



ADMINISTRATIVE RELIEF FOR UNDOCUMENTED YOUTH
Frequently Asked Questions
June 19, 2012

1. What is deferred action?

Deferred action is a discretionary determination which defers a removal action. It is temporary protection from deportation. It does not confer any legal status upon an individual and it does not lead to permanent residency or citizenship. It also stops the accrual of unlawful presence in the United States, but does not absolve any previous period of unlawful presence. A grant of deferred action allows an individual to also be eligible for employment authorization.

2. How long will it last?

Grants of deferred action will be given in increments of two years. After the expiration of the two-year period, an individual would need to renew their request for deferred action and employment authorization.

3. What are the requirements?

- Have come to the United States under the age of 16;
- Have continuously resided in the United States for 5 years preceding the date of the DHS memo (June 15, 2012) and are present in the United States;
- Currently be in school, have graduated high school, or obtained a general education development certificate, or are honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- 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;
- Not be above the age of 30.

4. How can I apply?

The procedure is not yet in place. In the next few weeks, U.S. Citizenship and Immigration Services (USCIS) will announce its procedure for applying for deferred action. The procedure should be in place within 60 days of the DHS memo (June 15, 2012). It is important to be wary of immigration scams perpetrated by immigration preparers or “notarios.” **Individuals should not be paying anyone to apply for this**

relief as there is no process to apply yet. Individuals should only seek assistance from licensed, experienced immigration attorneys and/or Board of Immigration Appeals (BIA) Accredited Representatives.

If you are not in removal proceedings or are subject to a final order of removal, you will submit your request to USCIS.

If you are in removal proceedings before the Executive Office of Immigration Review (EOIR/immigration court), Immigration and Customs Enforcement (ICE) will announce its procedure for applying for deferred action in the next few weeks. A procedure should be implemented within 60 days of the DHS memo (June 15, 2012).

If you encounter U.S. Customs and Border Protection (CBP) at a port of entry, you can request deferred action. CBP will conduct an interview, background and biometrics check, and upon establishing *prima facie* eligibility for deferred action, you will be released and directed to apply with USCIS. An individual may be detained while a determination is made on *prima facie* eligibility.

Immigrants who think they may qualify for such relief and live in southern California can contact the Asian Pacific American Legal Center (APALC), a member of the Asian American Center for Advancing Justice, for questions and assistance at (888) 349-9695 and at info@apalc.org. In addition, APALC can also be contacted in the following languages:

- Chinese (Mandarin and Cantonese) - 800.520.2356
- Khmer - 800.867.3126
- Korean - 800.867.3640
- Thai - 800.914.9583
- Vietnamese - 800.267.7395

5. What if I am already in removal proceedings?

You can be eligible for relief even if you are in removal proceedings or have a final removal order. This relief is available and can be granted by USCIS, ICE, and CBP, as long as you meet the eligibility criteria. Cases are determined on a case-by-case basis.

6. What if I am about to be removed?

If you believe you are eligible and are about to be removed you should immediately contact the DHS Law Enforcement Support Center's hotline at 1-855-448-6903 (available 24 hours a day) or the ICE Office of the Public Advocate through the Office's hotline at 1-888-351-4024 (9am - 5pm Monday - Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov and indicate that you are eligible for deferred action pursuant to Secretary Napolitano's Memorandum on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children, dated June 15, 2012. If you are represented by an immigration attorney, contact your attorney immediately. You may also contact APALC for questions and resources.

7. Will I have to do a background check? If so, what will that mean?

Yes. Background checks involve checking biographic and biometric (fingerprints) information provided by individuals to be checked against DHS and other federal, state, and local databases. You will need to provide your biographical information and also fingerprints so that these background checks can be conducted.

8. What if I have a criminal record?

If you have a criminal record, you must consult an experienced immigration attorney before submitting a deferred action request to ICE, CBP, or USCIS. To be eligible for this relief, you must not have been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety. **If you feel that you might have an issue with any of the above, you must consult with an experienced immigration attorney or contact APALC for more information.**

9. What should I do in the interim to prepare for the process?

You should start to gather information to support that you meet the eligibility requirements. This documentation should be sufficient to demonstrate the requirement.

- Proof that you entered the United States under the age of 16 (passports, financial records, school records, medical records, military records, etc.);
- Proof that you are presently in the United States and have resided for at least 5 years preceding June 15, 2012 (financial records, school records, medical records, military records, etc.);
- Proof that you are currently in school or have graduated from high school, obtained a general education development certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States (diplomas, GED certificates, school records, report cards, transcripts, military personnel records, military health records, and separation forms, etc.)

***Obtain any copies of criminal records, court dispositions for any criminal issues that you might have so that it can be evaluated by an experienced immigration attorney prior to submitting a request for deferred action.**

10. What will happen if my request is denied?

DHS has indicated that there will be supervisory review of cases to ensure quality assurance. There is no formal appeal process if a request is denied.

11. If I am denied, will I be placed in removal proceedings?

DHS has indicated that rejected cases will be reviewed under current guidance for whether these cases should be placed in removal proceedings. It is possible that if you are rejected for deferred action, you may be placed in removal proceedings. There is no other information that is available at this time. Once the procedure is announced, please check back for more information before filing your case.

12. Can deferred action be taken away? What if there is a change in the

Administration?

Deferred action can be terminated at any time or renewed at any time. While this only provides temporary relief to DREAMERS, we know from practice and history that it is difficult to terminate relief once it has been granted. Also, only the legislature can provide a permanent path to residency, citizenship, and comprehensive immigration reform. This is an important first step for a more permanent solution.

13. How much will it cost to file for deferred action and employment authorization?

There is no information yet as to the cost of filing for deferred action. Generally the fee for an employment authorization application is \$380.00. There may also be a processing fee for biometrics. There could be a fee waiver available, but at this time there is no other information.

14. What about people like my parents, dependents, older siblings, and other family members who do not qualify?

Unfortunately, if they do not qualify in their own right, they cannot be included in an approved deferred action request.

Remember this is only temporary relief, until a permanent legislative solution can be found, like the DREAM Act and comprehensive immigration reform. This is an important step towards comprehensive immigration reform that can benefit everyone.

15. If this does not lead to residency or citizenship how can this be helpful to me?

Deferred action provides safety from deportation and also the ability to work legally in the United States. For many individuals these are important benefits. While there was a memo on prosecutorial discretion issued by DHS last year, we know that many undocumented youth were still being placed in removal proceedings and some even removed from the United States. This new policy specifically provides protection and relief to undocumented youth.

16. Who can help me with applying for deferred action?

APALC can help you determine if you are qualified for relief. It is important to talk with a licensed, experienced immigration attorney or a BIA Accredited Representative. There are many notarios or preparers who charge high fees and hold themselves out to be immigration experts. There have been many cases of fraud by these notarios/preparers. It is important to be aware of potential immigration scams.

17. How can I help?

If you would like more information on how you can help in this effort, or future efforts to pass the DREAM Act and other legislative actions, please contact APALC at the following:

(888) 349-9695 and at info@apalc.org

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