
HIGHER EDUCATION ISSUES FOR MIGRANT YOUTH AND US CITIZEN YOUTH OF IMMIGRANT PARENTS LIVING IN SC

The following resource was compiled by SC Appleseed Legal Justice Center. We hope it helps college age youth and educators answer some frequently asked questions.

K-12

Federal law allows all youth to attend kindergarten through 12th grade, regardless of legal status. Federal law also says schools cannot discourage immigrant children or US citizen children of immigrant parents from enrolling in school. Schools cannot require Social Security Numbers (SSNs) or birth certificates. They cannot ask about legal status. For more information, please follow this link to the Department of Justice website. <http://www.justice.gov/crt/about/edu/documents/plyler.php>

College Enrollment

College enrollment laws vary by state. There is no federal right to higher education similar to laws for kindergarten through 12th grade.

In SC, only people with legal status can enroll in state funded colleges. Private colleges make their own rules for enrollment. Students without legal status should research which private colleges might be a good option.

Persons with Deferred Action for Childhood Arrivals (DACA) have legal status. They can enroll in state funded colleges. They can also attend private colleges. See page 5 for more on DACA.

US born children of immigrant parents can enroll in both state funded colleges and private colleges.

To learn about college enrollment in other states, especially as they relate to undocumented youth and DACA recipients go here.

<https://www.nilc.org/issues/education/basic-facts-instate/>
<http://unitedwedream.org/about/projects/education-deep/>

Tuition and in-state residency

Tuition laws can be a little tricky. For in-state tuition, colleges look at the residency of the parent when the youth is a dependent. Residency of the parent in SC is based on what SC law says about the parent's permanent home. Is it in the US? Is it in a foreign country? In SC, the law says only people with certain types of legal status are considered South Carolina residents.

A dependent youth is someone financially bound to his or her parents. They may still live with their parents and/or rely on their parents to pay their bills. Parents can usually claim dependent children on their taxes.

Independent students can support themselves. They may work and can show they pay all their bills. Parents do not claim them on their taxes.

DACA recipients, no matter if they are dependent or independent, are charged out of state tuition at all state funded universities, this includes technical colleges.

Dependent US born youth, even the ones born and raised in SC, will often initially be classified as out of state residents. In October of 2015, the Commission for Higher Education (CHE) issued guidance for colleges on this matter. The guidance clarifies that if that further investigation must be done to determine the residency of the youth. The colleges must look at what documents the parents and youth

have to show they are residents of the state. That guidance is on the CHE's website and here. <https://www.che.sc.gov/Students,FamiliesMilitary/LearningAboutCollege/SCInstitutionsDegreePrograms/Residency.aspx>

Private colleges usually have one rate for everyone, with the exception of international students on visas, who often pay a different rate.

For information on how to become independent in SC go to the SC Commission on Higher Education's website at <http://www.che.sc.gov/Home.aspx>.

For residency (tuition) laws in other states, as they relate to undocumented youth and DACA recipients go here.

<https://www.nilc.org/issues/education/basic-facts-instate/>
<http://unitedwedream.org/about/projects/education-deep/>

FAFSA

Almost all colleges require students to fill out a FAFSA form. FAFSA stands for "Free Application for Federal Student Aid." Students, depending on their circumstances, may qualify for loans or Pell grants and other free aid.

Not everyone can fill out the FAFSA, though. Federal law does not allow undocumented immigrants to fill out, or obtain aid through FAFSA.

The United States Department of Education's (DOE) website states DACA recipients can fill out the FAFSA, but will not receive federal aid. The DOE states DACA recipients must mark on the FAFSA they are not a US citizen and they are not an "eligible alien." Eligible alien is a category FAFSA uses to determine who gets help for college.

The DOE recommends DACA recipients fill out the FAFSA, so they can show colleges they will not receive Federal aid. The hope is that colleges will provide aid for eligible students, but colleges are not required to do so. DACA youth are not required to fill out a FAFSA form. They can let the college know their situation and talk to the financial aid office at the school.

DACA youth need to be aware that they cannot receive merit based scholarships and cannot obtain professional licenses under the purview of Labor Licensing and Regulation (LLR). Youth should look at the list of careers on LLR's site and determine if they may be able to practice in that field without a license or if they are willing to move to a state that will let them obtain a professional license. <http://www.llr.state.sc.us/>

US born children, including US born children of immigrant parents, can fill out the FAFSA and are eligible for financial aid. US born children of immigrant parents often run into problems when filling out the FAFSA. The FAFSA asks for the SSNs of the student and parents to help the government determine how much the family can contribute to college costs.

