

DACA Background Information:

In a memo dated June 15, 2012, the Secretary of Homeland Security, Janet Napolitano, provided direction to U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement on how to exercise prosecutorial discretion in the enforcement of immigration laws against certain individuals brought to the United States as children. The Department of Homeland Security provided that individuals satisfying all of the following criteria are eligible to have removal from the United States deferred for two years:

Admission of Students with Deferred Action for Childhood Arrivals (“DACA”) Classification
August 1, 2013:

- 1) Individuals who came to the United States under the age of sixteen, were present in the United States on June 15, 2012, and are presently under the age of thirty;
- 2) Individuals who have continuously resided in the United States for at least five years prior to June 15, 2012;
- 3) Individuals who are currently in school, have graduated from high school, or is an honorably discharged veteran;
- 4) Individuals who have not been convicted of any serious criminal offense;
- 5) Individuals who do not pose a threat to national security or pose a threat to public safety

The North Carolina Community College System’s policy on the Admission of Students who are under the DACA Program is as follows:

- The State Board of Community Colleges Code (“State Board Code”) provides the general admissions policy that “Each college shall maintain an open-door admission policy to all applicants who are legal residents of the United States and who are either high school graduates or are at least 18 years of age.” 1D SBCCC 400.2(a). There is an exception to the general open-door policy that is applicable to undocumented immigrants. The State Board Code provides that “‘undocumented immigrant’ means any immigrant who is not lawfully present in the United States.” 1D SBCCC 400.2(b). The State Board Code then goes on to provide certain limitations on the admission of undocumented immigrants. See 1D SBCCC 400.2(b).
- Therefore, during the period of deferral, individuals who have been granted deferral under the DACA program do not meet the definition of an undocumented immigrant (as it’s defined in 1D SBCCC 400.2(b)) because deferral recipients are lawfully present in the United States during the period of deferral. Please note that it is not within the authority of community colleges to determine who is eligible to receive DACA classification. Student applicants are responsible for presenting documentation to establish that they have DACA classification.
- Admission of Students with Deferred Action for Childhood Arrivals (“DACA”) Classification is as follows:
- Since individuals with DACA classification are lawfully present during their period of deferral and do not fit the definition of an undocumented immigrant (per 1D SBCCC 400.2(b)), community colleges should treat an individual with DACA classification like any other student who is lawfully present in the United States with two exceptions:
 - 1) Neither federal law, nor North Carolina law permits individuals with DACA classification to receive professional licenses. See 8 U.S.C. § 1621(a) and (c)(1)(A). Because individuals with DACA classification cannot receive professional licenses, while community colleges are open door institutions, local community colleges have the discretion to determine whether to admit an individual with DACA classification into a specific program of study leading to professional licensure. More specifically, a local community college would be authorized to deny access to an individual with DACA classification into a specific program of study that leads to professional licensure. Conversely, a local community college would be authorized to allow access to an

individual with DACA classification into a specific program of study that leads to professional licensure.

2) Moreover, it is the current position of the State Residence Committee that individuals with DACA classification do not have the capacity to receive in-state tuition.