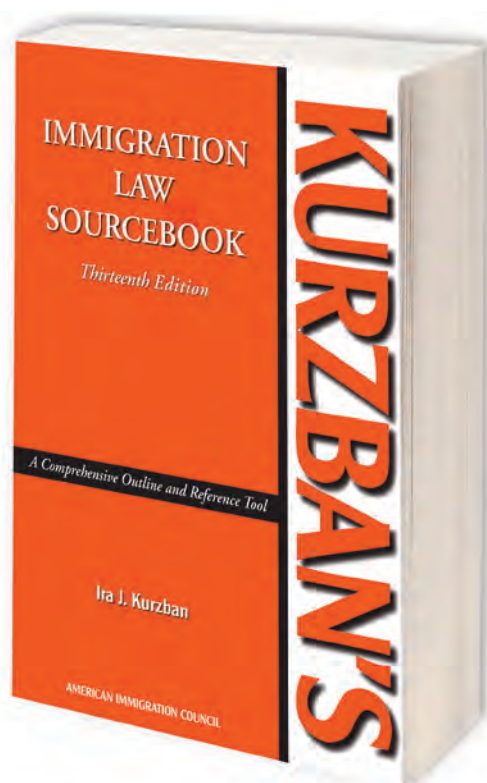
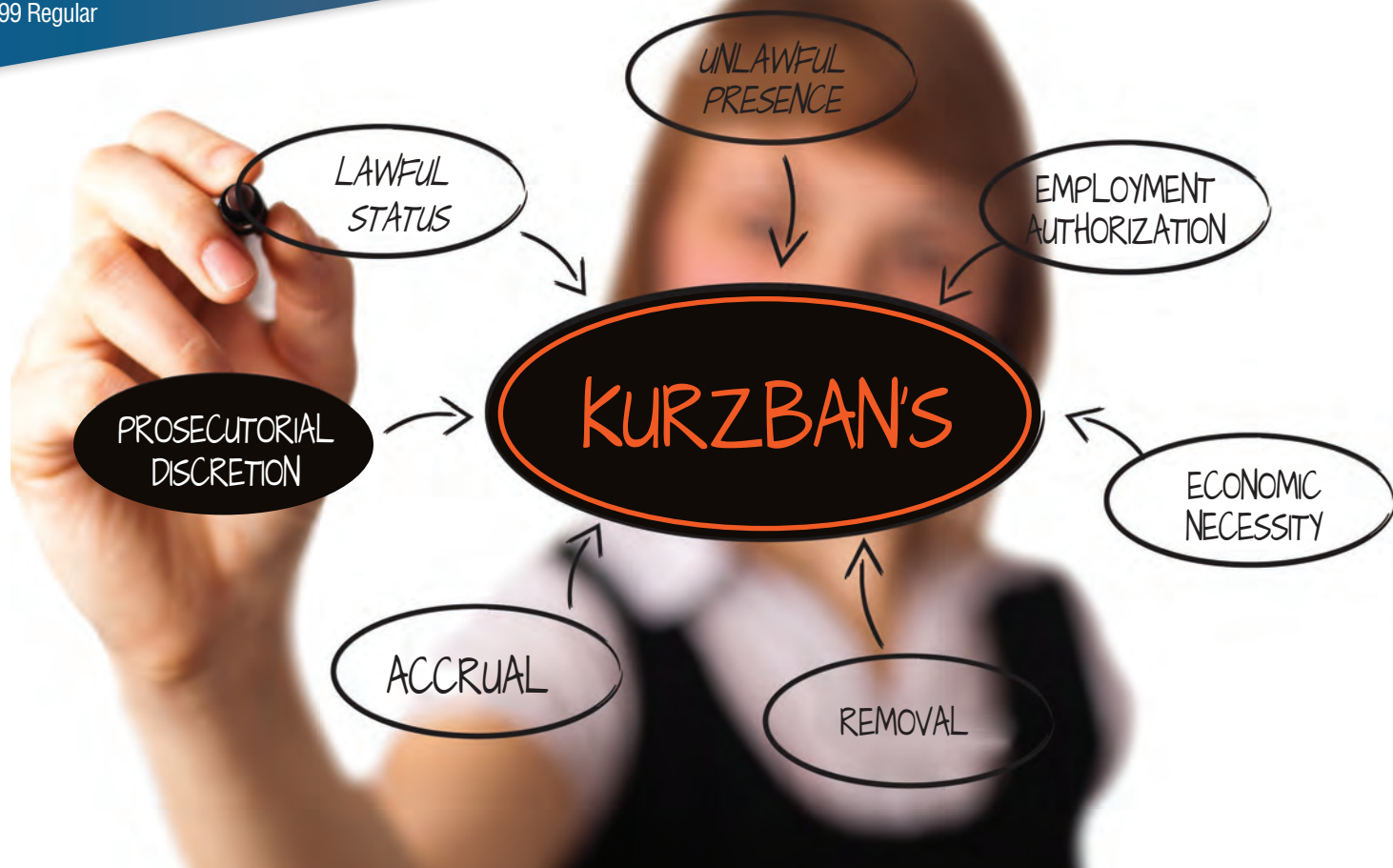


*Your Guide to*  
**Deferred  
Action for  
Childhood  
Arrivals**



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# DEFERRED ACTION HELP

AILA Member Outreach Associate  
Marc Povell shows how [ailalawyer.com](http://ailalawyer.com)  
can help DREAMers and immigration  
attorneys with DACA cases.



## VOICE

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# Professional Liability Insurance: Don't Get Caught Without It!

by Rolando Torrens, CIC, CRM

Even well-run law firms can face unwarranted litigation due to professional malpractice. It only takes one uncovered loss to devastate a law firm, especially for solo practitioners and law firms with only a few partners.

## Inadequate Coverage

According to the American Bar Association, attorneys in private practice have a 4% to 17% chance (depending on their jurisdiction and area of practice) of getting sued for malpractice each year. You may think you have the appropriate liability coverage to protect your practice, but many professional liability policies for lawyers cover a fairly narrow spectrum of risk exposures.

For instance, one AILA member recently was sued by a disgruntled client, and because his policy did not cover defensive disciplinary proceedings, the lawsuit cost his firm nearly \$30,000 out of pocket. This is but one example of the type of risks that law firms face without adequate liability protection.

## AILA's Got Your Back!

Fortunately, AILA members now have access to a superior level of professional liability protection through the AILA Lawyer's Professional Liability (LPL) Program. Offered exclusively through Wells Fargo Insurance in partnership with AILA, this program provides comprehensive and affordable insurance protection from one of the nation's leading carriers, Aix Specialty, a member of the Hanover Insurance Group. By providing broader coverage enhancements than typical professional liability policies for lawyers, the program reduces risk to your law firm while providing additional protection against malpractice lawsuits.

The AILA LPL program is available only to AILA members; however, you don't have to focus exclusively on immigration law to qualify. As long as the predominant part of your practice involves immigration law, you can offer other legal services and still qualify for the program, which covers all other areas of your practice.

## Get More, Pay Less

The AILA LPL program covers all law firm members who work on behalf of your firm, including independent contractor lawyers, non-lawyer employees, and predecessor firms. In addition, thanks to a very broad definition of professional services, the program provides maximum coverage in the event of a lawsuit. And unlike most professional liability policies, the policy covers defense of disciplinary proceedings up to \$50,000 with no deductible.

Wells Fargo Insurance, as the manager of the program, has extensive experience in the professional liability arena and can tailor the coverage to meet the unique needs of your law firm. Wells Fargo Insurance can also provide valuable risk management services to help you prevent and manage claims.

Thanks to its strong carrier relationships, Wells Fargo Insurance has negotiated exclusive rates for AILA members, so you get broader coverage at lower cost. And by participating in the program, you also help to support AILA. Both Wells Fargo Insurance and The Hanover Group are dedicated sponsors of the organization.

