CHAPTER 1

INTRODUCTION

This chapter includes:

§ 1.1  Introduction ........................................................................................................ 1-1  
§ 1.2  Background ........................................................................................................ 1-2  
§ 1.3  Future Contributions of DREAMers ................................................................. 1-3  
§ 1.4  Toward the Future .............................................................................................. 1-4  
§ 1.5  About This Manual ............................................................................................. 1-5  

§ 1.1  Introduction

The Deferred Action for Childhood Arrivals (DACA) program represents an exciting moment for immigrants. In fact, this is one of the most exciting changes in immigration law since the Immigration and Control Act of 1986 (IRCA) provided the opportunity to obtain lawful permanent residence to three million undocumented immigrants. Although DACA does not provide lawful permanent residence status, an estimated 1.7 million DREAMers may qualify for protection from deportation and permission to work for at least two years.

We are a nation of immigrants, but we are a nation that loves to debate immigration policy. In the post 9/11 era, increased detentions, deportations, and border enforcement funding have been the order of the day. Calls for visa reform and a path to citizenship for the estimated 11 million undocumented immigrants in the country have been brushed aside. With mounting criticism from immigrants, supporters calling for comprehensive reform, and the general election approaching, President Obama announced a policy for DREAMers on June 15, 2012. The policy halted the deportation of many eligible undocumented youth who were under the age of 31 on June 15, 2012, entered the country before the age of 16 and graduated from high school, are currently in a qualifying educational program or have served in the U.S. military. These individuals, commonly referred to as “DREAM Act students” named after failed federal legislation that would have granted them legal permanent status, will be safe from removal for two years and may obtain permission to work. It was no coincidence that the President’s decision came after a series of protests by DREAMers, including a weeklong sit-in at Obama’s Denver, Colorado campaign offices.

DACA represents a seminal moment in the history of immigrant rights in the United States. DACA is an achievement of the DREAMers. Their persistence, dedication, organizational skills, and lobbying convinced the Obama Administration to do the right thing through executive authority. Of course the foundation for these efforts is the just nature of their cause—the stories of DREAMers are compelling. They are part of the nation’s fabric and, in most cases, the United States is their only home.
§ 1.2 Background

The DREAM Act (Development, Relief, and Education for Alien Minors) was first introduced in Congress in 2001 by a bipartisan group of legislators that included Senators Dick Durbin, Richard Lugar, and Orrin Hatch and Luis Gutierrez, a member of the House of Representatives. They recognized that the would-be beneficiaries of the DREAM Act were brought to the United States as young children, have grown up as Americans, and are in a position to contribute mightily to our nation. Various versions of the legislation would provide lawful permanent residence and eventually U.S. citizenship to certain undocumented individuals (up to age 30 or 35) of good moral character, who graduate from U.S. high schools, arrived in the United States as minors, and lived in the country continuously for at least five years prior to the bill’s enactment. Beneficiaries would also need to complete two years in the military or two years at a four-year institution of higher learning. (The military option replaced community service contained in early versions of the DREAM Act.) These undocumented youths call themselves “DREAMers.”

In recent years, DREAMers and their allies faced a battle not only with opponents who were opposed to any “amnesty” for undocumented immigrants, but with some supporters who wanted comprehensive reform that would cover all undocumented immigrants, not just the young. Some Democrats opposed the DREAM Act’s piecemeal approach to reform, worried that they would only get one shot at reform and that moving forward on a piece like DREAM would be at the exclusion of other equally worthy pieces of legislation. However, by the fall of 2010, sentiment solidified among most supporters, and the DREAM Act came to the Senate floor with support from both parties and the White House. However, in September, Senate Republicans blocked action on the DREAM Act by conducting a filibuster of the defense authorization bill to which the legislation had been attached.

After the November 2010 elections, the prospects for comprehensive immigration reform faded. Democrats would lose their majority in the House of Representatives in the next Congress. So, during the lame duck, post-election Congressional session, the House passed the Dream Act with a 216-198 vote on December 8, 2010. The DREAM Act became a top priority of Senate Majority Leader Harry Reid, who won a tough re-election fight that November with the help of Nevada’s large Latino community, which strongly supported the DREAM Act. The bill garnered a majority of Senate votes, 55-41, but failed to advance because 60 votes were required to overcome a filibuster. Republican Senators John McCain, Orrin Hatch, and Bob Bennett, all original sponsors of the DREAM Act, voted against it in 2010.

