



Secretary Napolitano Announces Deferred Action Process for Young People Who Are Low Enforcement Priorities

La Secretaria Napolitano Anuncia Proceso De Acción Diferida Para Jóvenes Que Sean De Baja Prioridad Para La Aplicación De La Ley

Over the past three years, this Administration has undertaken an unprecedented effort to transform the immigration enforcement system into one that focuses on public safety, border security and the integrity of the immigration system. As DHS continues to focus its limited enforcement resources on the removal of individuals who pose a danger to national security or a risk to public safety, including aliens convicted of crimes, with particular emphasis on violent criminals, felons, and repeat offenders, DHS will move to exercise prosecutorial discretion to ensure that enforcement resources are not expended on low priority cases, such as individuals who were brought to this country through no fault of their own as children, have not been convicted of a felony offense, a significant misdemeanor offense, or multiple misdemeanor offenses, and meet other key criteria.

Effective immediately, certain young people who were brought to the United States through no fault of their own as young children and meet several key criteria will be considered for relief from removal from the country or entered into removal proceedings. Those who demonstrate that they meet the criteria will be eligible to receive deferred action for a period of two years, subject to renewal.

Only those individuals who can prove through verifiable documentation that they meet these criteria will be eligible for deferred action. Individuals will not be eligible if they are not currently in the United States and cannot prove that they have been physically present in the United States for a continuous period of not less than 5 years immediately preceding today's date. The use of prosecutorial discretion confers no substantive right or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights.

While this guidance takes effect immediately, USCIS and ICE expect to begin implementation of the application processes within sixty days. In the meantime, individuals seeking more information on the new policy should visit USCIS's website (at www.uscis.gov), ICE's website (at www.ice.gov), or DHS's website (at www.dhs.gov). Beginning Monday, individuals can also call USCIS' hotline at 1-800-375-5283 or ICE's hotline at 1-888-351-4024 during business hours with questions or to request more information on the forthcoming process.

Frequently Asked Questions

Who is eligible to receive deferred action under the Department's new directive?

Pursuant to the Secretary's June 15, 2012 memorandum, in order to be eligible for deferred action, individuals must:

1. Have come to the United States under the age of sixteen;
2. Have continuously resided in the United States for at least five years preceding the date of this memorandum and are present in the United States on the date of this memorandum;
3. Currently be in school, have graduated from high school, have obtained a general education development certificate, or are honorably discharged veterans of the Coast Guard or Armed Forces of the United States;
4. Have not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety;
5. Not be above the age of thirty.

Individuals must also complete a background check and, for those individuals who make a request to USCIS and are not subject to a final order of removal, must be 15 years old or older.

What is deferred action?

Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial

discretion. Deferred action does not confer lawful status upon an individual. In addition, although an alien granted deferred action will not be considered to be accruing unlawful presence in the United States during the period deferred action is in effect, deferred action does not absolve individuals of any previous or subsequent periods of unlawful presence.

Under existing regulations, an individual who has been granted deferred action is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate “an economic necessity for employment.” Deferred action can be terminated at any time at the agency’s discretion or renewed by the agency.

How will the new directive be implemented?

Individuals who are not in removal proceedings or who are subject to a final order of removal will need to submit a request for a review of their case and supporting evidence to U.S. Citizenship and Immigration Services (USCIS). Individuals may request deferred action if they meet the eligibility criteria. In the coming weeks, USCIS will outline and announce the procedures by which individuals can engage in this process. This process is not yet in effect and requests should not be submitted at this time. Beginning June 18, individuals may call the USCIS hotline at 1-800-375-5283, from 8 a.m. to 8 p.m., with questions or to request more information on the new process. The hotline offers assistance in English and Spanish. Individuals seeking more information on the new process should visit USCIS’s website (at <http://www.uscis.gov>).

For individuals who are in removal proceedings before the Executive Office for Immigration Review, ICE will, in the coming weeks, announce the process by which qualified individuals may request a review of their case. Additional information is available from the ICE Office of the Public Advocate at <http://www.ice.gov/about/offices/enforcement-removal-operations/publicadvocate/>. Beginning June 18, individuals may call the ICE hotline at 1-888-351-4024, from 9 a.m. to 5 p.m., with questions or to request more information on the new process.

For individuals who are in removal proceedings and have already been identified as meeting the eligibility criteria as part of ICE’s case-by-case review, ICE will immediately begin to offer deferred action for a period of two years, subject to renewal.

Are individuals who receive deferred action pursuant to the new directive eligible for employment authorization?

Yes. Pursuant to existing regulations, individuals who receive deferred action may apply for and may obtain employment authorization from USCIS provided they can demonstrate an economic necessity for their employment. Information about employment authorization requests is available on USCIS’s website at <http://www.uscis.gov/i-765>.