 **The AILA LPL program offers AILA members a cost-effective way to protect against professional liability claims. To learn more about this unique program go to [www.aila.org/getquoted](http://www.aila.org/getquoted).**

---

*Mr. Torrens is assistant vice president and AILA LPL program manager for Wells Fargo Insurance. He has more than 20 years' experience underwriting and placing property and casualty insurance contracts.*

CONFERENCE **AND WEBCAST**

# 2012 Fundamentals of Immigration Law Workshop

October 11–12, 2012

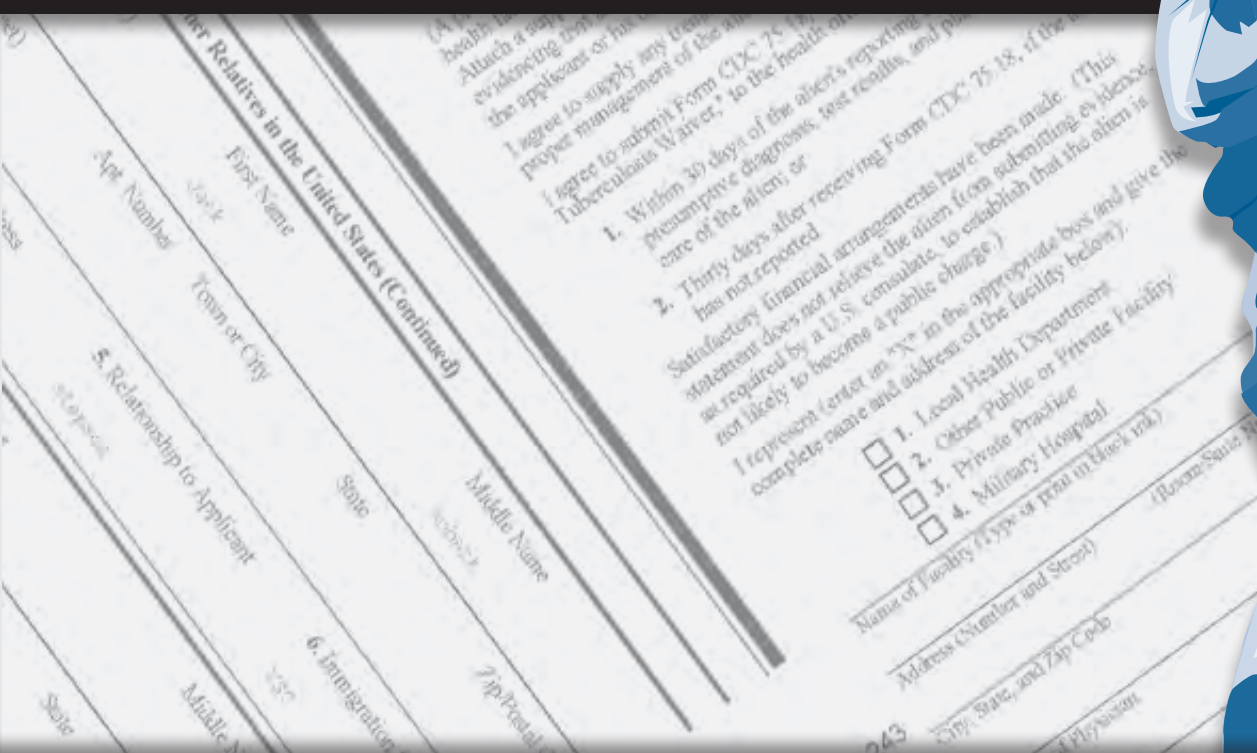
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2012 Conference Program No. 12091243 (October 09/12/12)





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## ABOUT THE COVER

**VOICE**’s cover and Inter Alia page feature photos of new graduates celebrating at the National Immigrant Youth Alliance’s 2012 DREAM Act Graduation on June 26 at Lutheran Church of the Reformation in Washington, D.C. **PHOTOS BY SUSAN TIMMONS**

## DACA FEATURES

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AILA is here to help immigration practitioners with the uptick in clients looking for help with their DACA applications.
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Tips from the Practice and Professionalism Center



“I’m really hoping and doing as much as possible to make sure that people who want to share their voice, can. That’s what I really hope: People show up, across the board. Youth, Latinos, women, elderly. Everyone shows up in spades. ...”

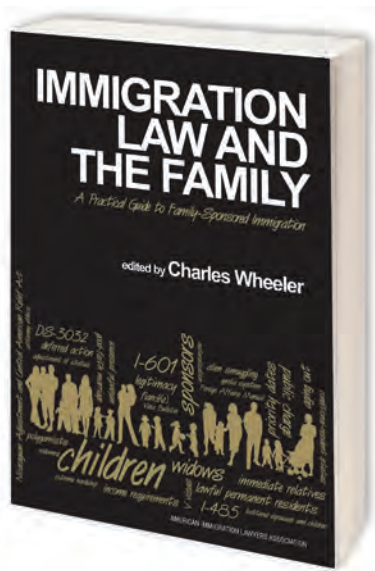
—**Rosario Dawson**, as told to E! while attending the Democratic National Convention

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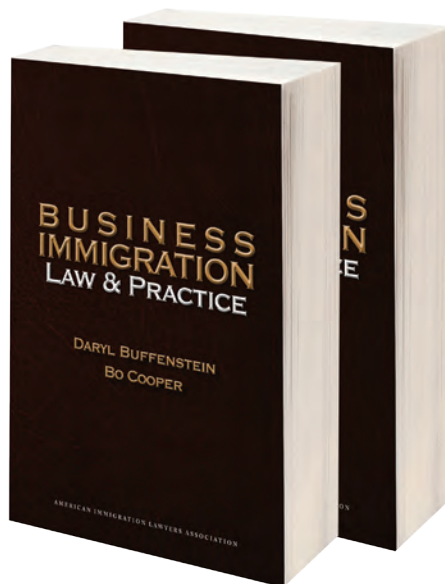
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Secure Communities, and  
Federal Class Actions](#)

SEPT 27 | WEB SEMINAR

[Pitfalls in Degree Equivalencies](#)

OCT 4 | AUDIO SEMINAR

[Third Party-Site Placement:  
Hs and Ls](#)

OCT 16 | WEB SEMINAR

[For What It's Worth: Advanced  
Issues Regarding the I-864](#)

OCT 30 | WEB SEMINAR

[Visa Alternatives in a  
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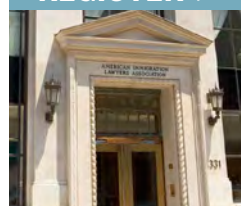
Late-Breaking Seminar  
on DACA (Recording)

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Fundamentals of  
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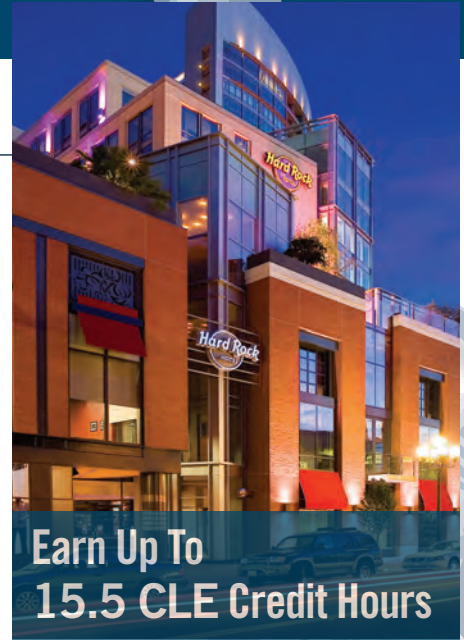
## 25th Annual AILA California Chapters Conference

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**San Diego, CA**

*Early Bird Registration Ends on October 22!*

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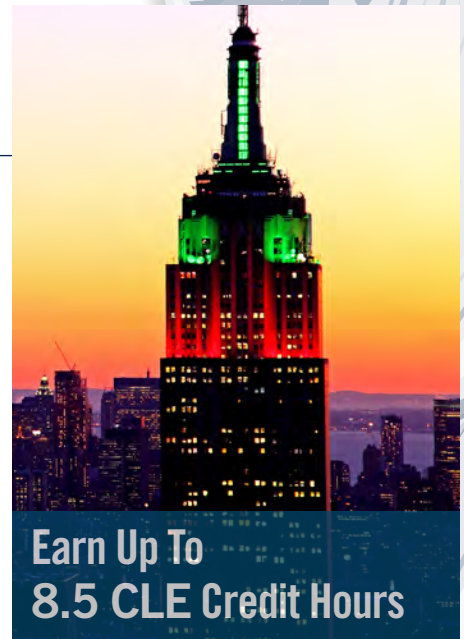
## 15th Annual New York Chapter Symposium

Step Right Up To The Immigration Circus.

