

Higher Education Guide: Funding Opportunities for Undocumented Students

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INTRODUCTION

This document provides guidelines by which college and university administrators can establish or implement funding for undocumented students and follow three best practices:

- Avoid compelling a student to unnecessarily disclose the undocumented status of themselves or their families;
- Uphold the college/university as an institution where undocumented students are welcome; and
- Ensure compliance with U.S. policy, regulations, and laws.

There are various types of funding available to undocumented students. The following charts and examples focus on those most commonly used on college campuses. Please note that you should review these suggestions within the context of your specific state law, and that state and federal laws and funding opportunities may change.

UNDOCUMENTED STUDENTS AND DACA RECIPIENTS

This guide provides an overview of funding opportunities that are available both to Deferred Action for Childhood Arrivals (DACA) recipients and undocumented students who do not hold DACA. DACA was announced by the Obama administration on June 15, 2012 and implemented on August 15, 2012. The Trump administration rescinded the policy on September 5, 2017. Legal challenges to the rescission enable current or prior DACA recipients to continue to renew their DACA protections, though no new applications are being accepted.

DACA provides protection from deportation, access to employment authorization, and a Social Security Number to undocumented individuals who came to the U.S. as children and meet certain requirements. DACA is renewable every two years. For the comprehensive list of requirements, please visit the archived [USCIS website](#). Even with DACA, individuals remain undocumented, but there are significant differences between those with and without DACA.

COMPARISON OF ADMISSIONS AND FUNDING OPPORTUNITIES BASED ON DACA RECEIPT¹

	DACA Recipient	Non-DACA Recipient
Immigration Status	Undocumented	Undocumented
Admission to College or University, and In-State Tuition²	<p>Public institutions:</p> <ul style="list-style-type: none"> Eligibility for in-state tuition depends on the state, system, or institutional policy. Eligible to apply to most public institutions and may be eligible for in-state tuition where undocumented students without DACA are not eligible. <p>Private institutions:</p> <ul style="list-style-type: none"> Legally eligible. Admission policy depends on the institution. 	<p>Public institutions:</p> <ul style="list-style-type: none"> Eligibility for in-state tuition dependent on state, system, or institutional policy. A few states actively bar undocumented students from all or select public institutions. <p>Private institutions:</p> <ul style="list-style-type: none"> Legally eligible. Admission policy depends on the institution.
Financial Aid	<p>Public institutions:</p> <ul style="list-style-type: none"> Eligibility for in-state financial aid or access to publicly funded state scholarships depends on state, system, or institutional policy. May be eligible for scholarships or funding where other undocumented students without DACA are not eligible. May have access to scholarships, loans, fellowships available if sourced from private funds. <p>Private institutions:</p> <ul style="list-style-type: none"> May have access to institutional scholarships, loans, fellowships, which are privately sourced. <p>Private loans: Available based on</p>	<p>Public institutions:</p> <ul style="list-style-type: none"> Eligibility for in-state financial aid or access to publicly funded state scholarships depends on state, system, or institutional policy. May have access to scholarships, loans, fellowships available if sourced from private funds. <p>Private institutions:</p> <ul style="list-style-type: none"> May have access to institutional scholarships, loans, fellowships, which are privately sourced. <p>Private loans:</p> <ul style="list-style-type: none"> Available based on the lender, most require a U.S. citizen co-signer.

¹ The charts in this document do not incorporate specific state laws regarding eligibility, payments or tax liabilities.

² Under Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, public colleges cannot provide benefits, including in-state tuition, to undocumented immigrants if those same benefits are not similarly offered to U.S. citizens. 8 U.S.C. § 1623). However, as discussed in our FAQ, [Higher Ed Guide to Tuition, Financial Aid & Other Funding for Undocumented Students](#), 20 states and the District of Columbia offer in-state tuition to undocumented students, including DACA recipients, by tying in-state tuition to other, non-residency factors (e.g. such as graduation from a state high school).