Youth of undocumented parents must enter all zeroes for their parents' SSNs and can prove their parents' income in other ways. They should not submit tax returns or W2s that show SSNs that do not belong to their parents. Students whose parents do not have SSNs, should meet with the financial aid office and bring proof of their parents' income to ensure they qualify for all the aid they are entitled to.

Some parents may pay taxes through an Individual Tax Identification Number (ITIN). An ITIN is a free tax number the IRS gives people who do not have SSNs to pay taxes with. Go to the link below for more information on the ITIN. [http://www.irs.gov/Individuals/Individual-Taxpayer-Identification-Number-\(ITIN\)](http://www.irs.gov/Individuals/Individual-Taxpayer-Identification-Number-(ITIN))

Students should contact someone at FAFSA about their situation, especially when they can show how much their parents earn a year. They can also try to include proof of parents' income in the FAFSA. By doing this, students increase their chances for receiving financial aid for college.

For more information about the FAFSA go here.

<https://fafsa.ed.gov/>

<https://studentaid.ed.gov/eligibility/non-us-citizens>

<https://studentaid.ed.gov/sites/default/files/financial-aid-and-undocumented-students.pdf>

Youth should never enter fake or fraudulent SSNs, even if their parents used these fake or fraudulent numbers to pay taxes. This will cause problems. Youth also need to know that sometimes parents "rent" out or sell the youth's valid SSN to others who use it for employment purposes. This can cause issues with the FAFSA and may credit income earned by someone else to the student. The reported income can make the child ineligible for financial aid. The student will also have problems in SC with E-Verify if their SSN was rented out. E-Verify is a federal database almost all employers in SC must use when hiring a new employee. The database tells the employer whether the person is allowed to work in the US. If someone else has been using the youth's SSN E-Verify may catch this. Students will have to correct the problem. For more on E-Verify go here. <http://www.uscis.gov/e-verify>

SC scholarships and grants

In SC, state funded grants and scholarships are for residents of SC. This includes merit-based scholarships earned by students. Undocumented youth and DACA recipients are ineligible, as SC tuition law does not count them as residents of SC. US born children of undocumented parents may also have problems, due to their parents not being residents under SC law. In October of 2015, the Commission for Higher Education (CHE) issued guidance for colleges on this matter. The guidance clarifies that if that further investigation must be done to determine the residency of the youth and parents and thus should help youth show they are entitled to scholarships for residents. That guidance is on the CHE's website and

here. <http://www.che.sc.gov/Students,FamiliesMilitary/PayingForCollege/FinancialAssistanceAvailable/ScholarshipGrantGuidelines,RegsLegislation.aspx>

Private grants and scholarships

Students and educators should make a list of private grants and scholarships available. For many of these, legal status will not matter. It may take a lot of looking, but for youth whose only options are private funding sources, it will be worth the time and effort.

To get started go here: <http://www.maldef.org/>. This is not the only group that lists private scholarships and grants, but is a good place to start.

Other options

Children who are not eligible for state funded scholarships and grants or federal aid may want to move to a state that has different laws than South Carolina. There may be a state where children who are not eligible for aid in SC can get funds for college.

To learn more about other states higher education laws go to these

links. <https://www.nilc.org/issues/education/basic-facts-instate/>

<http://unitedwedream.org/about/projects/education-deep/>

Do you Qualify for Deferred Action for Childhood Arrivals (DACA) of 2012?

What is DACA of 2012?

DACA is a temporary two -year legal status for certain immigrants. DACA does not lead to a green card or citizenship. However, there may be other legal options that allow DACA recipients to get a higher

legal status. Go here for more information. <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>

How do I qualify for DACA 2012?

You have to meet the following rules:

- You were brought to the United States before age 16;
- You do not have legal status;
- You lived in the US since at least June 15, 2007 and have not left the US and come back;
- You are currently in school, graduated from High School, have a GED or were honorably discharged from military;
- You have no felony record, significant misdemeanors or multiple minor misdemeanors;
- You were physically in the US on June 15, 2012 (the day the program was announced).

What are the benefits of DACA of 2012?