**December 3, 2012**  
**New York, NY**

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**Updated:** Podcast on Deferred Action for Childhood Arrivals



Professional Business Plan to Avoid RFEs



Determining Unlawful Presence: 3-Year, 10-Year, and Permanent Bars

# [ NEWSLINK ]

HIGHLIGHTS FROM AROUND THE GLOBE

[ [Immigration Bills in Missouri and Kansas Stall](#) ]  
*Kansascity.com*

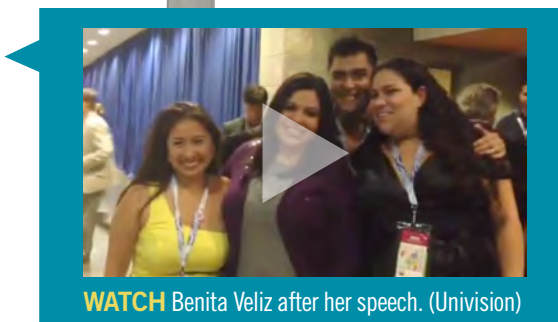
[ [Undocumented Immigrants Blocked from Abortion Services by Checkpoint](#) ]  
*pri.org*

[ [Illegal Immigrant Makes History, Addresses Democratic Convention](#) ]  
*Latimes.com*

[ [Undocumented Activists Arrested Outside DNC Released](#) ]  
*Univision News*



[ [Judge Rules for Students in Immigrant-Tuition Suit](#) ]  
*Seattlepi.com*



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# SPOTLIGHT

on Bridgette M. Bennett

## Member Offers Colleagues DACA Toolkit:

The New Members Division (NMD) list serve is what one might call active even on a slow day. And ever since DACA became effective on August 15, the word “active” doesn’t quite describe it. When members found themselves facing many DACA-related scenarios, they quickly turned to their NMD colleagues for guidance, discussion, and in some cases, commiseration. Amid the flurry of e-mails sprung the need for a more organized chaos. And with no further adieu, up pops an e-mail from Bridgette M. Bennett, offering her NMD colleagues five documents that she drafted for herself and her staff for use in DACA intake. What possessed her to commit such a selfless act? “As this group has been a blessing to me, I strive to also be a blessing to my colleagues,” said Bridgette. “I appreciate the spirit of generosity the NMD embodies!”

Bridgette offers up her self-made DACA toolkit for practitioners and paralegals, alike:

- ✓ **DREAMers Document Checklist:** “This is an updated version ... (the only area I STILL find very challenging is physical presence, particularly for kids that are still in high school and have absolutely NOTHING in their name. I have one girl who did nothing this summer and wasn’t even on FaceBook!)”
- ✓ **DREAMers Questionnaire:** “Using this questionnaire covers questions on the I-821D, I-765 and I-765WS (my paralegals love this!)”
- ✓ **DREAMers Statement of Understanding:** “This [topic] generated a lot of buzz ..., so I created this internal document that I personally go through with each DREAMer and have [the person] sign ...”
- ✓ **DREAMers Cover Letter:** “... life is easy because it follows the document checklist and the [seven] DHS criteria.”
- ✓ **DREAMers Paralegal Checklist:** “Paralegals don’t send this out unless all the boxes are checked.” ▼

## What Are People Saying About AILA8?

“Love it! Concise, attractive, pertinent topics, links to more info, short message!!! Great job. Really like it.”  
—*Carlina Tapia-Ruano*

“Easy to use, quick, concise, and, I think, terrific—thank you!!!!”  
—*Dagmar Butte*



“... I LOVE AILA8! It is by far the most useful e-mail I get!”  
—*Marty Rosenbluth*

“I love the new format! It’s the things I want in my news when I’m busy—accessible and relevant.”  
—*Emily Assunta White*

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Missed an issue or a link? [AILA8 is archived on InfoNet](#) for your convenience.

# ON THE SCENE



United We Dream Managing Director Cristina Jimenez welcomes the audience. △  
Ivan Rosales shares his plight with VOICE reporter Sheeba Raj. ▷

## United We Dream Educates DREAMers, Spreads Message of Hope, Caution

Ivan Rosales won a science competition in the seventh grade, but couldn't claim the prize—a savings bond—because he lacked a Social Security number. The irony of winning a contest, yet losing a prize, foreshadowed a less-than-robust life in Ivan's mind. As he grew older, Ivan, an aspiring doctor, also lost opportunities to intern at a hospital, travel with his class to Europe, and obtain a driver's license.

But thanks to an initiative announced by President Barack Obama, Ivan and others like him—young, undocumented immigrants who

arrived in the United States as children and meet certain other criteria—can apply for deferred action under the Deferred Action for Childhood Arrivals (DACA) initiative, which became effective August 15. These DREAMers, as they are called, can receive a two-year reprieve from deportation and a work permit (both subject to renewal), with an approved application.

Ivan and approximately 20 other DREAMers were on hand as [United We Dream](#)—a network of youth-led immigrant organizations around the country—launched its “Own

the DREAM” campaign during a press conference held at AILA's headquarters on August 7. Among the speakers were United We Dream Managing Director Cristina Jimenez, who said that the organization is striving to make the campaign the “gold standard for trusted information and assistance for DREAMERS.”

Don Lyster, Director of the National Immigration Law Center's Washington, D.C., office, also took the podium to describe to the audience what he called a three-pronged, comprehensive legal strategy to help







AILA Executive Director Crystal Williams speaks at the press conference. ▽



“Pro Se Plus” “provide[s] individuals with online tools combined with participation in group processing clinics that will be sponsored by local advocates and pro bono attorneys,” said Lyster. DREAMers also can be paired with law school immigration clinics, or, for complex cases, they can consult private immigration attorneys offering pro bono or low bono services, Lyster added.

representative, go to one of these clinics, and get some help,” she urged.

Among the speakers was Bishop Angel Marcial, of [PICO United Florida](#), who addressed the group in Spanish while Jimenez interpreted for him. He applauded “the investing in the youth of the country.” Calling the youth “the present and the future,” he said the religious entities will provide support and information.

“I baby-sat, house-sat, dog-sat, and cat-sat to make ends meet,” said Diana Villa, a DREAMer and attendee at the press conference, referring to the only types of jobs she could get after graduating from Rhodes College. “With this new initiative, we can do more than just babysitting.”

**Sheeba Raj** is the staff legal editor and reporter for VOICE. She can be reached at [sraj@aila.org](mailto:sraj@aila.org).

