

Access to Driver's Licenses for Immigrant Youth Granted DACA

Last updated JULY 22, 2020

Immigrant youth granted deferred action under the Deferred Action for Childhood Arrivals (DACA) program are able to obtain driver's licenses in every state.

Background: DACA

On June 15, 2012, the U.S. Department of Homeland Security (DHS) announced that, under its administrative authority, it would grant deferred action to immigrant youth residing in the U.S. who meet specific criteria. The Deferred Action for Childhood Arrivals policy permits people who arrived in the U.S. before the age of 16 and who meet other age, education, continuous presence, and criminal history–related requirements to remain in the U.S. for a renewable two-year period and to apply for work authorization.¹ There are nearly 700,000 DACA recipients living in the U.S.²

DACA Recipients Are Lawfully Present

Deferred action is a longstanding form of relief that is included specifically in the federal REAL ID Act as a lawful status that would permit the issuance of a federally recognized driver's license, valid during the period of authorized stay in the U.S. For more information, see **REAL ID and Deferred Action for Childhood Arrivals** (NILC, May 2020).³

In its “Frequently Asked Questions About Deferred Action for Childhood Arrivals” (the version dated Jan. 18, 2013), USCIS confirmed that people granted deferred action under DACA are authorized by DHS to be present in the U.S. and are therefore considered to be lawfully present during the period of their deferred action grant.

States Grant Licenses to DACA Recipients

Because the rules governing eligibility for driver's licenses vary by state, a grant of DACA does not provide access to a state driver's license automatically. But otherwise-eligible DACA recipients who obtain an employment authorization document and a Social Security number are able to obtain a license in every state.

¹ In November 2014, President Obama announced that the program would be expanded to make deferred action available to more people who came to the U.S. as children (“expanded” DACA), as well as to certain parents of U.S. citizens and lawful permanent residents (DAPA). The expansion of DACA and implementation of DAPA have been halted temporarily by a federal district court in Texas. For more information, see www.nilc.org/immigration-reform-and-executive-actions/.

² <https://bit.ly/2ZnbAKI> (hyperlink to PDF on USCIS website).

³ <https://www.nilc.org/real-id-and-daca/>.

LOS ANGELES (Headquarters)
3450 Wilshire Blvd. #108 – 62
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax



WASHINGTON, DC
P.O. Box 34573
Washington, DC 20043
202 216-0261
202 216-0266 fax

The rules in most states either list deferred action specifically as meeting a lawful presence requirement or provide that an employment authorization document is acceptable to establish eligibility for a license. Like other driver's license applicants, DACA recipients also must provide proof of identity and age, and also meet the state residence requirements, in order to obtain a license. (For an earlier review of the state laws affecting access to driver's licenses for DACA recipients, see our issue brief last updated June 19, 2013, **Are Individuals Granted Deferred Action under the Deferred Action for Childhood Arrivals (DACA) Policy Eligible for State Driver's Licenses?**⁴)

Arizona and Nebraska

Although a few states initially announced that they would ignore or alter their own rules in order to deny licenses to these youth, only two states, Arizona and Nebraska, ultimately implemented policies that excluded DACA grantees from driver's license eligibility. As a result of litigation or legislative action, however, both of these states now issue driver's licenses to otherwise-eligible DACA grantees.

In July 2014, the U.S. Court of Appeals for the Ninth Circuit ordered the Arizona Department of Transportation to end its policy of denying licenses to DACA recipients, finding that the policy discriminates against them.⁵ After the Ninth Circuit and the U.S. Supreme Court denied the state's request to put the ruling on hold, the district court ordered the Arizona Department of Transportation to stop denying driver's licenses to otherwise-eligible DACA grantees, effective Dec. 22, 2014. On Jan. 22, 2015, the district court issued an order permanently enjoining (ending) Arizona's policy of denying driver's licenses to DACA grantees.⁶

Litigation against the Nebraska policy also was filed. However, on May 21, 2015, the Nebraska legislature passed a bill confirming that all immigrants listed in the federal REAL ID Act, including people granted deferred action, can obtain a driver's license, if otherwise eligible. Although Nebraska's governor vetoed this bill, on May 28 the legislature voted 34-10 to override the veto, and it became law.

All fifty states and the District of Columbia now issue driver's licenses to otherwise-eligible immigrant youth granted DACA.

⁴ www.nilc.org/wp-content/uploads/2016/06/DACA-and-drivers-licenses-2013-06-19.pdf.

⁵ More information about the Arizona case is available at www.nilc.org/drivers-licenses/ (see the information under the "Litigation" tab).

⁶ Arizona has filed an appeal of this order.