Does the process result in permanent lawful status for beneficiaries?

No. The grant of deferred action under this new directive does not provide an individual with permanent lawful status or a pathway to obtaining permanent lawful status. Only the Congress, acting through its legislative authority, can confer the right to permanent lawful status.

Why will deferred actions only be granted for two years?

Grants of deferred action will be issued in increments of two years. At the expiration of the two year period, the grant of deferred action can be renewed, pending a review of the individual case.

If an individual’s period of deferred action is extended, will individuals need to re-apply for an extension of their employment authorization?

Yes. If an individual applies for and receives an extension of the period for which he or she was granted deferred action, he or she must also request an extension of his or her employment authorization.

Does this policy apply to those who are subject to a final order of removal?

Yes. An individual subject to a final order of removal who can demonstrate that he or she meets the eligibility criteria can request a review of his or her case and receive deferred action for a period of two years, subject to renewal. All cases will be considered on an individualized basis.

This process is not yet in effect and requests should not be submitted at this time. In the coming weeks, USCIS will outline and announce the procedures by which individuals can engage in this process. Beginning June 18, individuals may call the USCIS hotline at 1-800-375-5283, from 8 a.m. to 8 p.m., with questions or to request more information on the new process. The hotline offers assistance in English and Spanish. Individuals seeking more information on the new process should visit USCIS’s website (at <http://www.uscis.gov>).

How soon after USCIS receives a request to review a case will the individual receive a decision on his or her request?

USCIS will provide additional information on this issue in the coming weeks. Information will be made publicly available at <http://www.uscis.gov/>.

If an individual who is about to be removed by ICE believes he or she satisfies the eligibility criteria for the new process, what steps should he or she take to ensure his or her case is reviewed before removal?

Individuals who believe they can demonstrate that they satisfy the eligibility criteria and are about to be removed should immediately contact either the Law Enforcement Support Center's hotline at 1-855-448-6903 (staffed 24 hours a day, 7 days a week) or the ICE Office of the Public Advocate through the Office's hotline at 1-888-351-4024 (staffed 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

If an individual who satisfies the eligibility criteria is encountered by Customs and Border Protection (CBP) or ICE, will he or she be placed into removal proceedings?

This policy is intended to allow ICE and CBP to focus on priority cases. Pursuant to the direction of the Secretary of Homeland Security, for individuals who satisfy the eligibility criteria, CBP or ICE should exercise their discretion to prevent them from being apprehended, placed into removal proceedings, or removed. If individuals, including individuals in detention, believe they were placed into removal proceedings in violation of this policy, they should contact either the Law Enforcement Support Center's hotline at 1-855-448-6903 (staffed 24 hours a day, 7 days a week) or the ICE Office of the Public Advocate through the Office's hotline at 1-888-351-4024 (staffed 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

If an individual accepted an offer of administrative closure under the case-by-case review process or if his or her case was terminated as part of the case-by-case review process, can he or she receive deferred action under the new process?

Yes. Individuals who can demonstrate that they meet the eligibility criteria will be eligible for deferred action even if they had accepted an offer of administrative closure or termination under the case-by-case review process. For individuals who are in removal proceedings and have already been identified as meeting the eligibility criteria as part of ICE's case-by-case review, ICE will immediately begin to offer deferred action for a period of two years, subject to renewal.

If an individual declined an offer of administrative closure under the case-by-case review process, can he or she receive deferred action under the new process?

Yes. Individuals who can demonstrate that they meet the eligibility criteria will be eligible for deferred action even if they declined an offer of administrative closure under the case-by-case review process.

If an individual's case was reviewed as part of the case-by-case review process but he or she was not offered administrative closure, can he or she receive deferred action under the new process?

Yes. Individuals who can demonstrate that they meet the eligibility criteria will be eligible for deferred action even if they were not offered administrative closure following review of their case as part of the case-by-case review process.

Will DHS personnel responsible for reviewing requests for an exercise of prosecutorial discretion under this process receive special training?

Yes. ICE and USCIS personnel responsible for considering requests for an exercise of prosecutorial discretion under the Secretary's directive will receive special training.

Will individuals be subject to background checks before they can receive an exercise of prosecutorial discretion?

Yes. All individuals will undergo biographic and biometric background checks prior to receiving an exercise of prosecutorial discretion. Individuals who have been convicted of any felony, a significant misdemeanor offense, three or more misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct, or otherwise pose a threat to national security or public safety are not eligible to be considered for deferred action under the new process.

What do background checks involve?

Background checks involve checking biographic and biometric information provided by the individuals against a variety of databases maintained by DHS and other federal government agencies.

What documentation will be sufficient to demonstrate that an individual came to the United States before the age of 16?