DREAMers navigate this new and exciting initiative. First, the Own the DREAM website, in both [English](#) and [Spanish](#), provides DREAMers with a diagnostic tool they can use to determine their eligibility for deferred action. Second, the website connects users to legal services in their local area, as well as to other local and state DREAMers. In addition, DREAMers can call 855-DREAM-D-1, a [hotline](#) staffed by other DREAMers from Monday through Friday, 8:00 am to 5:00 pm PT, for general information. And, finally, DREAMers can seek legal advice. A program dubbed

AILA Executive Director Crystal Williams spoke to the audience about the importance of protecting themselves “now and for the future.” As part of her address, Williams cautioned applicants to avoid *notarios*, as well as others who are guaranteeing a positive result or touting special contacts. Instead, they should consult qualified attorneys to discuss the consequences of applying for and receiving deferred action, as well as the viability of other legal options. “Get a lawyer, get an accredited





## Do DREAMers Really Need a Lawyer?

We don't have all the details yet, but the basic requirements to qualify for deferred action seem, well, pretty straightforward—and motivated high-school graduates or college students might be tempted to try to apply on their own without seeking advice from an attorney or legitimate nonprofit organization.

Even though the requirements look simple, you don't need a law degree to know that looks can be deceiving. So when do you really need a lawyer? And just as importantly, what can (and should) a lawyer do for you?

### The Simple Details

In order to be considered for deferred action for childhood arrivals or DACA, an individual must have arrived in the United States when they were under age 16.<sup>1</sup> In addition, they must have been physically present in the United States and under age 31 when the policy was announced on June 15, 2012, as well as show that they continuously resided in the United States for at least five years before that date.<sup>2</sup>

In order to qualify, the applicant must be in school, have graduated high school, obtained a GED, or be an honorably discharged veteran of the U.S. Coast Guard or the U.S. Armed Forces.<sup>3</sup> Individuals who have been convicted of a felony offense, a "significant misdemeanor offense," three or more non-significant misdemeanors, or otherwise pose a

threat to national security or public safety may not qualify.<sup>4</sup> Only youth who are at least 15 years old will be able to apply, unless they are currently facing deportation.<sup>5</sup>

### Now, for the Not-So-Simple ...

Some of the red flags are obvious; some are not.

If a DREAMer has ever had any contact with law enforcement, even if it never resulted in a conviction, the case should still be screened by a lawyer. Why? A competent immigration lawyer should be able to review your records and determine what's really in there (hint: it's often a whole lot different from what you thought).

For example, an incident you thought was resolved without any consequences may actually be a real problem. If the judge said you wouldn't have a record because you were a minor, or told you your record would be wiped clean if you kept out of trouble or completed public service hours, that incident still might be used to disqualify you, either as a conviction for immigration purposes or under public safety grounds. Just the suggestion—even without proof—of gang activity, or a history of certain traffic infractions might adversely affect your application.

On the other hand, if you think a prior brush with the law means you can't qualify, remember that these requirements are evolving, so it's best to have an immigration attorney evaluate your case. Even if a conviction stands in the way, an immigration lawyer may be able to find a legal basis to reopen that case to obtain post-conviction relief.

### NEED AN IMMIGRATION LAWYER?

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**Prior Contact or Filing:** Anyone who has ever filed anything or had any contact with immigration authorities would be smart to have a lawyer review his or her immigration file and history. Perhaps a prior application has gone missing—or gone south. Cases filed by a notario—even something filed on your behalf by a family member—may contain inaccurate or even fraudulent information that could knock you out of consideration. Sometimes, an out-of-date address means notices didn't reach you and your case was referred for a deportation hearing—one that you never knew about and never attended.



**Previous Departure:** If you have ever left the United States, you will want to ask a lawyer whether that departure interrupted your continuous presence (especially if you left because you were granted voluntary departure or ordered removed). And if there were any issues on your return—such as being refused entry, caught at the border, or using a fake document—there will be immigration consequences to consider.

**Continuous Residence:** What about someone who isn't sure how to prove that he or she was here on June 15, 2012, or isn't sure how to show that he or she has been continuously residing in the United States for five years? A competent immigration lawyer can help, especially if you think you don't have access to reliable evidence (or maybe don't have all the evidence in your own name).

**Falsified Documents:** Did you ever use a false identity, make up a Social Security number or claim to be a U.S. citizen? Did you use your cousin's U.S. birth certificate to get an I.D., or a job, or a driver's license? See a lawyer to understand the immigration consequences.

OK, so people who have had run-ins with law enforcement or who have a tricky immigration history already may know they need a lawyer, but what about the so-called "easy" cases? You may be able to navigate the application procedures by yourself, but even for the cleanest cases, the real question is not whether it's safe to apply, but smart.

Every applicant is coming out of the shadows and providing detailed information to the government. If you're wrong about your case or how to handle your application, then maybe you only wasted time waiting for a decision and wasted money on government fees. But what if you find yourself in custody or facing removal?

## At the Outset ...

In an initial consultation, an immigration attorney should not only review DACA eligibility, but also take your complete immigration history (and even your family members' history, in some cases) to see if there are other options or particular risks to applying. You should have a chance to ask the lawyer questions and leave with a clear understanding

about your immigration case. If that can't be handled in the short time and with the limited information available during your consultation, you should at least know what needs to be done to figure things out.

Even though it's often better to have a lawyer handling your case, not every case will need a lawyer to be successful. But if things aren't going smoothly—for example, if you receive a notice that says your evidence isn't good enough or a letter you don't understand—consult an attorney immediately to understand your rights. If your application is denied, or you wind up being issued a Notice to Appear and referred to immigration court, it's time to run to a lawyer's office!

Only a competent immigration attorney or a Board of Immigration Appeals (BIA) accredited representative (a non-lawyer legal professional trained and supervised by attorneys) can evaluate your case, identify the risks, and even explore other legal avenues for gaining status (which might even be better than deferred action).

Consider using AILA's [referral service](#) to find a lawyer in your area. The listed individuals are licensed attorneys who have been AILA members for at least two years and comply with annual continuing legal education requirements, as well as carry malpractice insurance.

If you can't afford a lawyer, consider working with a [legitimate nonprofit that provides immigration legal help](#), usually through a BIA-accredited representative. Remember, not every group that claims to be a nonprofit is working in the community's best interests.

Finally, if you think you've been scammed—by an attorney, or just someone posing as an attorney—[report it to the local bar association](#) before that person takes advantage of someone else! Be smart, be safe, and protect yourself and your family—get the right information to make the decision that's right for you. ▼

---

**Laura Lichter** is president of AILA and owner of Lichter Immigration in Denver.

1 U.S. Citizenship and Immigration Services (USCIS), "Consideration of Deferred Action for Childhood Arrivals Process" (Aug. 23, 2012), [AILA InfoNet Doc. No. 12080365](#).

2 *Id.*

3 *Id.*

4 *Id.*

5 *Id.*



**T**he past three months have been a whirlwind in the immigration realm. Immigration attorneys, advocates, nonprofit organizations and, of course, the DREAMers themselves, have been on edge about what to expect next. Department of Homeland Security did its part by [announcing](#) the Deferred Action of Childhood Arrivals (DACA) initiative, which gives qualified youth work authorization and a two-year reprieve from deportation, subject to renewal. U.S. Citizenship and Immigration Services promptly laid down the framework and then issued guidelines and [forms](#). DREAMers continue to stand together and support this new process. Now, it's the lawyers' turn to get to work.

Clearly, the rush is on. After years of waiting for a remedy, DREAMers are now seeking immediate action. Your phones are probably ringing more today than in the past five years, adding to the sense of urgency.

Nevertheless, resist the urge to cram in appointments and quickly complete applications. It's OK to not hurry the process. Evaluate each prospective client's case slowly. An immediate answer is not always the right answer. Some cases initially may appear straightforward, but underestimating the complexity of a case can yield serious repercussions. Also, modeling a case after similar ones to accelerate the process can also result in irreparable damage.