- Legal status that lasts for 2 years (then must be renewed);
- Protected from deportation for 2 years;
- Can obtain a work permit for 2 years, if granted when applying;
- Allowed to apply for and receive a SSN.
- In SC, can enroll in state funded colleges, but must pay the out of state tuition rate.
- In SC, can enroll in private colleges.

Unfortunately, DACA recipients cannot receive any help through the Free Application for Federal Student Aid (FAFSA). They do not qualify for any other federal grants or scholarships. DACA youth are not eligible for SC state based grants or scholarships. DACA recipients must rely on private grants and scholarships to pay for their higher education. They also do not qualify for professional licenses issued by SC Labor, Licensing and Regulation. Youth need to check LLR's website, at the link below, to see how this limits their career options. <http://www.llr.state.sc.us/>

Who can help me apply for DACA of 2012?

Only go to a qualified immigration attorney. You can find a list here: <http://www.aila.org/> Look for the "find a lawyer" link on the website.

You can also contact one of these low cost providers.

Digna Ochoa Center for Immigration Legal Assistance
Columbia
(803) 929-1940

Catholic Charities
Greenville
(864) 242-2233 Ext. 3

Catholic Charities
Hilton Head
(843) 531 -5532 Ext. 41

Catholic Charities
Mt. Pleasant
(843) 531 -5535

Do not use a notario, notario publico, immigration consultant or notary. They are not lawyers and do not have the required training and knowledge to make sure you qualify for DACA. Filling out an immigration

form with false information could result in deportation proceedings. This can happen if you use someone who does not understand immigration laws.

Is there anything else I should know?

Yes. Start gathering some or all of the documents listed below. They will help you prove you meet the rules for DACA.

SUPPORTING DOCUMENTS

Proof of Age and Identity

Copy of birth certificate, with English translation (there are companies that provide this service) AND a photo ID

Photo ID:

- Copy of your passport; talk to your consulate about obtaining your passport if you do not have one.
- Copy of your matrícula consular/cédula; talk to your consulate about obtaining this document if you do not have one.

The documents listed below will help you prove the following:

- coming to the US before age 16
- not having legal status as of 06/15/2012
- being in the US since at least 06/15/2007
- in the US on 06/15/2012
- in the US the day your application is filed

- Copy of medical records and proof of vaccinations;
- A letter from your doctor with the dates you received medical care;
- Bills in your name, like your cell phone, utilities, or water;
- Bank account records;
- Taxes that you filed or on which you are listed as a dependent;
- Letters from your jobs listing dates you worked there;
- Copies of leases, rent receipts, or mortgages;
- A list of all your addresses since moving to the US with the month/year you started and stopped living there.

- Receipts showing you bought things;
- Church records showing events such as baptism/first communion/wedding;
- Stamps in your passport or I-94 cards/visas showing you came in legally;
- Travel records, such as tickets showing your date of entry into the US;
- Money order receipts showing you sent money to your native country;
- Birth certificates of your children born in the US;
- Health, car, or life insurance policies in your name or listing you as a beneficiary;
- Postmarked letters with your name, address, and the date mailed;
- Car titles or vehicle registration documents in your name;
- Notarized affidavits from 2 or more people stating you were in the US during the last five years. Immigration limits the number of affidavits you can submit. See their website for more information.
<http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process>

PROOF OF SCHOOL OR MILITARY REQUIREMENTS

- High school or college diploma;
- School transcripts, report cards, and awards or certificates received in school;
- Your GED certificate;

- Military records showing you were honorably discharged from the Coast Guard or US Armed Forces;
- o Report of military separation forms
- o Military personnel records
- o Military health records.

Visit United States Citizenship and Immigration Services (USCIS) website for more information. All the required forms to apply are there, as well as frequently asked questions. USCIS is the US government agency that approves people for DACA.

<http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process>

This is not all of the information that you need to know about DACA of 2012. Speak to an attorney.

If you do not have a lawyer, the South Carolina Bar Lawyer Referral Service can give you the name of a lawyer who is willing to meet with you and advise you at a lower rate. For the name of a lawyer in your area; call the Lawyer Referral Service (800) 868-2284 statewide or (803) 799-7100 in Columbia.

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To find out more about SCALJC, go to www.scjustice.org on the Internet. This brochure and others can also be found online by going to www.scjustice.org and clicking on 'Brochures.'

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