Documentation sufficient for an individual to demonstrate that he or she came to the United States before the age of 16 includes, but is not limited to: financial records, medical records, school records, employment records, and military records.

What documentation will be sufficient to demonstrate that an individual has resided in the United States for a least five years preceding June 15, 2012?

Documentation sufficient for an individual to demonstrate that he or she has resided in the United States for at five years immediately preceding June 15, 2012 includes, but is not limited to: financial records, medical records, school records, employment records, and military records.

What documentation will be sufficient to demonstrate that an individual was physically present in the United States as of June 15, 2012?

Documentation sufficient for an individual to demonstrate that he or she was physically present on June 15, 2012, the date the memorandum was issued, includes, but is not limited to: financial records, medical records, school records, employment records, and military records.

What documentation will be sufficient to demonstrate that an individual is currently in school, has graduated from high school, or has obtained a general education development certificate (GED)?

Documentation sufficient for an individual to demonstrate that he or she is currently in school, has graduated from high school, or has obtained a GED certificate includes, but is not limited to: diplomas, GED certificates, report cards, and school transcripts.

What documentation will be sufficient to demonstrate that an individual is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States?

Documentation sufficient for an individual to demonstrate that he or she is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States includes, but is not limited to: report of separation forms, military personnel records, and military health records.

What steps will USCIS and ICE take to prevent fraud in the new processes?

An individual who knowingly makes a misrepresentation to USCIS or ICE, or knowingly fails to disclose facts to USCIS or ICE, in an effort to receive deferred action or work authorization in this new process will be treated as an immigration enforcement priority to the fullest extent permitted by law, subjecting the individual to criminal prosecution and/or removal from the United States.

Are individuals with a conviction for a felony offense, a significant misdemeanor offense, or multiple misdemeanors eligible for an exercise of prosecutorial discretion under this new process?

No. Individuals who have been convicted of a felony offense, a significant misdemeanor offense, or three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct are not eligible to be considered for deferred action under the new process.

What offenses qualify as a felony?

A felony is a federal, state, or local criminal offense punishable by imprisonment for a term exceeding one year.

What offenses qualify as a “significant misdemeanor”?

A significant misdemeanor is a federal, state, or local criminal offense punishable by no more than one year of imprisonment or even no imprisonment that involves: violence, threats, or assault, including domestic violence; sexual abuse or exploitation; burglary, larceny, or fraud; driving under the influence of alcohol or drugs; obstruction of justice or bribery; unlawful flight from arrest, prosecution, or the scene of an accident; unlawful possession or use of a firearm; drug distribution or trafficking; or unlawful possession of drugs.

How many non-significant misdemeanors constitute “multiple misdemeanors” making an individual ineligible for an exercise of prosecutorial discretion under this new process?

An individual who is not convicted of a significant misdemeanor but is convicted of three or more other misdemeanors not occurring on the same day and not arising out of the same act, omission, or scheme of misconduct is not eligible to be considered for deferred action under this new process.

What qualifies as a national security or public safety threat?

If the background check or other information uncovered during the review of an individual’s request for deferred action indicates that the individual’s presence in the United States threatens public safety or national security, he or she will be ineligible for an exercise of prosecutorial discretion. Indicia that an individual poses such a threat include, but are not limited to, gang membership, participation in criminal activities, or participation in activities that threaten the United States.

How will ICE and USCIS handle cases involving individuals who do not satisfy the eligibility criteria under this new process but may be eligible for an exercise of prosecutorial discretion under the June 2011 Prosecutorial

Discretion Memoranda?

If an individual has a final order of removal and USCIS determines that he or she does not satisfy the eligibility criteria, then it will reject the individual's request for deferred action. That individual may then request an exercise of prosecutorial discretion under the ICE June 2011 Prosecutorial Discretion Memoranda through any of the established channels at ICE, including through a request to the ICE Office of the Public Advocate or to the local Field Office Director. USCIS will not consider requests for review under the ICE June 2011 Prosecutorial Discretion Memoranda.

If an individual is currently in removal proceedings and ICE determines that he or she does not satisfy the eligibility criteria for deferred action under this process, it will then consider whether the individual is otherwise eligible for an exercise of prosecutorial discretion under its current practices for assessing eligibility under the June 2011 Prosecutorial Discretion Memoranda.

Will there be supervisory review of decisions by ICE and USCIS under this process?

Yes. Both ICE and USCIS will develop protocols for supervisory review as part of their implementation of the new process.

Can individuals appeal a denial by ICE or USCIS of their request for an exercise of prosecutorial discretion under the new process?

No. Individuals may not appeal a denial by ICE or USCIS of their request for an exercise of prosecutorial discretion. However, ICE and USCIS will develop protocols for supervisory review as part of their implementation of the new process. Although there is no right for appeal, individuals in removal proceedings who believe their cases were not correctly handled may contact the ICE Office of the Public Advocate either by phone at 1-888-351-4024 or by e-mail at EROPublicAdvocate@ice.dhs.gov.

