

# Beyond DACA: Exploring Other Types of Immigration Relief

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# Education and Outreach



**UNIVERSITY  
OF  
CALIFORNIA**

Immigrant  
Legal Services  
Center



**CSU**

**The California  
State University**



## Immigrant Legal Services Center

- The University of California Immigrant Legal Services Center serves the immigration-related legal needs of undocumented and immigrant students and their immediate family members, and immediate family members of US citizen students.
- Headquartered at UC Davis School of Law, the center serves 9 of the 10 UC Campuses: UC Davis, UC Irvine, UCLA, UC Merced, UC San Francisco, UC Santa Cruz, UC Santa Barbara, UC San Diego, and UC Riverside (UC Berkeley has its own program through EBCLC).

# Disclaimers

- This presentation is meant to be informational only and does not constitute specific legal advice.
- The specific process and limitations in an individual case may be different.
- For case-specific legal advice, please consult with a qualified attorney.
- Please understand that the content provided is meant to be an overview—we're trying to cover a lot in a short amount of time.

# Agenda

- Quick DACA Update
- Getting a Legal Consultation
- Other Types of Legal Immigration Relief (Immigration 101)
- Barriers to Immigration Relief (Inadmissibility & Deportability)  
& Waivers to Inadmissibility
- Q & A

# Quick DACA Update



# DACA Update

- Former AG Sessions announced the termination of DACA on September 5, 2017.
- In January 2018, a federal judge in San Francisco ordered USCIS to resume accepting DACA renewals, and in February 2018, a federal judge in New York ordered the US government to temporarily continue accepting DACA renewal applications.
- Anyone who has DACA now or had DACA in the past may be eligible to renew.
- New applications are not being accepted, and advance parole is not available.

# DACA Update

- The Supreme Court has not announced whether it will hear arguments on the issue of DACA. If it does decide to take up DACA, it is unlikely to render any decision until January 2020 at the earliest.
- Due to the uncertainty of DACA's future, consider renewing right away if your DACA expires between now and early 2020.



# DACA Update

Filing fee support

- United We Dream

<https://unitedwedream.org/category/daca-renewal-fund>

- Ready California

<https://ready-california.org/print-resources/daca-renewal-resources>

- Mission Asset Fund

<https://missionassetfund.org/immigration-programs/>

# Getting a Legal Consultation



# Why get a legal consultation?

- DACA recipients, as well as those who did not qualify for DACA, may be eligible for another immigration benefit and not know it.
- Studies show that 15-25% of DACA applicants are found to be potentially eligible for other immigration relief.\*

\*Jeanne M. Atkinson & Tom K. Wong, *The Case for a National Legalization Program without Legislation or Executive Action: Results from Screening for Immigration Legal Options*, 2018 J. MIGR. & HUM. SEC. 1, 2.

# CSU Resources

- Status of Direct Legal Support Services on CSU Campuses  
<https://www2.calstate.edu/attend/student-services/resources-for-undocumented-students/pages/default.aspx>
- Free Legal Support Services  
<https://www2.calstate.edu/attend/student-services/resources-for-undocumented-students/Pages/legal-support-services.aspx>
- Other Lawyer Referral Services  
<https://www2.calstate.edu/attend/student-services/resources-for-undocumented-students/Pages/other-resources.aspx>

# Watch out for fraud!

- Get legal advice from a trustworthy source
  - Check the credentials of the attorney or accredited representative
    - <http://www.calbar.ca.gov/>
  - A legal service provider should:
    - Provide a contract and receipts for payments
    - Explain the process and answer questions
    - Follow the rules (ex: meet deadlines, comply with Court requirements, etc.)
- Notarios are not attorneys!
- To find a non-profit legal service provider in your area, visit the Immigration Advocates Network Directory:  
<https://www.immigrationadvocates.org/nonprofit/legaldirectory>