	<p>the lender, most require a U.S. citizen co-signer.</p> <p>Other external, private scholarships and fellowships may be available depending on eligibility requirements.</p>	<p>Other external, private scholarships and fellowships may be available depending on their eligibility requirements</p>
Employment/Work on Campus	<p>Yes, for DACA recipients with a current Employment Authorization Document (EAD). Not permitted without work authorization.</p>	<p>No, most students will not have an Employment Authorization Document (EAD). Not permitted to work without valid work authorization.</p>
Employment off campus	<p>Yes, for DACA recipients with a current Employment Authorization Document (EAD). Not permitted without work authorization.</p>	<p>No, most students will not have an Employment Authorization Document (EAD). Not permitted to work without valid work authorization.</p>
Taxes	<p>Yes, must pay federal, state and/or local taxes.</p>	<p>Yes, must pay federal, state and/or local taxes.</p>
Internships	<p>Yes. Paid, unpaid, and stipend or non-employment-based. DACA recipients will have a current Employment Authorization Document (EAD).</p> <p>Note: Internships may have eligibility criteria that exclude undocumented students, including DACA recipients, and may depend on privately-sourced funds.</p>	<p>Unpaid, yes. Paid, no.</p> <p>Stipend, yes - if it is a non-employment based internship.</p> <p>Note: Internships may have eligibility criteria that exclude undocumented students, and may depend on privately-sourced funds.</p>
Privately -Funded Fellowships	<p>Yes, may be eligible for employment-based and non-employment-based fellowships.</p> <p>Specific access may be dependent on whether the fellowship's eligibility requirements exclude undocumented individuals/DACA recipients.</p>	<p>Only eligible for non-employment-based fellowship. Specific access may be dependent on whether the fellowship's eligibility requirements exclude undocumented individuals.</p>
Privately- Funded Awards/Prizes	<p>Yes. Scholarships, fellowships, and prizes may be available depending on their eligibility requirements.</p>	<p>Yes. Scholarships, fellowships, and prizes may be available depending on their eligibility requirements.</p>
Volunteer Service Programs – Unpaid/ Accompanied with Gift Payment³	<p>Yes. Unpaid volunteering is open to all students as long as it does not parallel work done by a wage-based position. Volunteering that is accompanied by a gift payment is open to all students regardless of immigration status.</p>	<p>Yes. Unpaid volunteering is open to all students as long as it does not parallel work done by a wage-based position. Volunteering that is accompanied by a gift payment is open to all students regardless of immigration status.</p>
Study Abroad	<p>No (not a current option)</p>	<p>No</p>

³ Schools can coordinate with private donors to support individual students up to the level of the gift tax exemption.

COMPARISON OF FUNDING/FINANCIAL AID/PAYMENT OPTIONS BASED ON IMMIGRATION STATUS

	USC	LPR	DACA	Undocumented	
General Eligibility					
Federal Financial Aid	Yes	Yes	No	No	
State Financial Aid	Yes	Yes	Varies by State	Varies by State	
In-State Tuition	Yes	Yes	Varies by State	Varies by State	
Private Scholarships	Yes	Yes	Yes	Yes	
Government Loans	Yes	Yes	No	No	
Private Loans	Yes	Yes	Varies by Lender	Varies by Lender	
Work Study	Yes	Yes	No	No	
Privately Sourced Funds					Tax Implications
Scholarships/Fellowships	Yes	Yes	Yes	Yes	Taxable/Self-Reported Income
Awards/Prizes	Yes	Yes	Yes	Yes	Taxable/Reportable Income
Business Related Reimbursements	Yes	Yes	Yes	Yes	Non-taxable/non-reportable income
Stipends	Yes	Yes	Yes	Yes	Taxable/Self-Reported Income
Employment	Yes	Yes	Yes – with EAD	No	Taxable/Reportable Income
Independent Contracting	Yes	Yes	Yes	Yes - See Resources	Taxable/Self-Reported Income

USC: United States Citizen

LPR: Lawful Permanent Resident

DACA: DACA Recipient

Undocumented: Undocumented individual who does not hold DACA

GENERAL GUIDELINES REGARDING FUNDING

- Institutions must pay all students the same way for similar positions (e.g., one cannot pay a U.S. Citizen student a wage and pay an undocumented student a scholarship for the same service/work).
- It is a best practice to remove requirements collecting Social Security Numbers and citizenship information when not needed.
- Offices should not ask about a student’s or family member’s immigration status.
 - Employment: Follow federal I-9 guidelines (available [here](#) or <https://www.uscis.gov/i-9-central/about-form-i-9/statutes-and-regulations>).
 - Payments (to students): Knowing immigration status is not needed.
 - See [the U.S. Department of Justice’s FAQ’s](#) on questions regarding citizenship or immigration status information. <https://www.justice.gov/crt/frequently-asked-questions-faqs#ead>.
 - Taxes: Any taxpayer can request an Individual Taxpayer Identification Number (ITIN) to fulfill their tax reporting requirements.
- There is no legal requirement to maintain records relating to a student’s undocumented or DACA status. The Personal Identifiable Information (PII) of undocumented or DACA students (as well as other students) are protected by the [Family Educational Rights and Privacy Act \(FERPA\)](#). FERPA effectively prohibits schools from releasing educational records or most personally identifiable information without consent unless presented with a “subpoena issued for a law enforcement purpose[.]”⁴
- Public charities and private foundations are not required to ask for or file information about immigration status, social security number, or work authorization of grantees. Information collected from grantees should be limited to that which is necessary and reflective of the grant selection criteria.