Four months later, after the new Congress assembled and Republicans took control of the House of Representatives; twenty-two senators sent a letter to President Obama asking him to act administratively and to grant deferred action for undocumented immigrant youth who would have qualified for the bill. Led by Senators Durbin and Reid, the senators reminded the President that “the exercise of prosecutorial discretion in light of law enforcement priorities and limited resources has a long history in this nation and is fully consistent with our strong interest in the rule of law…. Granting deferred action to DREAM Act students, who are not an enforcement
priority for DHS, helps to conserve limited enforcement resources.\footnote{1} Congressman Gutierrez also argued that the President had the power to stop deporting immigrants with “deep roots” in the United States.\footnote{2}

President Obama’s June 15, 2012 deferred action announcement for DREAMers was a culmination of the failure of the DREAM Act to pass, the congressional pressure of DREAM Act supporters to do something administratively, and especially the lobbying and advocacy efforts of DREAMERs themselves.

§ 1.3 Future Contributions of DREAMers

Many DREAMers are highly educated and potential high-income earners who can contribute billions of dollars to the U.S. economy across diverse industries. A study by the UCLA North American Integration and Development Center estimates they would earn between $1.4 trillion and $3.6 trillion, over the course of their working lives. A larger supply of skilled students would also increase U.S. global competitiveness in science, technology, medicine, education, and many other endeavors. The Congressional Budget Office concluded in 2010 that the productivity of DREAM Act beneficiaries would help reduce the U.S. deficit by $1.4 to $2.2 billion between 2011 and 2020.

Not all DREAMers are straight-A students, but they are in a position to contribute nonetheless. Recall the related sentiment of the Supreme Court in its 1982 case, \textit{Plyler v. Doe} (ruling that providing a public education to undocumented children is in all of our best interest):

\begin{quote}
[M]any of the undocumented children disabled by this classification will remain in this country indefinitely, and … some will become lawful residents or citizens of the United States. It is difficult to understand precisely what the State hopes to achieve by promoting the creation and perpetuation of a subclass of illiterates within our boundaries, surely adding to the problems and costs of unemployment, welfare, and crime. It is thus clear that whatever savings might be achieved by denying these children an education, they are wholly insubstantial in light of the costs involved to these children, the State, and the Nation.
\end{quote}

Many DACA applicants\footnote{3} are well educated, but hundreds of thousands have not finished high school or have not had the opportunity to complete the education requirements of the DACA program. They will need to enroll in educational programs in order to avoid being left behind. Economic and social circumstances have created pockets of potential DACA applicants who will

\footnotetext{1}{See \url{http://durbin.senate.gov/public/index.cfm/pressreleases?ID=ce76d912-77db-45ca-99a9-624716d9299e}.}
\footnotetext{3}{Please note that the ILRC for purposes of this manual will use “DACA requests” and “applications” interchangeably, while CIS calls them “requests.” We will call the individuals requesting DACA, “applicants,” while CIS calls them “requestors.”}
need counseling on this and a range of other issues. This group of DREAMers becomes even more important as many of them still need to apply for DACA.

Since DACA was announced, many researchers have studied the progression of DACA and the benefits of obtaining it. In the preliminary findings from the National UnDACAmented Research Project, researchers Roberto Gonzales and Veronica Terriquez found that the DACA recipients they surveyed “experienced a pronounced increase in economic opportunities, such as getting a new job, opening their first bank account, and obtaining their first credit card.” The study also found that 94% of DACA recipients would apply for citizenship if they were ever eligible. “This finding suggests that DACA recipients seek to be further integrated into U.S. society.”

Convincing the Obama administration to create DACA is an example of the power and energy of DREAMers. Their achievement speaks volumes about their leadership capabilities, political acumen, and brilliance. They are risk takers who are emblematic of what makes America great.

§ 1.4 Toward the Future

Obtaining DACA today means that qualified DREAMers will not be deported and can work for two years. DACA does not confer legal immigration status, a visa, or a green card. DACA does not provide a path to citizenship. Since DACA is based on administrative action rather than on a law passed by a Congress, the policy can be modified and even eliminated at any time by the Department of Homeland Security (DHS) or the President. What the future holds for DACA recipients and other DREAMers cannot confidently be predicted by anyone. Of course, DREAMers and their supporters are fighting and hoping for the best.