# Other Types of Legal Immigration Relief

Immigration 101



# Other Types of Immigration Benefits

- Family Based Petitions
- U Visa for Survivors of Crime
- VAWA for Survivors of Domestic Violence
- T Visa for Survivors of Trafficking
- Temporary Protected Status
- Special Immigrant Juvenile Status
- Employment Based Petitions
- Acquisition or Derivation of Citizenship
- Asylum
- Cancellation of Removal



# Family Based Petitions

- U.S. Citizens or Lawful Permanent Residents (“green-card holders”) may be able to submit petitions for certain types of relatives to become lawful immigrants in the U.S.
- The process depends on:
  - The status of the petitioner
  - The qualifying relationship
  - The applicant’s immigration history





# “Immediate Relatives”

IMMEDIATE RELATIVES	
Petitioner	Beneficiary
U.S. Citizen	Child (unmarried and <21)
U.S. Citizen > 21	Parents
U.S. Citizen	Spouse

“Immediate Relatives” of U.S. Citizens do not have to wait for their visa to become current to immigrate.

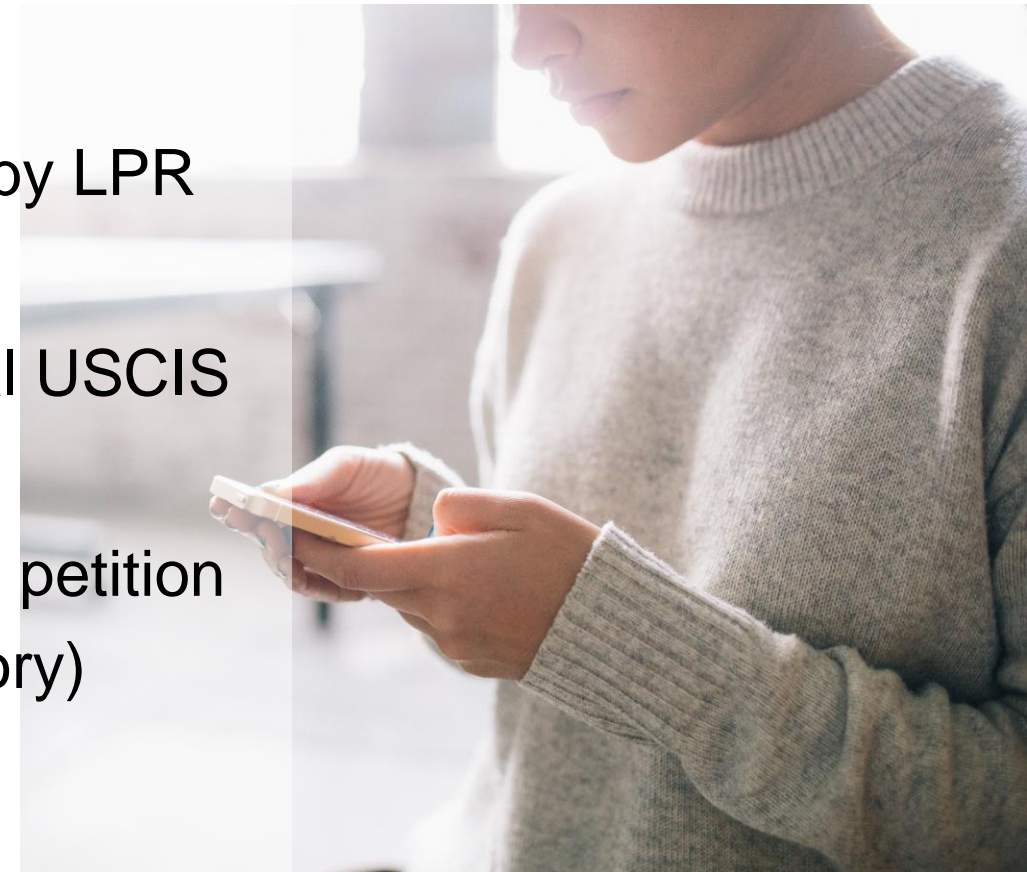
# Non-Immediate Relatives: “Family Sponsored Preference Categories”

