

## **2019 Guidance for Residency Programs on Considering Applicants with Deferred Action for Childhood Arrivals**

This brief communication provides updated guidance to residency programs on considering applicants with Deferred Action for Childhood Arrivals (DACA). In 2015, we authored a guide that provides comprehensive information on this topic and was subsequently [published](#) in *Academic Medicine* in 2017.<sup>1</sup> This update provides supplemental information given changes since 2017 in the legal and political landscape.

This information is intended for decision makers and leaders who influence residency programs at their institutions. Our goal is to encourage fair consideration of U.S. medical students with DACA who are applying to residency programs. This guide was compiled in good faith and reflects our best efforts to be accurate. This is not legal advice. Please take appropriate steps and consult with your institution's legal resources to ensure compliance with your state, municipal, and institutional policies.

This guide encourages residency programs to consider applicants with DACA for residency slots as they would consider any other applicant. Upon review of applications, you are sure to find that these students have a breadth of life experiences, cultural competence, linguistic expertise, and unique perspectives. Often, individuals with DACA know how to navigate systems in underserved communities that can be an asset to a cohort of trainees. Without question, each individual has overcome significant obstacles as they pursued higher education and a medical degree. They are resilient and persistent in their educational attainment despite substantial odds.

Sincerely,

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## Summary of 2016 Guidance:

We encourage you to review our [article](#) in Academic Medicine that provides detailed information on considering applicants with DACA for residency positions.<sup>2</sup> A brief summary:

- In general, DACA recipients should not be treated differently from other candidates with work authorization. DACA recipients with valid Employment Authorization have the necessary documentation and information for the Form I-9 Employment Eligibility Verification. Unlike H-1B or J-1 visa holders, DACA recipients do not generate additional immigration related costs for their residency programs.
- Provisions in the Civil Rights Act and the Immigration Reform and Control Act prohibit employers from discriminating based on national origin or, in some cases, citizenship status.
- Trainees with DACA are eligible to rotate through Veterans Affairs facilities.
- Various states have adopted policies and regulations allowing trainees with DACA who meet all professional requirements to receive a medical license.
- The cost of medical school is a significant barrier to pursuing a medical education and a sustainable solution to financing medical school for undocumented students is necessary.

## 2019 Updates:

### 1. What is happening with DACA?

Deferred Action for Childhood Arrivals (DACA) is a federal, executive branch initiative announced by former President Obama in June 2012 for certain undocumented individuals who came to the U.S. as children. DACA has afforded many individuals new opportunities by providing access to work authorization, a social security number, and reprieve from deportation. Participants of the program must renew their DACA every two years so long as the program remains in existence.

On September 5, 2017, the Trump Administration announced that it would terminate DACA by halting the review of initial applications and a wind-down process for existing DACA recipients. The current administration argues that DACA is an unlawful immigration policy signed by President Obama, who did not have authority to create the program. Soon after the 2017 announcement, multiple lawsuits were filed across the country that challenged the Trump administration's actions to terminate DACA. Due to a ruling on one of these lawsuits issued by a U.S. district court in California, [U.S. Citizenship and Immigration Services \(USCIS\)](#) began once again to accept applications for DACA renewal in January 2018.<sup>3</sup> At present, three U.S. court orders remain in effect that allow DACA recipients to submit renewals. However, first-time applicants for DACA are not being considered.

On June 28, 2019 the Supreme Court of the United States decided to hear the Government's appeal of the three prior decisions on DACA (Regents of the University of California, Batalla Vidal, and

NAACP).<sup>4</sup> Oral argument will take place on November 12, 2019, and a final decision is expected by June 2020. Even though the Supreme Court has not yet made a decision on DACA, the program continues to be in effect and current participants are encouraged to renew. See [here](#) for more information on DACA renewals.<sup>5</sup>

## 2. How do these announcements impact current DACA medical students and residents?

Our guidance from 2016 is still applicable today. At least 25 individuals with DACA have successfully matched into residency and fellowship positions through the National Resident Match Program and several have already completed their residency training.<sup>6</sup> Individuals with DACA continue to have access to all the benefits the program confers (access to a social security number, employment authorization document, and lawful presence in the U.S) which allows them to continue participating in residency and fellowship positions. Thus, we strongly recommend that residency programs continue to consider applicants with DACA as they would any other applicant and help educate their staff and other stakeholders that there are currently no changes to the program.