Whether you charge by the hour or offer flat fee services, you have an hourly rate of pay. Time is money. And while your time might appear to be scarce, slowing down a notch or two can help you become a more effective lawyer. The pressure to complete and submit each application will undoubtedly be conveyed by every impatient applicant. But a slight oversight or a hasty decision can mean the difference between an individual's request for DACA being granted or denied. So take a step back and reassess this new environment—ask questions, attend DACA events, talk to fellow members, and review

# How to Play the Waiting Game—And Succeed

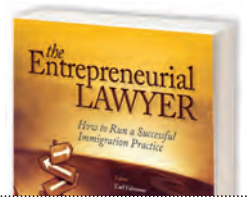
Tips from AILA's Practice & Professionalism Center



## ADDITIONAL RESOURCES FOR YOUR PRACTICE

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How to Run a Successful  
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your state's ethics resources. Most importantly, set your own pace.

Furthermore, many of these immigrants are new to the legal process. They don't know what kind of service or results to expect, so it's your job to help set expectations.



**Stop Notario Fraud!** is an AILA-sponsored consumer protection initiative aimed at preventing notario scams and providing comprehensive resources to the attorneys up right now, so please help spread the word! Also available



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Toolbox, 3rd Ed.



This takes more time, but it will be worthwhile for the client's peace of mind and your future. Many of these individuals will be returning clients and referral sources for many years—only if they have been treated with respect and had their expectations met as a result of your efforts.

**Here are some quick tips to keep in mind:**

**USE CHECKLISTS FOR EACH CASE.** Share your checklist with your client so he or she understands what needs to be done throughout the application process.

**APPOINT A DACA CONTACT.** Assign one of your best paralegals to serve as the point person on all DACA matters. Train your paralegal so he or she can address some basic client questions that do not require your attention.

**BE FLEXIBLE.** To accommodate the additional clients and the time needed to analyze each matter, consider expanding your business hours to include a weekend day.

**TAKE A DAILY VACATION.** It is easy to get stuck to your office desk, but make sure you take a break. Go out for lunch or take a walk around the block. Clearing your head will make you more productive when you return to work.

**BE ACCESSIBLE.** Confirm the best method to communicate with each of your new DACA clients—whether by telephone, e-mail, texting, or other method that is effective and confidential.

Just as each DACA petition will be assessed on a discretionary, case-by-case basis, use your discretion with each client and allow caution to trump urgency.

For more tips on handling the potential onslaught of deferred action clients, see our free article "[Preparing to Represent Deferred Action Clients](#)." ▼

**[The AILA Practice & Professionalism Center](#)** offers help with practice development, ethical issues, firm management, and meeting pro bono commitments.

ection website aimed at helping community members avoid immigration  
eys who represent victims of UPL. Deferred Action schemes are gearing  
in Spanish at [www.parefraudenotarial.org](http://www.parefraudenotarial.org).

# Need a Primer on DACA?

## We've Got It! (At Least the Makings of One)

**N**early one month has elapsed since U.S. Citizenship and Immigration Services began accepting applications for Deferred Action for Childhood Arrivals (DACA) on August 15. As an immigration law practitioner, you've probably experienced an uptick in inquiries about DACA from current and prospective clients. Through many phone calls and face-to-face chats, these young individuals' tenacity and aptitude for success are apparent. You want to help. But the eligibility criteria look deceptively simple in light of some of the complex immigration histories you've heard. Questions abound on the most effective and ethical way to prove eligibility the first time around, since there is no appeals process. Tune in to AILA's Late-Breaking Seminar on Deferred Action,

recorded on August 27, to hear a distinguished panel analyze DACA in depth. Listen while AILA President Laura Lichter and AIC Legal Action Center Director Melissa Crow, along with AILA members Dan Berger and Susan Im, offer insight into delicate issues, such as clients' criminal records and employment backgrounds, and how to complete certain fields on the new forms.

To whet your appetites, here is one example of numerous questions asked during the seminar and some great tips on

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Get even more guidance and answers to other questions when you purchase [AILA's Late-Breaking Seminar on Deferred Action](#), available in both [downloadable](#) and [CD](#) formats.

## The Resources You Need to Stay Updated on DACA

From the initial announcement, to the forms, to the practice management tips, AILA offers comprehensive resources that will help you responsibly navigate the complex terrain that is the Deferred Action for Childhood Arrivals Initiative.

### ADVOCACY/ MEDIA TOOLS

[Sample Media Alert—  
Deferred Action for  
Undocumented Youth](#)  
(June 19, 2012)

### AGENCY MEMOS, CABLES, & LETTERS

[HHS Letter Announcing DACA Grantees Not Eligible for Medicaid](#)  
(August 30, 2012)

[USCIS Brochure on How to Request Deferred Action for Childhood Arrivals](#) (August 3, 2012)

[DHS FAQs on Deferred Action for Eligible DREAMers](#)  
(June 15, 2012)

[DHS Memo on Deferred Action Process for Certain Young People](#)  
(June 15, 2012)

[USCIS Response to the USCIS Ombudsman Recommendation on Deferred Action Processing](#) (November 3, 2011)

[USCIS Memo Addresses Deferred Action for U Nonimmigrant Applicants](#) (May 6, 2004)

[Legacy INS Says Deferred Action Is Lawful Presence](#)  
(June 20, 2002)

[VAWA Unit Authorized to Extend Deferred Action](#)  
(August 17, 2001)



how to handle this type of situation. One listener's dilemma between DACA and prosecutorial discretion came to light as part of his representation of a mother and daughter in removal proceedings. He asked the panel whether the daughter should apply for DACA or prosecutorial discretion. Crow answered that although the daughter can apply for both forms of relief, she should pursue DACA if she meets the criteria because "the agency's focus right now is on DACA." Crow also noted that a grant of DACA comes with work authorization, whereas administrative closure through prosecutorial discretion does not. She suggested that the attorney confer with the trial attorney and seek administrative closure of the case or postpone the hearing pending the outcome of the DACA application.

Lichter added that if an attorney has a client in removal proceedings, who could be a candidate for DACA, that "even if they're on the outside edges of it," the attorney could request a

continuance—if it makes sense to ask for one—on the basis of DACA, provided that a DACA application already has been filed. "Immigration judges want to move their dockets on[ward], and I think that it's worth noting that even somebody who potentially could have something that is 'disqualifying' might also be exactly [the] person who meets that extraordinary circumstances test," Lichter said. In response to the attorney's point that prosecutorial discretion is free and DACA costs money, Lichter mentioned that cost should not influence the decision about which remedy to seek. "If you have a client [whose case] is part of a cancellation [of removal] application and they already have a work permit, then maybe administrative closure works for you; and maybe after the case has been administratively closed, you look at whether you also apply for DACA, sort of [an] under the belt-and-suspenders theory of law practice. But I don't think that the application fee really should be the thing that drives that question." ▾

## ANALYSES & SUMMARIES

[Deferred Action for Childhood Arrivals: A Q&A Guide](#) (Updated) (August 27, 2012)

[National Immigration Project FAQs on Criminal Records for Deferred Action Applicants](#) (Updated 6/27/12) (June 27, 2012)

## FEDERAL REGULATIONS AND NOTICES

[HHS Notice on PCIP Program Definition of "Lawfully Present"](#) (September 4, 2012)

[DHS Notice on DACA and Form I-821D](#) (Updated 8/17/12) (August 17, 2012)

## DISTRICT COURTS

[ICE Agents File Lawsuit Challenging DACA Memo](#) (August 24, 2012)

## AMICUS BRIEFS

[AILA Files Amicus Brief on Bar Admission of Undocumented Individuals](#) (July 23, 2012)

## PODCASTS/SEMINARS

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August 2012: [Updated Podcast on Deferred Action for Childhood Arrivals](#) (Podcast) FREE!

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June 2012: [AILA's Special Podcast on Deferred Action for Certain Immigrant Youth](#) (Podcast) FREE!

