

DACA and In-State Tuition in Virginia: Frequently Asked Questions

On April 29, 2014, Virginia Attorney General Mark Herring announced that Virginia law does not prohibit students with Deferred Action for Childhood Arrivals (DACA) from applying for in-state tuition at Virginia public colleges and universities. Now, students who have had DACA for one full year may apply for in-state tuition in Virginia. (Document updated 5/14/2014)

Q: Who benefits from this announcement?

A: Any student **who has had DACA for a full year as of the start of a semester or term**, and who meets all of the other factors for Virginia domicile.

Q: Why do I have to wait a full year? What if I hit the one-year mark halfway through the term?

A: Virginia requires a student to be domiciled for one full year before the start of classes in order to receive in-state tuition. Each school has its own in-state tuition application deadline. You must file an in-state tuition application with your school before the deadline.

Q: How can I tell when my DACA was granted?

A: Review your DACA approval letter (I-797C Notice of Action, approval notice for I-821D form, under "Notice Date," near the top left corner) to determine the date that your DACA was granted. *This may be a few days earlier than the date your work permit was approved.*

Q: I have DACA. Will my tuition status automatically be upgraded to in-state?

A: No. You must apply directly to your school for in-state tuition. Apply as soon as possible – in other words, one year after the date of approval of your DACA. If you have already had DACA for over a year, apply today! Keep a photocopy or printout of your application.

Q: How do I apply for in-state tuition at my school?

A: Each school has its own application form for in-state tuition. Go to your school's registrar's office or website to obtain the form. NOTE: Many schools have an online application; if the online form does not list "DACA" as an option, use a paper form to apply for in-state tuition.

Q: What are the "other factors for Virginia domicile" that I have to show? What evidence do I need to provide along with my application for in-state tuition?

A: You must show that for one year prior to the start of classes, you have lived in Virginia and intended to remain in Virginia indefinitely. Make sure to provide the following evidence:

- Proof of DACA status: A copy of your DACA approval letter (I-797C Notice of Action) is better evidence than a copy of your work permit.
- Proof of Virginia domicile, including as many of the following as you have: your Virginia high school transcript; copy of your Virginia drivers' license and Virginia car registration; copy of lease, utility bills, cell phone bills, paystubs, bank account statements, etc., with your name and Virginia address; Virginia state tax returns; etc.
- Make sure to include documents going back to the date you were first approved for DACA, and continuing on through the present date.
- If you are married, provide a copy of your marriage certificate.
- **A brief (one-page) personal statement, detailing your ties to Virginia and describing your plans to remain in Virginia after graduation. Sign the personal statement by hand, but it need not be notarized.**

Q: My parents don't have any legal status (are undocumented). Will this prevent me from obtaining in-state tuition in Virginia, even if I have DACA?

A: Most students with DACA have undocumented parents. This makes matters more complicated from a legal point of view, because of what is known as the "rebuttable presumption of domicile." You must provide evidence that you have Virginia domicile, even though your parents, due to their legal status, cannot. If you are under 24 and unmarried, make sure to do the following:

- Answer all questions on the form honestly, including questions about your parents' legal status. Schools will not report your parents to ICE or to law enforcement. These questions are only to determine whether you are a dependent of your parents.
- If you are even partly financially independent from your parents (for example, if you earn your own money through work), provide evidence of this (paystubs).
- Make sure to include a personal statement describing your intention to remain living and working in Virginia after graduation.

Q: Who can help me if I do all of the above correctly, but my school denies me in-state tuition anyway?

A: There may be resources available at your school to help you with this process. You may also call Legal Aid Justice Center at (703) 778-3450 (Northern Virginia), (804) 643-1086 (Richmond), or (434) 977-0553 (Charlottesville). Make sure to call as soon as possible, because the deadlines for filing an appeal are often very short.

Q: Will I get a refund for all of the semesters I paid out-of-state tuition?

A: In most cases, no. However, if you already had DACA for one year prior to the start of the Spring 2014 semester, and if you paid out-of-state tuition during that semester, please contact Legal Aid Justice Center to discuss your options.

Q: What if I lose my DACA status?

A: If you lose your DACA status, you will also lose your eligibility for in-state tuition. Make sure to file for DACA renewal as soon as you possibly can: four months before your DACA expires. Take copies of your renewal receipt and DACA renewal approval to your registrar's office when you receive them.

Q: If I have another immigration status or visa, can I change to DACA in order to qualify for in-state tuition? What other immigration statuses can qualify for in-state tuition in Virginia?

A: Generally, an individual with another immigration status cannot change to DACA. However, lots of other immigration statuses *already* qualify for in-state tuition in Virginia, including lawful permanent resident (green card); temporary protected status (TPS); A, E, G, H-1B and H-4, K, L, P, R, T and U visas; asylum or refugee status; or withholding of removal/CAT. Also, if you have filed an application for adjustment of status (I-485), you can qualify, even if the I-485 has not yet been granted. You must have had their legal status for one full year prior to the start of the semester, to qualify for in-state tuition. Visit <http://www.schev.edu/students/vadomicileguidelines.asp> for more information.

Q: I might be eligible for DACA, but I haven't applied yet. Is there still time? Who can help me apply?

A: There is still time to apply for DACA if you qualify, but you should apply as soon as possible. In Northern Virginia, call Just Neighbors at (703) 979-1240. Private immigration attorneys may also be willing to help. Students who are in middle or high school should apply for DACA as soon as they become eligible, which in some cases may be when they turn 15 years old.

This document is intended to provide general legal information and is not a substitute for legal advice. Each case is different, and you should consult a qualified immigration attorney if you have questions about your own DACA status. Notario publicos are not attorneys and are not qualified to give you legal advice.