While the Supreme Court is expected to make a decision about DACA, it is difficult to predict what the Court will decide and what the implications will be for the program. However, this uncertainty should not discourage programs from continuing to support their current and prospective DACA residents. Individuals have worked hard for many years and have overcome significant challenges to reach this point in their educational journeys. They deserve the chance to continue their training. Furthermore, regardless of the outcome of DACA, a DACA recipient may have the opportunity to change his or her immigration status already or in the near future. According to a national study by Professor Tom Wong at the University of California, San Diego, an estimated 14.3 percent of DACA-eligible youth surveyed were eligible for another form of immigration relief, including eligibility for U nonimmigrant status for survivors of certain crimes or eligibility for lawful permanent residence through a family-based visa petition.<sup>7</sup> Over a dozen medical students with DACA have adjusted their immigration status while in medical school in the past five years (most commonly through marriage to a U.S. citizen).

In addition, advocates continue to lobby for the Dream Act, a proposed federal legislation that would grant a pathway to citizenship for DACA recipients and other undocumented youth. An overwhelming majority of Americans support protecting and legalizing undocumented youth.<sup>8</sup> The Dream Act or other immigration legislation could permanently protect these youth in the future.

## 3. What advocacy is the medical community doing to support students and trainees with DACA?

The medical community has been actively supporting undocumented students with DACA. The Association of American Medical Colleges (AAMC) is leading an amicus brief, in collaboration with other health professions groups, in support of the DACA litigation that will be heard in the Supreme

Court on November 12, 2019. This document will help highlight the positive impact that DACA has had on undocumented students who wish to become medical professionals, the communities they serve, and the medical community overall. Furthermore, the AAMC led a [health professions letter](#), signed by 70 organizations, that was sent to Senate leadership on July 9, 2019, to urge for passage of legislation that would provide a pathway to citizenship for undocumented young people and those approved for DACA.<sup>9</sup> Individual institutions are also engaging in direct advocacy to support these deserving individuals.

4. What will happen if DACA recipients cannot continue their education and training?

Losing DACA will have profound impacts on the estimated 660,880 recipients.<sup>10</sup> Of these individuals, there are 190 medical students and residents in the U.S.<sup>11</sup> A majority of these students are bilingual, come from underrepresented backgrounds, and desire to train in underserved areas.<sup>12</sup> If these individuals are unable to continue their training, the medical community and areas in need of physicians like them will lose this talented workforce that is well-equipped to address the needs of underserved and growing immigrant communities. We are certain these individuals will continue to fight for their right to an education as they have each time they encounter legal or policy challenges.

There is also a growing community of undocumented young people without DACA. Individuals may be ineligible for the program for various reasons (a common issue is entering the U.S. after the age of 16); they may not be able to afford the high cost of DACA renewals (\$495 dollars for each renewal); or they cannot file first-time applications since USCIS stopped accepting initial applications as of October 6, 2017. We encourage leaders at institutions to be inclusive of this community as well, whenever possible, to help create lasting solutions for all immigrants regardless of their legal status.

5. Do you work with an undocumented medical student without DACA?

If so, please connect with us as we are exploring opportunities for these individuals to continue their training. You can email Dr. Sunny Nakae at: [Sunny.Nakae@medsch.ucr.edu](mailto:Sunny.Nakae@medsch.ucr.edu)

**Additional Resources:**

Dr. Sunny Nakae of the University of California, Riverside will gladly try to answer logistical questions. You can email her at: [Sunny.Nakae@medsch.ucr.edu](mailto:Sunny.Nakae@medsch.ucr.edu)

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This document was prepared by:



## PRE-HEALTH DREAMERS

Pre-Health Dreamers is a network of over 800 undocumented students and allies across 42 states. PHD investigates and shares information on career related pathways for pre-health undocumented students and advocates for more progressive institutional and governmental policies for undocumented students. More information at: [www.phdreamers.org](http://www.phdreamers.org).

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