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October 2011: [When All Else Fails, Try Deferred Action: What Is It and How to Get It!](#) (Web)

## GOVERNMENT NEWS

[USCIS Blog on Filing Tips for Deferred Action](#) (August 27, 2012)

[USCIS Publishes Federal Register Notice for DACA Request Forms](#) (August 17, 2012)

[USCIS Informational Video on Deferred Action for Child Arrivals Process](#) (August 15, 2012)

[USCIS Blog on Eligibility Requirements for Deferred Action](#) (August 15, 2012)

[DHS Stakeholder Conference Call on Deferred Action for Childhood Arrivals](#) (August 14, 2012)

[USCIS Flowchart on Consideration of Deferred Action for Childhood Arrivals](#) (August 3, 2012)

[DHS Press Release on Deferred Action for Childhood Arrivals Process](#) (August 3, 2012)

[DHS Stakeholder Conference Call on Deferred Action for Childhood Arrivals](#) (August 3, 2012)

[USCIS Fact Sheet on Deferred Action](#) (July 5, 2012)

[White House Blog Video on Deferred Action](#) (June 22, 2012)

[Transcript of President Obama's Speech on Immigration & Deferred Action](#)  
(June 16, 2012)

[DHS Press Release Announces Deferred Action Process  
for Certain Young People](#)  
(June 15, 2012)

## IMMIGRATION NEWS

[Immigration Service Expects Flood of Applications from Youths](#)  
(August 15, 2012)

[Undocumented Immigrants in U.S. Eagerly Await Reprieve](#)  
(August 15, 2012)

[Young Immigrants Can Apply for DREAM Act–like Protections Starting  
Wednesday](#) (August 15, 2012)

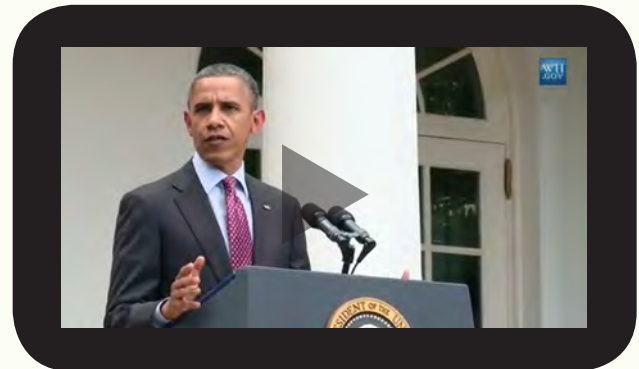
[Houston Chronicle: Fees, Other Rules Clarified for New Immigrant Policy](#)  
(August 7, 2012)

[Yahoo! News: Getting A Reprieve: Young Illegal Immigrants See First  
Signs of Obama's Deferred Action Program](#) (August 7, 2012)

[Is Your Client In Removal Proceedings and Eligible for Deferred Action?](#)  
(August 3, 2012)

[Sample Grants of Deferred Action by ICE](#) (Updated 7/19/12)  
(July 19, 2012)

[Survey: Monitoring Deferred Action for DREAMers](#)  
(July 13, 2012)



## PRACTICE ASSISTANCE

[Deferred Action for  
Childhood Arrivals](#)  
(August 27, 2012)

[Preparing to Represent  
Deferred Action Clients](#)  
(July 10, 2012)



## STATE/LOCAL UPDATES

[State Driver's License Requirements](#) (September 5, 2012)

[Gov. Perry's letter to Texas Attorney General Regarding the Deferred Action Program](#)  
(August 22, 2012)

[Nebraskan Governor's Statement on President Obama's Deferred Action Program](#)  
(August 22, 2012)

[Governor Brewer's Executive Order Regarding Deferred Action](#)  
(August 22, 2012)

### [Testimony & Correspondence](#)

[House Democrats Thank President Obama for Deferred Action Policy](#)  
(July 19, 2012)

[Rep. Smith States New Deferred Action Policy Incentivizes Fraud](#)  
(July 3, 2012)

[Sign On Letter to Secretary Napolitano Regarding DHS's Announcement  
on Deferred Action for Certain Undocumented Youth](#)  
(June 28, 2012)

## REPORTS & STUDIES

[Who and Where the DREAMers Are](#)  
(August 27, 2012)

[White House Report on Obama Agenda &  
the Hispanic Community](#)  
(August 8, 2012)

[Economic Benefits of Granting Deferred  
Action to Unauthorized Immigrants  
Brought to U.S. as Youth](#)  
(June 26, 2012)



## PRESS RELEASES & STATEMENTS

[Immigration Officials Advise Educators on Deferred Action](#)  
(August 31, 2012)

[AILA Leadership Blog on Deferred Action & Presidential Politics](#)  
(August 30, 2012)

[AILA Joins National Partners to Launch Deferred Action Website](#)  
(August 20, 2012)

[AILA Consumer Advisory: Deferred Action for Certain Young Immigrants:  
Don't Get Scammed!](#) (Updated 8/8/12)  
(August 8, 2012)

[AILA Leadership Blog on ICE Union President](#)  
(August 6, 2012)

[AILA Responds to DHS Deferred Action Announcement](#)  
(June 18, 2012)

## ADDITIONAL RESOURCES

[Law Professors Letter on Executive  
authority to grant administrative relief  
for DREAM Act beneficiaries](#)  
(May 28, 2012)

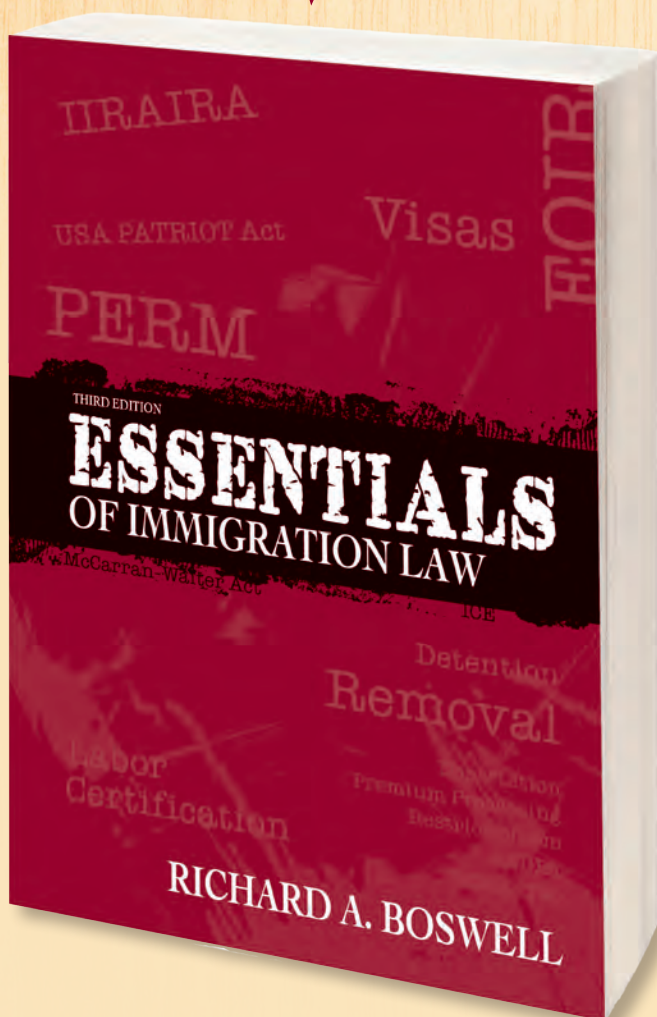
[CRS Memo Report on Deferred Action](#)  
(July 13, 2012)



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- > Dual intent
- > Deportation
- > Unlawful presence
- > Adjustment of status

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## It's About Dreams—and DREAMers Get It



by  
**Annaluisa  
Padilla**

*Padilla is AILA  
Secretary and  
owner of the  
La Habra, CA,  
Law Offices of  
Annaluisa Padilla.*

“DACA IS  
ALLOWING THEM  
TO PURSUE  
THOSE DREAMS  
AND PARTICIPATE  
IN THE FREE  
ENTERPRISE  
SYSTEM THAT  
ROMNEY  
TOUTED, AND TO  
HARNESS THEIR  
EXTRAORDINARY  
CREATIVITY  
AND TALENT  
TO CREATE  
TOMORROW'S  
PROSPERITY.”

