information provided in an application for DACA or this act.¹⁷</p> <p>Exceptions to these confidentiality protections apply to federal security and law enforcement agencies: (1) to conduct background checks for applications for permanent residence under this act, (2) to identify or prevent fraud, (3) for national security purposes, or (4) for the investigation or prosecution of any felony not related to a person's immigration status.</p> <p>Violations of these confidentiality provisions will result in a fine of up to \$10,000.</p>	<p>Prohibits information provided in applications filed under this act or in DACA applications from being disclosed or used for immigration enforcement.</p> <p>Prohibits referrals to ICE or CBP of anyone granted lawful permanent residence pursuant to the bill or who was granted DACA or TPS.</p> <p>Exceptions to these confidentiality protections apply to federal security and law enforcement agencies: (1) to conduct background checks for applications for permanent residence under this Act, (2) to identify or prevent fraud, (3) for national security purposes, or (4) for the investigation or prosecution of any felony not related to a person's immigration status.</p> <p>Violations of these confidentiality provisions will result in a fine of up to \$10,000.</p>
Permission to travel abroad	<p>Formerly, DACA recipients could apply for advance parole (permission to travel abroad) <i>after</i> applying for and receiving DACA. However, DHS stopped accepting and processing advance parole applications from DACA recipients on Sep. 5, 2017.</p>	<p>Applicant for CPR status may apply for advance parole after submitting CPR application without having to wait for the application to be approved first. May file application for CPR status and for advance parole at the same time.</p> <p>People with LPR status may travel abroad temporarily and return without advance parole.</p>	<p>N/A¹⁸</p>

	Deferred Action for Childhood Arrivals (DACA) ¹	American Dream and Promise Act of 2019 (H.R. 6) ²	2019 Dream Act ³
Education equity	N/A	N/A ¹⁹	Repeals section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), removing a barrier for states that wish to offer in-state tuition rates or higher educational benefits on the basis of residence, without regard to a student’s immigration status.

NOTES

¹ <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>. DACA is a type of “deferred action” (which provides work authorization and protection from deportation) announced in a memo issued by former secretary of Homeland Security Janet Napolitano on June 15, 2012, and created through an executive action of the Obama administration.

² H.R. 6 passed the House of Representatives on June 4, 2019. The text in this table’s rows reflects any changes that were made to the bill, substitute amendment H.R. 2820, before markup in the House Judiciary Committee on May 22, 2019. Major changes from the originally introduced bill are indicated by an endnote.

³ <https://www.congress.gov/bill/116th-congress/senate-bill/874>. Provisions of the Dream Act of 2019 are identical to the Dream Act of 2017.

⁴ The original bill language said 18 years or younger. Removal proceedings will either be stayed or will not be initiated for people who are 18 years old or younger, entered the U.S. before age 18 and continuously resided since, have been continuously present for 4 years before the enactment of the bill, and are not inadmissible under the following INA § 212(a) grounds: health, criminal, security and terrorism, smuggling, student visa abusers, ineligibility for citizenship, polygamy, international child abduction, and unlawful voting, or have been convicted of certain crimes (see note 13, below). People who meet these requirements may apply for employment authorization. The original language did not include health grounds of inadmissibility.

⁵ Removal proceedings either will be stayed or will not be initiated for people who are at least 5 years old; are enrolled in elementary school, secondary school, or an early childhood education program; and meet the requirements to be a conditional permanent resident (entered the U.S. before age 18, have been continuously present for 4 years, etc.). People who meet these requirements may apply for employment authorization.

⁶ The original language allowed DACA recipients and people eligible for DACA to apply for CPR and, with the DHS secretary’s discretion, get LPR status without conditions. The markup language creates a “special procedure for DACA” grantees who meet the renewal requirements so they can apply in a streamlined way for CPR or they can apply for LPR status, without conditions, directly, if they meet the requirements for LPR status under the bill.

⁷ The original bill language did not include a provision for eligibility for people with TPS or DED.

⁸ The original bill language included the terminology “certificate or credential” in lieu of “recognized postsecondary credential” in H.R. 2820.

⁹ Original bill language required that one be employed for 3 years cumulative, whereas H.R. 2820 language requires that the individual demonstrate earned income.