NON-IMMEDIATE RELATIVES		
Preference Category	Petitioner	Beneficiary
First (F1)	U.S. Citizen	Unmarried Sons and Daughters (21+)
Second (F2A) (F2B)	Permanent Residents	Spouses and Children (unmarried and <21) Unmarried Sons and Daughters (21+)
Third (F3)	U.S. Citizen	Married Sons and Daughters
Fourth (F4)	Adult U.S. Citizen (21+)	Brothers and Sisters

“Family Sponsored Preference Categories” DO have to wait for their visa to become current to immigrate.

# Wait Times for Family Petitions

- Examples of Wait Times (Visa Bulletin, April 2019)
  - Unmarried 22 year old from Mexico with petition submitted by LPR Mother: almost 21 years (F2B Category)
  - Spouse of US Citizen, living in CA: 1yr+, depending on local USCIS office (IR-No Preference Category)
  - 25 year-old student from the Philippines on an F-1 visa with petition submitted by 21 year-old USC brother: 21 years (F4 Category)



# Eligibility Issues for Family Petitions

- Factors that may complicate a family petition
  - Unlawful entry/entries into the United States
  - Criminal history
  - Prior removal orders
  - Making a false claim to US citizenship
  - Immigration fraud
  - Public Charge

# U Visa for Survivors of Crime

- A person may be eligible for U nonimmigrant status (U visa) if:
  - The person is the victim of qualifying criminal activity;
    - For example: domestic violence, felony assault, rape, trafficking, false imprisonment, stalking, and many others.
  - The crime occurred in the U.S. or violated U.S. laws;
  - The person has suffered substantial physical or mental harm as a result;
  - The person has information about the criminal activity;
  - The person was helpful, is helpful, or is likely to be helpful to law enforcement in the investigation or prosecution of the crime;
  - The person is admissible to the U.S. (if non-admissible, waiver is available).
- Certain qualifying family members are eligible for derivative U visa.

# VAWA for Survivors of Domestic Violence

- The self-petitioner was subject to battery or extreme cruelty by a U.S. Citizen or Legal Permanent Resident (LPR) spouse or parent OR U.S. Citizen adult child. Acts include:
  - Threatening to beat or terrorize;
  - Hitting, punching, slapping, kicking, or hurting;
  - Emotional abuse;
  - Forcing the person to have sex when they do not want to;
  - Threatening deportation or informing immigration authorities;
  - Controlling where the person goes and who they see;
  - Forcibly detaining
  - Applies to men and women equally

# VAWA Requirements

- The self-petitioner lived with the abuser at the time of abuse
- The self-petitioner lives in the U.S. (minor exceptions)
- If self-petitioner is a spouse, they must prove it was a good-faith marriage
- The self-petitioner has Good Moral Character
- The abuser must be a USC or LPR



# T Visa for Survivors of Trafficking

- Victims of “severe forms of human trafficking” may be eligible for a T visa:
  - Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age, OR
  - The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.





# T Visa for Survivors of Trafficking

- To be eligible for T visa, a person must also meet the following requirements:
  - Must be physically present in the United States;
  - Has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, unless the person is under 18;
  - Would suffer extreme hardship involving unusual and severe harm if he or she were removed from the United States;
  - Has not themselves committed a severe form of trafficking in persons;
  - Is not inadmissible (waivers are available).
- Certain qualifying family members are eligible for derivative T visa.



