



Immigration Issues for Students and Schools

ACSSW Mental Health in Schools Institute

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U.S. CITIZENSHIP

- **Birth:** in U.S. or U.S. Territory like Puerto Rico
- **Acquired:** born abroad to a parent who is a U.S. citizen
- **Derived:** parent naturalizes while child is unmarried and under 18 YOA
- **Naturalization**

SAMPLE NATZ CERTIFICATE

THE UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY

No. 00000000

U.S. Registration No. A - 12 345 647

Personal description of holder as of date of naturalization:

Date of birth: DECEMBER 1, 2006

Sex: MALE

Height: 6 feet 6 inches

Marital status: MARRIED

Country of former nationality: UTOPIA

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

SPECIMEN
(Complete and true copy of holder)

It is known that, pursuant to an application filed with the Secretary of Homeland Security

at: WASHINGTON, DC

The Secretary having found that:

JOHN DOE SPECIMEN

then residing in the United States, intends to reside in the United States when so required by the Naturalization Laws of the United States, and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by the

U.S. DISTRICT COURT

at: MCLEAN, VIRGINIA on: FEBRUARY 30, 2006

that such person is admitted as a citizen of the United States of America.

PHOTO OF BEARER

IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE, WITHOUT LAWFUL AUTHORITY.

Department of Homeland Security

IMMIGRATION STATUS

- Undocumented
- Refugee or asylee
- Temporary Protected Status (TPS)
- Non-immigrant visa
- Deferred Action
- Lawful Permanent Resident (LPR)

UNDOCUMENTED

- Entered the U.S. without being inspected and admitted
- Entered the U.S. with inspection, such as a visa, but overstayed the allotted time

REFUGEES AND ASYLEES

- **Suffered past persecution or fear persecution on account of race, religion, nationality, political opinion, or membership in a particular social group**
- **Refugees are designated abroad and resettled in the U.S.**
- **Asylees come to the U.S. first and then apply for asylum**
- **Both can become LPRs after one year**

TEMPORARY PROTECTED STATUS

- Certain countries designated due to natural disaster, civil war, etc.
- Does not lead to permanent status
- Periods of protection can be extended by the government or designation can simply end
- Recipients get work authorization
- Disqualified for one felony or two or more misdemeanors

NON-IMMIGRANT VISAS

- Temporary and the amount of time depends on the type of visa
- Common types include student, tourist, work
- Some can lead to LPR (e.g., H1B, U) but most do not

DEFERRED ACTION

- Exercise of prosecutorial discretion that allows the recipient to remain in the U.S. temporarily with work authorization
- Does not lead to LPR or citizenship
- Can be revoked at any time

DACA

- **Deferred Action for Childhood Arrivals (DACA) Eligibility:**
 - **Arrived in the U.S. under 16 YOA**
 - **Continuous residence from 6/15/07 to present**
 - **Physical presence on 06/15/12**
 - **School or military requirement**
 - **No significant criminal record**
 - **Not older than 30 YOA as of 06/15/12 and currently at least 15 YOA**

DACA BENEFITS

- Protection from deportation for 2 year periods
- Employment authorization
- Social Security number
- Driver's license or state ID

DACA – WHAT HAPPENS NOW?

- The DACA program was rescinded but is subject to federal court orders
- No new first time applicants
- No requests for advance parole (travel)
- Those who have DACA can renew
- Pending litigation will likely determine the future of DACA

DREAM ACT

- Has bi-partisan support but hasn't gotten a vote
- Includes lawful permanent residence and a path to citizenship
- Other similar bills have been introduced
- Unclear whether there will be a "clean bill" or include amendments like increased border security or wall funding

LAWFUL PERMANENT RESIDENT

- Commonly known as “green card”
- Allows a foreign national to live and work in the U.S. indefinitely
- Can apply for U.S. citizenship after five years, or after three years if married to a U.S. citizen

OLDER VERSIONS



HOW DO YOU GET A GREEN CARD?

- Employment-based
- Refugee or asylum
- Self-petitions (VAWA, SIJS)
- Diversity lottery
- Family-based petitions = most common

GOVERNMENT AGENCIES INVOLVED

- **Department of Homeland Security**
 - **Citizenship and Immigration Services**
 - **Immigration and Customs Enforcement**
 - **Customs and Border Protection**
- **Department of Justice**
 - **Executive Office for Immigration Review (Immigration Court)**
- **Department of State**
- **Department of Labor**
- **Department of Health and Human Services**

FAMILY SEPARATION



THE MYTH OF THE “ANCHOR BABY”



STUDENTS AND SCHOOLS DACA/DREAM ACT TIPS

- **Current and former students may need school records, transcripts or letters to include with their applications**
- **DACA recipients are not eligible for federal financial aid (FAFSA) but may be able to get private scholarships and loans**

STUDENTS AND SCHOOLS SPECIAL IMMIGRANT JUVENILES

- **If an undocumented child has been abandoned, neglected, or abused by one or both parents**
- **Need to get a court order (CHIPS petition) making certain findings**
- **Can contact an immigration lawyer or the State Public Defender for assistance**
- **Child can obtain lawful permanent residence**

STUDENTS AND SCHOOLS PROTECTION FOR VICTIMS

- **A child who is battered or subjected to extreme cruelty by a USC or LPR parent can apply for VAWA**
- **Victims of certain crimes (regardless of status of the perpetrator) who cooperate with law enforcement can apply for a U visa**

STUDENTS AND SCHOOLS PRACTICAL ISSUES

- If parents are undocumented, make sure to have additional emergency contacts
- Parents may want to execute a Power of Attorney for Parental Power in case they are ever detained or deported

RIGHTS OF IMMIGRANTS

- **The Constitution applies regardless of immigration status**
- **Due process - access to courts (family, civil litigation, deportation proceedings, etc.)**
- **Right to counsel**
- **Own property**
- **Education (Plyler v. Doe decision)**

RESOURCES

- Murrar, Oulahan, Rivas & Hochstatter, LLC Facebook Page
- U.S. Citizenship and Immigration Services www.uscis.gov
- Pew Hispanic Center www.pewhispanic.org
- Immigrant Legal Resource Center www.ilrc.org
- League of United Latin American Citizens www.lulac.org
- American Immigration Lawyers Association www.aila.org
- United We Dream <https://unitedwedream.org>