NON-EMPLOYEE BASED STUDENT FUNDING OPPORTUNITIES FROM PRIVATELY-SOURCED FUNDS

The below funding opportunities are generally allowable to all students. Any student who receives the below specified funding should adhere to all requirements and policies for receiving payments as laid out by the institution and applicable state and federal law.

- Scholarships/Fellowships

⁴ 20 U.S.C.S. § 1232g(b)(1)(J)(ii) (LexisNexis 2019).

- Awards/Prizes
- Internship Stipends/Living Stipend

Scholarships/Fellowships

A scholarship is defined by the Internal Revenue Service (IRS) as an amount paid or allowed to a student for the purpose of study. A fellowship grant is generally an amount paid or allowed to an individual for the purpose of study or research, not to include tuition and required fees. These fellowships are non-employment based, the payments are not wages for work performed, and the recipients are not considered employees of the institutions. Scholarships can be broken down into two categories:

- **Qualified:** funds are paid toward qualified tuition and required fees.
- **Non-Qualified (also called Stipends):** funds received are above the cost of required tuition, fees, books, supplies and equipment (e.g. living expenses, travel, room and board).

While in an institutional setting these terms can be used interchangeably, the administrator and student must know what the funding or payment is for (tuition, research, living expenses, etc.). Payments for qualified expenses (tuition, required fees) are not considered reportable income (qualified scholarship/fellowship payments from your institution are not required to be reported to the IRS or state agency).

- **Tax Reporting Requirements:** Non-Qualified scholarship/fellowships are reportable income. Students who are considered residents for tax purposes will not receive a tax document and are expected to self-report this income. Students who are nonresidents for tax purposes, and do not hold an F1 or J1 visa status will receive a 30% federal withholding and 1042-S tax document. Students may be subject to quarterly estimated tax payments.
- **Example of a Non-Qualified Fellowship:** A graduate student receives a foundation fellowship that provides a one-year stipend for living expenses of \$25,000 and various other enrichment opportunities. Part of the *terms of appointment* includes a required participation in a professional development workshop, regular online sessions with a mentor, and a presentation on their research at an annual conference.

Awards/Prizes

A reward or prize is a gift of money for success in a competition, for past services rendered, or other scholastic achievement. A prize or award has no service requirements and typically is a recognition of past accomplishments.

- **Tax Reporting Requirements:** Award/Prize payments are usually reportable income (unless it is below the amount considered reportable), therefore a tax identification number (ITIN) is required. If a student does not have an ITIN, they will be subject to backup withholding at a rate of 24%. Students who are residents for tax purposes will not receive a tax document if the total amount of prize/award income is \$600 or less; amounts over \$600 are reported on IRS form 1099. Nonresidents for tax purposes will have a

withholding of 30% and receive a 1042-S tax document. Students may be subject to quarterly estimated tax payments.

- **Award Example:** In spring quarter, a graduating senior has been awarded a campus award in recognition of their leadership in diversity and inclusion efforts on campus. The award is a one-time payment of \$300.

Internship Stipends/Living Stipends

Institutions may be able to provide internship stipends to students who accept off-campus internships. For example, students who accept an unpaid internship to further their study/training can be eligible to receive a living stipend to help offset living costs associated with being in an unpaid status. The funding allows the student to remain focused on the learning and training associated with the internship. Unpaid internships are a very specific type of opportunity in labor law that is of benefit to the intern and not necessarily the company. To receive an internship stipend or a living stipend, the internship must focus on training, should incorporate a learning component, and may in no way constitute an employment relationship.