# Temporary Protected Status (TPS)

- Foreign countries are designated for TPS when conditions in the country temporarily prevent the country's nationals from returning safely.
- Countries currently designated for TPS include:
  - El Salvador: Continued as long as preliminary injunction ordered by court remains in effect
  - Haiti: Continued as long as preliminary injunction ordered by court remains in effect
  - Honduras: Set to terminate on Jan. 5, 2020
  - Nepal: Set to terminate on June 24, 2019
  - Nicaragua: Continued as long as preliminary injunction ordered by court remains in effect
  - Somalia: Extended Through March 17, 2020
  - Sudan: Continued as long as preliminary injunction ordered by court remains in effect
  - South Sudan: Extended Through May 2, 2019
  - Syria: Designated Through: Sept. 30, 2019
  - Yemen: Extended Through: March 3, 2020

# Temporary Protected Status (TPS)

To be eligible for TPS, a person must:

- File during the open registration period, or meet the requirements for late filing;
- Have been continuously physically present in the U.S. since the effective date of the most recent designation date of your country;
- Have been continuously residing in the U.S. since the date specified for your country (exception to presence and residence for very brief departures).

# Temporary Protected Status (TPS)

- A person may not be eligible for TPS if they:
  - Have been convicted of crimes in the U.S.;
  - Are found inadmissible;
  - Are subject to mandatory bars to asylum (such as persecution of another);
  - Fail to re-register for TPS without good cause.

# Special Immigrant Juvenile Status (SIJS)

SIJS can provide a pathway to a green card for immigrant youth who have been abused, abandoned, or neglected by one or both of their parents. Eligibility requirements include:

- Must be under 21 years of age at the time the petition is filed, unmarried, and living in the U.S.
- Must have a valid juvenile court order issued by a state court in the U.S. which finds that:
  - You are dependent on the court, or in the custody of a state agency or department or an individual or entity appointed by the court;
  - You cannot be reunified with one or both of your parents because of ANY of the following:
    - Abuse,
    - Abandonment,
    - Neglect, or
    - A similar basis under state law;
  - AND it is not in your best interests to return to the country of nationality or last habitual residence of you or your parents

# Employment Visas

- Foreign nationals may seek lawful permanent residency through employment. Employment-based (EB) “preference immigrant” categories include:
  - First preference (EB-1) – priority workers
    - Extraordinary ability in the sciences, arts, education, business, or athletics;
    - Outstanding professors and researchers; or
    - Certain multinational managers and executives.
  - Second preference (EB-2) - professionals with advanced degrees or who have exceptional ability
  - Third preference (EB-3) – skilled workers, professionals, or other workers.



# Employment Visas



- Requirements for eligibility:
  - Must be admissible or eligible for a waiver to inadmissibility
  - Labor Certification: Some visa preference categories require a job offer from a U.S. employer (sponsor), who must obtain an approved labor certification from the U.S. Department of Labor (DOL). The DOL labor certification verifies the following:
    - There are insufficient available, qualified, and willing U.S. workers to fill the position being offered at the prevailing wage
    - Hiring a foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers

# Acquisition or Derivation of Citizenship

- Acquisition: Children can acquire citizenship at birth when they are born outside of the U.S. to a U.S. citizen parent or parents.
- Derivation: A child can automatically become a citizen on the basis of one parent's citizenship. The parent may be a citizen by birth or by naturalization.
- The ability to gain citizenship depends on the date of birth and what laws were in effect at that time (acquisition) or before the child turned 18 (derivation).



# Asylum

Asylum can be granted to people who have come to the United States seeking protection because they have suffered persecution, or fear that they will suffer persecution, due to:

- Race
- Religion
- Nationality
- Membership in a particular social group
- Political opinion



# Asylum

- Unable to relocate within country of origin or third country to avoid persecution.
- Must file Form I-589 Application within one year of arrival to the U.S. (there are exceptions).
- Applicant may include their spouse and children (unmarried and under 21) who are in the U.S.