**T**he U.S. Department of Homeland Security's (DHS) announcement<sup>1</sup> on the Deferred Action for Childhood Arrivals (DACA) initiative has catapulted immigration to the forefront of the presidential race. President Barack Obama and former Massachusetts Governor Mitt Romney seek the highest office in a land where a badly broken immigration policy has led to the proliferation of ugly, racially charged immigration laws in states such as Arizona, Alabama, and Georgia. Suddenly, in the wake of the DACA announcement and the U.S. Supreme Court's [recent decision on Arizona's SB1070](#), the immigration debate couldn't be more electric. With Election Day less than two months away, Americans are becoming increasingly energized and are scrutinizing the candidates' views.

### AND THE STAKES COULDN'T BE HIGHER.

Under DACA, undocumented immigrants can get a temporary reprieve from deportation if they can prove: (1) they were brought to the United States before the age of 16; (2) are younger than 30; (3) have been in the country for at least five continuous years; (4) have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors; (5) do not otherwise pose a threat to national security or public safety; and (6) graduated from a U.S. high school or earned a GED, or served in the military.<sup>2</sup> This policy could help promising young immigrants come out of the shadows, sustain themselves economically, and help rebuild our economy.

### WHERE DOES ROMNEY STAND?

Romney has struggled to offer a consistent, even coherent, response to DACA. While

he attacked the DREAM Act during the GOP primary, Romney now criticizes Obama's new policy because it is a temporary solution. The Republican National Convention in late August in Tampa avoided the topic of immigration, while parading several party members of immigrant descent, such as Haitian-American Mia Love, Indian-American Nikki Haley, and several Latinos, including Governor Susanna Martinez, Ted Cruz, and GOP superstar Marco Rubio.

[During his acceptance speech](#), Romney's closest reference to immigration was his comment about the moment “when every new wave of immigrants looked up and saw the Statue of Liberty, or knelt down and kissed the shores of freedom,” none doubting “that here in America, they could build a better life.” He brushed over his Mexican roots, noting only that his father had been born in Mexico, that his family had to leave during the Mexican revolution, and that he'd grown up with “stories of his family being fed by the U.S. government as war refugees.”

Romney focused on family values and the economy. He talked about working long hours, and building a business: “It's the genius of the American free enterprise system—to harness the extraordinary creativity and talent and industry of the American people with a system that is dedicated to creating tomorrow's prosperity ....” He added, “It is about dreams.”

What Romney failed to recognize is that smart immigration policy is sound economic policy; the two are inextricably intertwined. Immigration reform that considers the ➔

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needs of American families and businesses, and restores due process, will foster economic growth. Comprehensive immigration reform, including a pathway to citizenship for undocumented immigrants, will help the economy recover by generating greater tax revenue and new businesses and jobs for U.S. workers.

DREAMers, whose only impediment to becoming fully integrated members of our society is their undocumented status, are eager to give back to their communities and add to America's economic and social fabric. From the moment that U.S. Citizenship and Immigration Services (USCIS) first began accepting DACA applications on August 15, young, eager, and talented DREAMers have come out of the shadows and filed for deferred action. They also have applied for an employment authorization card, which will allow them to obtain a Social Security number. A Social Security number—which is key to opening bank accounts and possibly receiving state driver's licenses—will help DREAMers fully integrate in the United States, where they have lived for most of their lives.

Romney has criticized President Obama's deferred action initiative, but he has not flat-out stated he would repeal it if elected president. If Romney chooses to focus on the economy without developing effective common-sense solutions to America's immigration dysfunction, he will do so at his peril. It is about dreams—and DREAMers "get it." They have dreamt of a new American dream that includes them. Many are on their way to becoming doctors, engineers, lawyers, and entrepreneurs. They understand the sacrifices their parents made and the opportunities they have received. DACA is allowing them to pursue those dreams and participate in the free enterprise system that Romney touted, and to harness their extraordinary creativity and talent to create tomorrow's prosperity. ▀

*The author's views do not necessarily represent the views of AILA nor do they constitute legal advice or representation.*

1 DHS, "Secretary Napolitano Announces Deferred Action Process for Young People Who Are Low Enforcement Priorities" (June 15, 2012), [AILA InfoNet Doc. No. 12061546](#).

2 USCIS, "Consideration of Deferred Action for Childhood Arrivals Process" (Aug. 23, 2012), [AILA InfoNet Doc. No. 12080365](#).

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# POETIC JUSTICE

Julia Manglano Toro is a Chicago-born mother of 3 and a Washington, D.C., solo practitioner



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wasn't the dream to continue studies  
studies will have to wait  
but you can work  
you can pay taxes  
taxes you will never see the benefit of  
but you can stay, temporarily

you can count on remaining in your home for now  
but continue living with the uncertainty of remaining  
here

live to work  
live to study  
live to stay with family  
live to pray with your community  
pray to live  
pray to stay permanently

rather than continue studying  
as you would prefer  
continue in a profession  
as was the plan

but you are still here  
you do not have to fear

deportation  
not yet  
we hope for the best  
but do not rest  
continue to fight  
to live in the only home you know

deferred for now  
submit to what you get for now  
postpone permanency  
but don't defer the fight

continue to insist  
continue to show you are human  
you are a person with aspirations  
you are an asset to society  
you are strong and smart

studies will have to wait  
as they already have  
you will have to be patient  
as you already have  
just more patience to be more patient

live to work  
live to study  
live to stay with family  
live to pray with your community  
pray to live  
pray to stay permanently

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# BEHIND THE CASE

by **Sheeba Raj**



**ATTORNEY:**  
**Douglas Stump,**  
**Stump & Associates**

## ERO Approves Deferred Action for Siblings Slated for Removal

**G**abriela and Angel Tepe hadn't seen their native Guatemala since the ages of 4 and 2, respectively, yet were just one day away from returning there and leaving behind their family in the United States, when they received the news of a lifetime.

The siblings got their lucky break on July 2, when Immigration and Customs Enforcement (ICE) determined that they were eligible for deferred action and that their departure order would not be enforced.

The family remains united because of the Department of Homeland Security's [Deferred Action for Childhood Arrivals \(DACA\) initiative](#), which was announced on June 15. Although U.S. Citizenship and Immigration Services (USCIS) authorized young, undocumented immigrants to apply for deferred action starting August 15,<sup>1</sup> Gabriela and Angel were able to apply earlier because they were already involved in removal proceedings. Texas chapter member and AILA President-Elect Doug Stump and his law firm have been representing the siblings for years. On June 22, Stump filed a motion to reopen with the Board of Immigration Appeals, requesting withdrawal of the Tepe siblings' request for voluntary departure and remand to the immigration judge to apply for deferred action and administrative closure. Three days later, Stump assembled applications for the siblings according to the [Department of Homeland Security's instructions](#)<sup>2</sup> and e-mailed the Enforcement and Removal Operations (ERO) Public Advocate. Shortly thereafter, the ERO contacted Stump to confirm receipt of the file. On July 12, Stump received written confirmation of the July 2 deferred action grant.

"I think the extraordinarily short time-frame within which to act was the principal challenge that we faced," Stump said. "We didn't know what to expect from the agency [ICE]. We were concerned that the agency might

**"Stump advises attorneys to produce the strongest**

not be responsive to our request for review. You know, the program was just being rolled out. No one knew if the ERO Advocate would be looking at these cases as they came in. We were operating under a set of instructions and guidelines that had not yet been tested."

