



## Deferred Action Policy for DREAMers

### What is the new policy that President Obama announced?

On June 15, 2012, President Obama announced a new Department of Homeland Security policy that will allow some undocumented young people to apply for a way to:

- avoid being removed or deported from the United States
- avoid being removed if already in removal proceedings / immigration court
- avoid being placed into removal proceedings

Those who apply and are found eligible will receive something called **deferred action** for a period of two years – with the possibility of renewal – and will be eligible to apply for **work authorization**.

### When will this be available?

Although the policy was announced in June, the Department of Homeland Security gave the U.S. Citizenship & Immigration Service (USCIS) 60 days to create a process for people to apply for deferred action. Therefore, people will not be able to apply until August 15, 2012. As of now there is no form you can fill out to apply and we do not know exactly what the application process will look like.

### What is deferred action?

Under deferred action, the Department of Homeland Security will not place certain, eligible individuals into removal proceedings. It is sort of like the government saying: “we know you are in the country without permission or immigration status, and we could deport you, but we will defer any action on deporting you.” It does not mean that a person with an approved deferred action request has legal immigration status, a visa or a green card. And it is not a path to citizenship.

However, an individual with deferred action is eligible for work authorization. The work authorization is a government-issued identification card which can help with things like getting

a social security number and opening a bank account. In some states (including California) this can also make an approved individual eligible for a driver's license or state identification card.

Deferred action will be granted on a case-by-case basis. If granted, it will be for a period of two years, with the possibility of renewal.

It will be available to people who are in removal proceedings as well as to those who have never had any contact with immigration authorities.

## **Who qualifies?**

A person may qualify for deferred action if he or she:

- was not above the age of thirty on June 15, 2012;
- came to the United States under the age of sixteen;
- has continuously resided in the United States for at least five years before June 15, 2012;
- was physically present in the United States on June 15, 2012;
- is currently in school, has graduated from high school, has obtained a GED, or is an honorably discharged veteran; and
- has 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.

Applicants who submit a deferred action request to USCIS and are not subject to a final order of removal must be 15 years old or older.

## **How do individuals apply?**

**No application or procedure is currently available.** USCIS is developing the application procedure now and planning on releasing it on August 15, 2012.

We do know that applicants will need to complete a background check and will be expected to have evidence of each of the requirements. Documentation will likely need to include, for example, financial, school, and/or medical records. Applicants will also need to demonstrate their presence in the United States on June 15, 2012 and for the five years prior.

## **What are the risks of applying?**

Deferred action is not federal law. It can be terminated at any time, including by a new Presidential Administration.

An application notifies DHS of the undocumented immigrant's presence, potentially exposing him or her to future removal proceedings.

An applicant denied deferred action (based on, for example, the commission of certain crimes) may possibly be placed immediately in removal proceedings.

## **What should applicants do now?**

First, do not believe or hire anyone who tells you they already have an application for you to fill out to apply for this deferred action policy. There are many *notarios*, "immigration specialists," and even attorneys who are scamming the immigrant community. They do this by acting willing to help but instead fraudulently charging people for an application process that is not even available yet or filing applications for people who are not eligible. The form is not yet available and we do not yet have guidance on what the process will be. Information about the form and the application process will not be available until August 15, 2012.

Second, start collecting your documents to demonstrate your eligibility under this new policy.

- Gather documents to show your presence in the United States on June 15, 2012 as well as your presence in the country for the past five years.
- Obtain evidence of your age (like a birth certificate) and your enrollment in a U.S. high school or your graduation from a U.S. high school or GED program

If you've got any criminal arrests or convictions in your history, obtain a copy of your criminal records so an attorney or reputable legal services provider can help you analyze your eligibility or risk in applying. You should do this by doing an FBI background check, getting your state criminal rap sheet, and obtaining a complete copy of the record from any court in which you have a conviction. See "Understanding the Criminal Bars to the Deferred Action Policy for DREAM Act-Eligible Individuals" at [www.ilrc.org](http://www.ilrc.org) for more information.

And finally, start saving your money. Although we do not currently know exactly how much it will cost to apply for deferred action under this policy, we know that it will not be free to apply and get work authorization. An application for work authorization currently costs \$380 and the biometrics/background check currently costs \$85. There will likely be an additional fee to apply for deferred action, so the total cost may be as much as \$450-1000 or more. It is not clear yet whether fee waivers will be available.