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**Victory for Dreamers:
Deferred Action and Youth Advocacy**

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U.S. Citizenship and Immigration Services

Frequently Asked Questions

FAQs updated September 14, 2012

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 the Department of Homeland Security (DHS) continues to focus its enforcement resources on the removal of individuals who pose a danger to national security or a risk to public safety, including individuals convicted of crimes with particular emphasis on violent criminals, felons, and repeat offenders, DHS will exercise prosecutorial discretion as appropriate to ensure that enforcement resources are not expended on low priority cases, such as individuals who came to the United States as children and meet other key guidelines. Individuals who demonstrate that they meet the guidelines below may request consideration of deferred action for childhood arrivals for a period of two years, subject to renewal, and may be eligible for employment authorization.

You may request consideration of deferred action for childhood arrivals if you:

1. Were under the age of 31 as of June 15, 2012;
2. Came to the United States before reaching your 16th birthday;
3. Have continuously resided in the United States since June 15, 2007, up to the present time;
4. Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
5. Entered without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012;
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

Individuals can call USCIS at 1-800-375-5283 with questions or to request more information on the deferred action for childhood arrivals process or visit www.uscis.gov.

**View the Consideration of Deferred Action for Childhood Arrivals
Process Video**

[About Deferred Action for Childhood Arrivals](#)

[Guidelines for Requesting Consideration of Deferred Action For Childhood Arrivals](#)

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About Deferred Action for Childhood Arrivals

Q1: What is deferred action?

A1: 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 individual whose case is deferred 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 excuse individuals of any previous or subsequent periods of unlawful presence.

Under existing regulations, an individual whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate “an economic necessity for employment.” DHS can terminate or renew deferred action at any time at the agency’s discretion.

Q2: What is deferred action for childhood arrivals?

A2: On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several key guidelines may request consideration of deferred action for a period of two years, subject to renewal, and would then be eligible for work authorization.

Individuals who can demonstrate through verifiable documentation that they meet these guidelines will be considered for deferred action. Determinations will be made on a case-by-case basis under the guidelines set forth in the Secretary of Homeland Security’s

memorandum.

Q3: If my removal is deferred pursuant to the consideration of deferred action for childhood arrivals process, am I eligible for employment authorization?

A3: Yes. Pursuant to existing regulations, if your case is deferred, you may obtain employment authorization from USCIS provided you can demonstrate an economic necessity for employment.

Q4: Does this process apply to me if I am currently in removal proceedings, have a final removal order, or have a voluntary departure order?

A4: This process is open to any individual who can demonstrate he or she meets the guidelines for consideration, including those who have never been in removal proceedings as well as those in removal proceedings, with a final order, or with a voluntary departure order (as long as they are not in immigration detention). If you are not in immigration detention and want to affirmatively request consideration of deferred action for childhood arrivals, you must submit your request to USCIS – not ICE – pursuant to the procedures outlined below. If you are currently in immigration detention and believe you meet the guidelines you should not request consideration of deferred action from USCIS but should identify yourself to your detention officer or contact the ICE Office of the Public Advocate through the Office’s hotline at 1-888-351-4024 (staffed 9 a.m. – 5 p.m., Monday – Friday) or by email at EROPublicAdvocate@ice.dhs.gov.

Q5: Do I accrue unlawful presence if I have a pending request for consideration of deferred action for childhood arrivals?

A5: You will continue to accrue unlawful presence while the request for consideration of deferred action for childhood arrivals is pending, unless you are under 18 years old at the time of the request. If you are under 18 years old at the time you submit your request but turn 18 while your request is pending with USCIS, you will not accrue unlawful presence while the request is pending. If your case is deferred, you will not accrue unlawful presence during the period of deferred action. Having action deferred on your case will not excuse previously accrued unlawful presence.

Q6: If my case is deferred, am I in lawful status for the period of deferral?

A6: No. Although action on your case has been deferred and you do not accrue unlawful presence during the period of deferred action, deferred action does not confer any lawful status.

There is a significant difference between “unlawful presence” and “unlawful status.” Unlawful presence refers to a period an individual is present in the United States (1) without being admitted or paroled or (2) after the expiration of a period of stay authorized by the Department of Homeland Security (such as after the period of stay authorized by a visa has expired). Unlawful presence is relevant only with respect to determining whether the inadmissibility bars for unlawful presence, set forth in the Immigration and Nationality Act at Section 212(a)(9), apply to an individual if he or she departs the United States and subsequently seeks to re-enter. (These unlawful presence bars are commonly known as the 3- and 10-Year Bars.)

The fact that you are not accruing unlawful presence does not change whether you are in lawful status while you remain in the United States. Because you lack lawful status at the

Also available as part of the eCourse

[Deferred Action for Childhood Arrivals \(DACA\) and the DREAM Act; Post-Election: A Look Ahead; plus CIS Ombudsman Introduction](#)

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