### Practice Tips

Stump advises attorneys to produce the strongest applications possible, as there is no mechanism for appeal. "Applications need to be perfected upon the first filing. Counsel must carefully vet applicants and be exceptionally thorough in preparing the exhibits that accompany the applications," said Stump. He also noted the challenges in proving that there were no meaningful departures from the United States, especially between school semesters and

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ngest applications possible, as there is no mechanism for appeal.”

after graduation. In those instances, he recommends using a wide variety of evidence, including vaccination records of any children born to applicants, records of minor traffic offenses, purchase agreements for items such as automobiles or engagement rings, etc., to prove presence in the United States. According to Stump, USCIS has said that it won't give significant weight to affidavits alone, but he hopes that the “right mixture of hard and circumstantial evidence will result in approvals.”

### The Meaning of “Practice”

The DACA grant was the culmination of many years of protracted litigation on behalf of the Tepe family, but Stump says it was worth all the effort. “I’ve been practicing immigration law for 30 years and we’ve encountered a large

number of extraordinarily complex cases, but this particular case probably provided more heartfelt satisfaction to my staff than just about any case we’ve ever had.”



**Sheeba Raj** is the staff legal editor and reporter for *VOICE*. She can be reached at [sraj@aila.org](mailto:sraj@aila.org).

1 USCIS Press Release, “USCIS Publishes Forms for Consideration of Deferred Action for Childhood Arrivals” (Aug. 14, 2012), [AILA InfoNet Doc. No. 12081446](#).

2 DHS, “Secretary Napolitano Announces Deferred Action Process for Young People Who Are Low Enforcement Priorities” (June 15, 2012), [AILA InfoNet Doc. No. 12061545](#).

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## DREAMers Prep for DACA Clinics, Forums

**R**egional leaders of United We Dream (UWD) and PICO National Network were trained on the ins and outs of the Deferred Action for Childhood Arrivals (DACA) initiative in Denver and Lexington, KY, on August 11. The training prepared them for the clinics and forums that were held nationwide on August 25 to help DREAMers navigate the application process.

The first part of the training covered the legalities of DACA. “They’re going to go back to their territories and they’re going to organize workshops for the grassroots and talk about what DACA is, what the ramifications are, [and] why people will need to go see a lawyer before they do anything ...,” said David W. Leopold, AILA General Counsel, who had been invited by UWD to help

train the attendees. He stressed that DREAMers should consult AILA attorneys or representatives accredited by the Board of Immigration Appeals, not notarios. “[UWD] want[s] to be sure that DREAMers all across the country understand that this is more than just filing a couple of forms. This can be a very complicated legal issue,” he said.

The regional leaders also learned how to collaborate with attorneys, but not give legal advice and risk engaging in the unlawful practice of law, said UWD Political Director Gaby Pacheco. Pacheco noted that more than 100 questions were asked by attendees, addressing a variety of issues, such as the nature of DACA, the application process, and eligibility criteria. The regional leaders also learned how to coordinate the

### ‘Undocumented, Unafraid’

New graduates celebrate at the National Immigrant Youth Alliance’s 2012 DREAM Act Graduation on June 26 at Lutheran Church of the Reformation in Washington, D.C. AILA was among the proud sponsors of this year’s ceremony, which honored DREAMers from around the country, including a group hailing from New York, below. **PHOTOS COURTESY OF SUSAN TIMMONS**





"[UWD] want[s] to be sure that DREAMers all across the country understand that this is more than just filing a couple of forms. This can be a very complicated legal issue."

—David Leopold, AILA General Counsel

clinics, persuade DREAMers to visit the clinics, and disseminate information via social media.

Leopold and Pacheco, along with AILA member Jonathan Bialosky, UWD Policy Coordinator Lorella Praeli, and CLINIC Field Support Coordinator Michelle Sardone, conducted the training at the University of Kentucky–Lexington with about 150 UWD regional leaders in attendance.

UWD and PICO National Network sponsored a second training on the same day at the headquarters of Metro Organizations for People in Denver. According

to Carlos Saavedra, National Field Coordinator of UWD, 100 regional leaders from UWD and 50 from the PICO National Network participated in the training. Among the organizers and trainers: Frances Valdez, Neighborhood Centers; Shiu-Ming Cheer, National Immigration Law Center; Maria Fernanda Cabello, Civic Engagement Project Coordinator; Daniel Rodriguez and Martha Melendrez, UWD national coordinating team representatives for the southeast region; and Deisy Hernandez, Estefania Cruz, and Francisco Javier Bravo, [Orange County Dream Team](#). ▼



# WHAT'S HAPPENING!



**C**ongratulations to the AILA members who have been named the “Most Powerful Immigration Attorneys” of 2012 by *Human Resource Executive* magazine in its June 16 edition.

| Chapter           | Name                | Firm                                      |
|-------------------|---------------------|---|
| Northern Calif.   | Jeff T. Appleman    | Berry Appleman & Leiden                   |
| Georgia/Alabama   | Daryl Buffenstein   | Fragomen                                  |
| Washington, D.C.  | Bo Cooper           | Fragomen                                  |
| Texas             | Charles C. Foster   | FosterQuan                                |
| New York          | Austin T. Fragomen  | Fragomen                                  |
| Philadelphia      | Ron Klasko          | Klasko, Rulon, Stock & Seltzer            |
| New York          | Mark D. Koestler    | Kramer Levin                              |
| South Florida     | Ira J. Kurzban      | Kurzban Kurzban Weinger Tetzeli and Pratt |
| Northern Calif.   | Warren Leiden       | Berry Appleman & Leiden                   |
| New York          | Deborah J. Notkin   | Barst Mukamal & Kleiner                   |
| Southern Calif.   | Angelo A. Paparelli | Seyfarth Shaw                             |
| New York          | Michael D. Patrick  | Fragomen                                  |
| Northern Calif.   | Julie Pearl         | Pearl Law Group                           |
| Washington, D.C.  | Eleanor Pelta       | Morgan Lewis                              |
| Washington, D.C.  | Laura Foote Reiff   | Greenberg Traurig                         |
| New York          | Theodore Ruthizer   | Kramer Levin                              |
| Washington, D.C.  | Denyse Sabagh       | Duane Morris                              |
| Philadelphia      | William A. Stock    | Klasko, Rulon, Stock & Seltzer            |
| Southern Calif.   | Bernard Wolfsdorf   | Wolfsdorf Immigration Law Group           |
| Minnesota/Dakotas | Scott W. Wright     | Faegre Baker Daniels                      |

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Connecticut chapter member **Najia Sheikh Khalid** has joined the Labor, Employment and Benefits Group of Wiggin and Dana LLP. Washington, D.C., chapter member **Julia Manglano Toro** has launched a solo practice, Julia M. Toro Law Firm, PLLC.

AILA mourns the loss of Texas chapter member **Jackson Chaney**, who passed away on Aug. 7. The recipient of the 2006 Sam Williamson Mentor Award will be remembered for his clever wit, dedication, and thousands of posts to the Message Center.



## CELEBRATING 25+ YEARS OF AILA MEMBERSHIP

Enrique Arevalo 10/16/1987  
Scott M. Borene 9/17/1987  
Barbara Bower 9/14/1987  
Eleanor T. Bregman 9/29/1987  
Robert H. Cohen 9/16/1987  
Michael W. Galligan 9/21/1987  
Silvia Romo Graves 10/27/1987  
Aron Hasson 10/27/1987  
Paul R. Hribernick 9/14/1987  
Eli M. Kantor 9/18/1987

Michael E. Marszalkowski 9/17/1987  
Robert A. Murtha Jr. 9/10/1987  
Bert S. Nishimura 10/16/1987  
Eliot Norman 9/21/1987  
Janice Radler Olson 9/24/1987  
Norman C. Plotkin 9/17/1987  
Philippe D. Radley 9/11/1987  
Daniel Retter 9/17/1987  
William R. Rosner 9/28/1987  
Dan E. White 10/20/1987



**30 YEARS**  
Jane W. Belote 9/25/1982  
Gregory Donald Boos 10/4/1982  
Deborah J. Townsend 10/9/1982

**40 YEARS**  
Edwin R. Rubin 10/1/1972

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