- **Tax Reporting Requirements:** Internship and living stipends are reportable income. Residents for tax purposes who are not U.S. citizens or lawful permanent residents (as indicated by completing Form W-9): Internship and living stipends are considered “self-reported” income. This means no tax document is produced and this income should be reported when filing an annual tax return. Students in this category may have a liability to file estimated quarterly taxes for Federal and state taxes. International/foreign nonresidents for tax purposes (as indicated by completing Form W-8BEN): Internship and living stipends are subject to a 14% or 30% federal tax withholding; check specific state requirements.
- **Internship Example:** An undergraduate student is awarded an unpaid summer internship. As a result, \$5,000 is paid to the student at the beginning of the summer for living expenses. The student is required to provide a summary/review of the internship at the end of the summer.

Selected FAQs

- **What happens if a student does not have a Social Security Number (SSN)?** An SSN is only required for reporting wage income. In many cases, DACA and undocumented students are not receiving employment-based income, which allows for an ITIN.
- **What is an ITIN?** An Individual Taxpayer Identification Number (ITIN) is a United States tax processing number. It is a nine-digit number that begins with the number 9 and has a 7 or 8 in the fourth digit. The IRS issues ITINs to individuals who are required to have a taxpayer identification number but who do not have, and are not eligible to obtain, a Social Security Number. ITINs are issued regardless of immigration status because both resident and nonresident individuals may have Federal tax return and payment responsibilities under the Internal Revenue Code. Individuals must have a filing requirement and file a valid federal income tax return to receive an ITIN, unless they meet an exception. The program was created for tax filing of passive income not salary or hourly income and use for these income sources is an unintended misuse. Receiving an ITIN number does not confer the right to work and receive income in the United States.
- **What is an Employment Authorization Document (EAD)?** Individuals who are temporarily in the U.S. and eligible for an EAD, or more commonly referred to as a work permit, may file Form I-765 or I-688B. This document provides its holder a legal right to work in the U.S. It should not be confused with a green card. The EAD is issued for a specific period of time based on the individual's immigration situation. If someone has a valid EAD, they are authorized to freely work in the U.S.

GLOSSARY OF IMMIGRATION TERMS

Deferred Action for Childhood Arrivals (DACA). DACA was announced by the Obama administration on June of 15, 2012 and implemented on August 15, 2012, and then was rescinded by the Trump administration on September 5, 2017. Legal challenges to the rescission have enabled current or prior DACA recipients to continue to renew their DACA protections, though no new applications are being accepted. DACA provides a 2-year deportation reprieve and employment authorization, and is renewable every two years. For the comprehensive list of requirements visit the archived [USCIS website](#).

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Lawful Permanent Residents (LPRs). Lawful permanent residents (LPRs), also known as "green card" holders, are non-citizens who are lawfully authorized to live permanently within the United States. LPRs may accept an offer of employment without special restrictions, own property, receive financial assistance at public colleges and universities, and join the Armed Forces. They also may apply to become U.S. citizens if they meet certain eligibility requirements.

Nonimmigrant. Nonimmigrant visas are issued to the citizens of other countries coming to the United States temporarily. To be precise, individuals traveling to the United States for a temporary intention are categorized under U.S. law as nonimmigrants (or temporary visitors). The law requires that these people provide confirmation that they don't plan to immigrate to the United States. Some of the nonimmigrant categories are students, tourists, treaty investors, foreign government officials, etc.

Undocumented. An undocumented person refers to a foreign-born individual that has entered the United States without inspection (and not subsequently obtained any right to remain) or stayed in the United States beyond the expiration date of a visa or other status.

U.S. Citizen (USC). A status that entails specific rights, duties and benefits. Citizenship is understood as a "right to have rights" since it serves as a foundation of fundamental rights derived from and protected by the Constitution and laws of the United States. There are two primary sources of citizenship: birthright citizenship and naturalization, as specified in the Citizenship Clause of the U.S. Constitution's Fourteenth Amendment.

USCIS. The U.S. Citizenship and Immigration Services (USCIS) is a branch of the Department

of Homeland Security (DHS). USCIS is primarily responsible for handling immigration benefits, such as applications for asylum, DACA, work permits, green cards, and citizenship.

TPS. The U.S. government may grant Temporary Protected Status (TPS) to persons already in the United States who came from certain countries experiencing conditions of war or natural disasters. TPS allows a person to live and work in the United States for a specific time period, but it does not lead to U.S. permanent residence.

A-number. The alien registration number or “A-number” is an identifying number that the Department of Homeland Security (DHS) assigns to certain foreign nationals, such as those who apply for adjustment of status or who are in removal proceedings. It is a program to record every non-citizen who is within the United States. A-numbers begin with “A” and consist of up to 10 digits. The A-number is yours for life, much like a Social Security number, but it does not grant the authority to work legally in the U.S.

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