Eventually providing a path to citizenship for DREAMers is in our nation’s best interests, enabling us to tap their full creative and economic talents. They are here because their parents are dreamers as well—something we also should honor. Their parents’ dreams may appear simple and clichéd, but they are true nonetheless: to make an honest living for an honest day’s work, to put food on the table, to be part of a safe community, to instill strong family values, and to send their children to school out of hope for a better tomorrow. They too are remarkable for the sheer determination to lead a productive life despite sometimes tremendous obstacles.

As of October 2013, a bill has been introduced and approved by the Senate, titled Border Security, Economic Opportunity, and Immigration Modernization Act (S.744). Different types of bills, including a bill similar to the Senate bill, have been introduced in the House of

---


5 Id.
Representatives, but none has been approved. We continue our advocacy efforts to fight for the original Dreamers, the parents of all of the DREAMers that came to this country for a new and better life not only for themselves, but for their children as well.

Amidst the current immigration reform debate happening in Congress, preliminary findings from the National UnDACAmented research project showed that although DACA did open up many opportunities for DACA recipients, “it does not address the constant threat of deportation still facing those closest to them, including mothers, fathers, and siblings.”\(^6\) DREAMers and many other immigrant advocates, including the ILRC, have been fighting for a just and comprehensive immigration reform.

§ 1.5 About This Manual

The Immigrant Legal Resource Center is proud of working with immigrant youth for more than two decades. Our track record includes battles for in-state tuition long before the “DREAMer” terminology was in vogue. Once DACA was announced, we began holding public information sessions and developing application guidance and training materials. Since the implementation of DACA, the ILRC has provided dozens of trainings and answered hundreds of technical assistance questions, presented information at dozens of community events, and provided legal support to numerous DACA workshops and clinics. *DACA: The Essential Legal Guide* represents one of our contributions to this effort. In putting together the materials, our goal is to create a quality publication befitting the importance of the subject. DREAMers deserve nothing less.

In addition to this manual, we urge everyone to look at our website where we have a page\(^7\) dedicated to DACA resources, such as practice advisories, informational podcasts, training videos, and bilingual materials that can be passed out to the community. We also manage a listserv for those who regularly assist others with DACA applications: *dacaexperts@yahoogroups.com*. To join this exchange, send an email to: *dacaexperts-subscribe@yahoogroups.com*.

Since our first edition of the ILRC’s DACA guide, DACA FAQs (Frequently Asked Questions) and forms have been updated. We also learned a significant amount about adjudication trends and how to tackle legal issues. As the second edition of this manual, this is still the only comprehensive DACA guide in existence. Even though more than a year has passed since its implementation, DACA is still gradually evolving and changing. We encourage readers to share any suggestions you have for how we can improve this guide. Please email any suggestions you have to Sally Kinoshita at *sally@ilrc.org*.

This guide contains 11 chapters and an extensive appendix. This first chapter is an introduction to the manual. The second chapter contains a thorough review of the DACA

---

\(^6\) *Id.*

\(^7\) At [www.ilrc.org/info-on-immigration-law/deferred-action-for-childhood-arrivals](http://www.ilrc.org/info-on-immigration-law/deferred-action-for-childhood-arrivals).
eligibility requirements. The third chapter discusses the criminal bars to DACA. The fourth 
chapter reviews some of the most efficient and effective ways of working with DACA-eligible 
clients. The fifth chapter contains extensive information on how to document a winning DACA 
request. The sixth chapter provides a detailed analysis of the DACA request process and 
information on how to complete the DACA forms. The seventh chapter covers the important 
issue of how to make a DACA request for someone who has removal issues. The eighth chapter 
contains information about how to conduct group processing of DACA applications. The ninth 
chapter reviews DACA requests for evidence, decisions, appeals and renewals. The tenth chapter 
discusses how to obtain benefits associated with DACA, such as drivers’ licenses, social security 
numbers, and traveling on advance parole. The eleventh chapter covers other immigration relief 
for which DACA applicants might be eligible. It is important for advocates to determine if their 
DACA clients might be eligible for other immigration relief, which could turn out to be more 
advantageous for DACA-eligible immigrants than applying for DACA would be.8 Finally, we 
have included an extensive appendix to this manual, which includes dozens of different 
documents that will be useful to practitioners who assist DACA applicants.

8 In our experience, a good percentage of DACA applicants are also eligible for other forms of relief, such 
as a U visa, VAWA self-petition, or family petition. Note that an individual can apply for DACA as well 
as other forms of relief. For example, someone can apply for DACA in order to receive a work permit 
sooner and then apply for another form of relief, which depending on the benefit, may take more than a 
year to process.