



Deferred Action for DREAMers Overview of the Process and Frequently Asked Questions

On June 15, 2012, the Obama administration announced that certain young immigrants who were brought to the United States as children and educated here should be granted a temporary reprieve from deportation and given work authorization. For legal advice concerning eligibility for this program, please consult with an attorney or an organization recognized by the Board of Immigration Appeals. For additional information to help you determine if you qualify, please visit DREAMerJustice.org.

Am I eligible under this initiative?

Below is a list of basic requirements for this initiative:

- Came to the United States before you were 16 years old
- Were under the age of 31 as of June 15, 2012
- Continuously lived in the United States for at least 5 years before June 15, 2012
- Are at least 15 years old if you aren't in removal proceedings
- Currently enrolled in elementary school, junior high/middle school, high school or in federal/state funded GED program, graduated from high school or obtained a GED, or were honorably discharged from the U.S. Coast Guard or Armed Forces
- 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
- Did not have lawful status on June 15, 2012, and do not currently have lawful status
- Were physically present in the United States on June 15, 2012, and remain physically present

If I apply, what benefits could I receive?

Eligible individuals will receive deferred action for two years. Deferred action is a discretionary decision by the government to refrain from removing an individual from the United States. Deferred action does not mean you have permanent lawful status. Deferred action makes an individual eligible for work authorization (if you can show economic necessity) and a social security number. Most states issue driver's licenses to people with social security numbers.

How can I prove I was living here for 5 years?

Include documents such as financial, medical, school, employment, and military records that show you have been living in the United States. Affidavits may be used only to explain a gap in your documentation (i.e. that you cannot show 5 *continuous* years) or if you need to document departures from the U.S. For these purposes, you must submit two or more affidavits signed by people *other than you* who have direct knowledge of the circumstances in question.

I may not be eligible because of a criminal background, but I'm not sure. What constitutes a felony, serious misdemeanor, and multiple misdemeanors?

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

A significant misdemeanor includes a conviction for domestic violence, sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence. Also, if you were sentenced to time in custody for more than 90 days for any offense, this is a significant misdemeanor. Time in custody does not include a suspended sentence. **Despite these guidelines, DHS retains the discretion to deny deferred action on the basis of a single criminal offense where the individual served less than 90 days in custody.**

You may be ineligible if you were convicted of three or more misdemeanors, for which you served 90 days or less. Multiple convictions that resulted from acts, omissions, or schemes of misconduct on the same day will generally count as one conviction. DHS has stated that minor traffic offenses, including driving without a license, will not be considered a misdemeanor in this process.

DHS also says that immigration-related offenses that are considered to be felonies or misdemeanors under state laws will **not** be treated as disqualifying felonies or misdemeanors in this process.

What about expunged convictions or juvenile adjudications?

Expunged convictions and juvenile adjudications will not automatically disqualify you, but DHS will take them into consideration when determining whether to grant you deferred action. Although an expunged conviction does not automatically disqualify you, it is considered a conviction for deportation purposes. If you were tried and convicted as an adult, the government will consider that a conviction.

Have you ever said that you were a U.S. citizen on any government or employment form?

This may not make you ineligible for deferred action, but it could create other serious immigration problems.

How do I know if I'm a threat to national security or public safety?

DHS will uncover information during a background check. If you are or have been a member of a gang or participated in criminal activities that threaten the United States, you may be considered a threat.

What if I have another application pending?

You can still apply for deferred action as long as you did not have lawful status as of June 15, 2012.

What if I am already in removal proceedings?

You can apply with U.S. Citizenship and Immigration Services (USCIS) if you meet the criteria above, even if you were previously offered administrative closure and declined, or you were not offered administrative closure by U.S. Immigration and Customs Enforcement (ICE).

What about my family?

Unfortunately, family members and dependents will not receive any immigration benefit through you.

What if I've left the country for a brief period of time before I filed my application?

This absence will not affect your application if:

- You left and returned before August 15, 2012
- The absence was short and reasonable to accomplish your purpose abroad
- The absence was not because of an order of exclusion, deportation, removal, or voluntary departure
- You did not violate any laws while out of the country

How much will it cost me to apply?

\$465 for both deferred action and work authorization applications. You may be eligible for a fee waiver if your income is less than 150% of the U.S. poverty level *and*:

- You are under 18 years old and homeless, in foster care, or otherwise lacking any familial support
- You cannot care for yourself because of a serious, chronic disability
- You have, at the time of your application, accumulated within the past 12 months \$25,000 or more in personal debt as a result of unreimbursed medical expenses for you or an immediate family member.

What if my application is denied? Can I be placed in removal proceedings?

Yes. USCIS will apply its existing Notice to Appear guidance. If you have a criminal conviction or you are found to have knowingly misrepresented part of your application or failed to disclose facts to USCIS or ICE, you may be subject to both criminal prosecution and removal.

Immigration Legal Resources

National Immigrant Justice Center: www.immigrantjustice.org/DREAMers; NIJC's Deferred Action Self-Assessment Tool: www.DREAMerjustice.org; and American Immigration Lawyers Association: www.ailalawyer.com