Will dependents and other immediate relatives of individuals who receive deferred action pursuant to this process also be eligible to receive deferred action?

No. The new process is available only to those who satisfy the eligibility criteria. As a result, the immediate relatives, including dependents, of individuals who receive deferred action pursuant to this process are not eligible to apply for deferred action as part of this process unless they independently satisfy the eligibility criteria.

If an individual's request to USCIS for deferred action is denied, will he or she be placed in removal proceedings?

For individuals whose requests for deferred action are denied by USCIS, USCIS will apply its existing Notice to Appear guidance governing USCIS's referral of cases to ICE and issuance of notices to appear. Under this guidance, individuals whose requests are denied under this process will be referred to ICE if they have a criminal conviction or there is a finding of fraud in their request.

Should individuals who are not in removal proceedings but believe themselves to be eligible for an exercise of deferred action under this process seek to place themselves into removal proceedings through encounters with ICE or CBP?

No. Individuals who are not in removal proceedings but believe that they satisfy the eligibility criteria should submit their request for review of their case to USCIS under the procedures that USCIS will implement.

This process is not yet in effect and requests should not be submitted at this time. Beginning June 18, individuals may call the USCIS hotline at 1-800-375-5283, from 8 a.m. to 8 p.m., with questions or to request more information on the new process. The hotline offers assistance in English and Spanish. Individuals seeking more information on the new process should visit USCIS's website (at <http://www.uscis.gov>).

If I receive deferred action through this process, will I be able to travel outside the United States?

USCIS is exploring this issue and will resolve it in the coming weeks as part of its implementation plan.

Will there be any exceptions to the requirement that an individual must have resided in the United States for a least five years preceding June 15, 2012?

An individual must demonstrate that he or she has resided in the United States for a least five years preceding June 15, 2012. Brief and innocent absences undertaken for humanitarian purposes will not violate this requirement.

What should I do if I am eligible under this process and have been issued an ICE detainer following an arrest by a state or local law enforcement officer?

If you meet the eligibility criteria and have been served a detainer, you should immediately contact either the Law Enforcement Support Center's hotline at 1-855-448-6903 (staffed 24 hours a day, 7 days a week) or the ICE Office of the Public Advocate either through the Office's hotline at 1-888-351-4024 (staffed 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

Does deferred action provide individuals with a path to citizenship or permanent legal status?

No. A grant of deferred action is a form of prosecutorial discretion that does not confer a path to citizenship or lawful permanent resident status. Only the Congress, acting through its legislative authority, can confer these rights.

Why isn't DHS allowing other individuals to request deferred action under this process?

As a general matter, young people who, through no fault of their own, were brought to this country as children, lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them. However, additional measures are necessary to ensure that our enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities.

Does this Administration remain committed to comprehensive immigration reform?

Yes. The Administration has consistently pressed for passage of comprehensive immigration reform, including the DREAM Act, because the President believes these steps are critical to building a 21st century immigration system that meets our nation's economic and security needs.

Is passage of the DREAM Act still necessary in light of the new process?

Yes. As the President has stated, individuals who would qualify for the DREAM Act deserve certainty about their status, and this new process does not provide that certainty. Only the Congress, acting through its legislative authority, can confer the certainty that comes with a pathway to permanent lawful status.

How can I get more information on the new process?

Individuals seeking more information on the new process should visit ICE's website (at www.ice.gov), USCIS's website (at www.uscis.gov), or DHS's website (at www.dhs.gov). Beginning June 18, individuals can also call ICE's hotline (at 1-888-351-4024) or USCIS's hotline (at 1-800-375-5283) during business hours with questions or to request more information on the new process.

Where can I find more information about where to go for Deferred Action?

I...	Who to submit a request to review my case:	Where can I get more information:
...am subject to a final order of removal.	U.S. Citizenship and Immigration Services (USCIS) when the application period opens	USCIS website at http://www.uscis.gov . Beginning June 18: USCIS hotline at 1-800-375-5283 (8 am-8 pm; English & Spanish)
...have a case pending before the Executive Office for Immigration Review or a federal court.	U.S. Immigration and Customs Enforcement (ICE) when the process for accepting requests is announced	ICE website at: http://www.ice.gov . Beginning June 18: ICE hotline at 1-888-351-4024 (9am – 5pm; English and Spanish)
...have never been apprehended or placed into removal proceedings.	U.S. Citizenship and Immigration Services (USCIS) when the application period opens	USCIS website at http://www.uscis.gov . Beginning June 18: USCIS hotline at 1-800-375-5283 (8 am-8 pm; English & Spanish)

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