# Cancellation of Removal (Non-LPR)

- If a person is foreign-born and has been living in the U.S. without legal status for a long time, and has been placed into removal (deportation) proceedings, the person may be eligible for “Non-LPR Cancellation of Removal” and a green card. This form of relief requires:
  - The person has been living (“continuously physically present”) in the U.S. for at least 10 years;
  - Being removed (deported) from the U.S. would cause “exceptional and extremely unusual hardship” to a qualifying relative/s, who is/are U.S. citizens or lawful permanent residents (LPRs);
  - Showing of “good moral character;” &
  - Have not been convicted of certain crimes or violated certain laws.
- Subject to visa cap: only 4,000 available per year.

# Barriers to Lawful Immigration Status

Inadmissibility/Deportability Issues



# Admissibility and Deportability

- There are 2 ways noncitizens can be barred from entering/re-entering the United States, adjusting their status, or maintaining their status:
  - They are “inadmissible” under the Inadmissibility Grounds
  - They are deportable under the Deportability Grounds
- If a bar applies AND no exception or waiver applies, then the noncitizen is barred from entry, denied benefit, and/or subject to removal.

# Deportability Grounds

- Inadmissibility at time of entry
- Criminal
- Failure to register / False documents
- Security related
- Public charge
- Unlawful Voting

# Inadmissibility Grounds

- Health
- Criminal
- National Security
- Public Charge
- Lack of Labor Certification
- Fraud or Misrepresentation
- Prior removals or unlawful presence
- Miscellaneous

# Who is subject to the grounds of inadmissibility?

- Noncitizens who entered without inspection (EWI)
  - EWI is the most common ground for finding someone inadmissible
- Noncitizens paroled into the U.S.
  - Even if allowed to enter, may still be subject to inadmissibility grounds
- Noncitizens arriving at border or port of entry
- Noncitizens applying for a visa or adjustment of status
- Noncitizens applying for certain types of benefits



# Waivers to Inadmissibility

- Provisional Waiver of Unlawful Presence (I-601A Waiver)
  - Waives 3/10 year bar where U.S. Citizen or Lawful Permanent Resident spouse, parent or stepparent would face extreme or unusual hardship.
- Waiver for alien smuggling
  - Waives “smuggling” into the U.S. where person smuggled was the spouse, parent, son, or daughter of inadmissible person.

# Waivers to Inadmissibility

- Waivers for humanitarian applications
  - U & T Visa –can waive most grounds of inadmissibility if it is in the “public or national interest”
  - SIJS –can waive most grounds of inadmissibility for humanitarian purposes, family unity, or when it is otherwise in the public interest
  - VAWA –waives unlawful entry if related to the abuse
- Waiver for fraud or misrepresentation (but NOT false claim to U.S. citizenship)

# Conclusion



# Explore alternative forms of status now!

- Your situation or the law might have changed since your last consultation—you may need an **immigration check-up!**
  - Keep an eye on the Dream and Promise Act of 2019!
- If eligible for another form of relief, you can begin the process while you still have DACA—processing times can be long!
- Even if you are currently ineligible for other forms of relief, you can begin collecting the types of documents that are required for many immigration applications:
  - Physical Presence in the US
  - Education
  - Work History
  - Community Involvement
  - Family Relationships
  - Save money for future filing fees and legal fees

# Contact Information

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  - Assistant Vice Chancellor & Chief Counsel - External Affairs, CSU Office of General Counsel

# CSU Resources

All CSU resources are posted on the Resources for Undocumented Students page on the CSU website: ([www.calstate.edu](http://www.calstate.edu)).



- DACA Update
- Admissions Process
- Financial Aid
- Campus Support
- Legal Support Services
- About AB 540/2000/SB 68 and the California Dream Act
- Communications and Guidance
- Other Resources

# Other CSU Resources

Resources for Undocumented Students:

- <https://www2.calstate.edu/attend/student-services/resources-for-undocumented-students/pages/default.aspx>
- [Free Legal Support Services](#)
- [Free DACA Legal Services and Filing Fee Assistance](#)
- [FAQs for CSU Employees about Federal Immigration Enforcement Actions on University Property](#)
- [CSU Campus Support](#)

# QUESTIONS?