¹⁰ Original bill language did not include “career and technical education school” as an option. H.R. 2820 also added that the DHS secretary shall deduct the periods of enrollment from the 3-year work requirement.

¹¹ Original bill language did not include this option.

¹² Original bill language did not include: or another similar state-authorized credential; a credential or certificate from an area career and technical education school at the secondary level. And H.R. 2820 also adds the requirement that the postsecondary credential be “recognized.”

¹³ Original bill language did not include the cannabis or nonviolent civil disobedience exception and did not have inadmissibility grounds of health-related grounds or of a guardian required to accompany helpless noncitizen. Under H.R. 2820, applicant must not be inadmissible under the following INA § 212(a) grounds: health (waiver available); criminal, security and terrorism; smuggling (waiver available); student visa abuse (waiver

available); ineligibility for citizenship; polygamy; guardian required to accompany helpless noncitizen; international child abduction; unlawful voting (waiver available); and former citizens who renounced citizenship to avoid taxation. Applicants must not have been convicted for a state or federal offense (other than offenses due to undocumented status and excluding minor traffic offenses) punishable by more than 1 year in prison; 3 or more federal or state offenses, with convictions on different dates, and imprisonment for an aggregate of 90 days or more (excluding certain cannabis-related offenses and nonviolent civil disobedience-related offenses); a misdemeanor or felony conviction for domestic violence. When compared to the Dream Act of 2017, the American Dream and Promise Act adds INA § 212(a)(10)(E), which is a ground of inadmissibility for someone who renounced U.S. citizenship for the purpose of avoiding taxation by the U.S.; adds a new criminal bar that disqualifies applicants if they have a misdemeanor or felony domestic violence conviction (waiver available), with certain exceptions; and explicitly excludes minor traffic offenses. The original language included a waiver for criminal grounds of inadmissibility, which was eliminated in H.R. 2820.

¹⁴ Waiver available for crimes of domestic violence and the following crimes outlined in INA § 212(a): smuggling; student visa abuse; unlawful voting. Examples include: waiver available for misdemeanors that would render someone inadmissible due to convictions of certain crimes, controlled substance grounds, and prostitution/commercialized vice grounds (so long as the conviction doesn't otherwise render the applicant ineligible based on the criminal or national security grounds); waivers for 1-2 offenses out of 3 or more misdemeanor offenses and one domestic violence misdemeanor offense (waiver of 1 misdemeanor offense so long as the applicant has not been convicted of any offense in the 5 years prior to applying for adjustment of status and waiver for up to 2 misdemeanor offenses so long as the applicant has not been convicted for up to 10 years prior to applying for adjustment of status). Regardless of whether the applicant is eligible for a waiver, DHS may provisionally deny an application under this act if the applicant is

deemed a public safety threat or has knowingly, willfully, and voluntarily participated in criminal street gang offenses and must provide written notice to the applicant to respond to and refute the basis for denial. The original language included a waiver for the criminal ground of inadmissibility.

¹⁵ Applicant must not be inadmissible under the following INA § 212(a) grounds: criminal (waiver available); security and terrorism; smuggling (waiver available); student visa abuse (waiver available); ineligibility for citizenship; polygamy; international child abduction; and unlawful voting (waiver available). Applicants must not have been convicted for a state or federal offense (other than offenses due to undocumented status) punishable by more than 1 year in prison; 3 or more federal or state offenses, with convictions on different dates, and imprisonment for an aggregate of 90 days or more.

¹⁶ Waiver available for the following crimes outlined in INA § 212(a): criminal, smuggling, student visa abusers, unlawful voting.

¹⁷ Original bill language did not include narrowing standard for referral of not being “based solely on information provided in an application for DACA or this Act.”

¹⁸ The Dream Act does not state whether people with CPR status may apply for advance parole. In general, people with LPR status can travel abroad temporarily and return to the U.S. without having advance parole.

¹⁹ The bill's original language confirmed that people with CPR status could be eligible for federal student assistance, including direct loans, Perkins loans, work study, grants and programs designed to identify and encourage youth with financial or cultural needs, low-income families and others to pursue higher education. In addition, the bill's original language would repeal section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), removing a barrier for states that wish to offer in-state tuition rates or higher educational benefits on the basis of residence, without regard to a student's immigration status. This language was eliminated in H.R. 2820.