

# **Deferred Action for Childhood Arrivals and the Implications of Criminal Convictions on that Opportunity**

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### **Amanda B. Mason bio information**

- Native of Washington, D.C.,
- Graduate of the University of Arizona James E. Rogers College of Law, Spring of 2003; admitted to the bar of North Carolina same year.
- Member of the National Association of Criminal Defense Attorneys; the North Carolina Advocates for Justice; the American Immigration Lawyers Association.
- Member of the CJA Panel – a group of attorneys qualified for the representation of criminal defendants in federal court.
- Hobbies: Tennis, Motorcycle riding and spending time with husband and children.
- Law firm: recently announced that she will be leaving her firm in Raleigh and locating her law practice full time in Wilmington, North Carolina, to emphasize criminal law, family law, and general litigation.

**Immigration and Criminal Issues for Paralegals**  
**Criminal Issues in Deferred Action for Childhood Arrivals (a/k/a DREAMers)**  
**And Update on Immigration Reform**

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- I. Fundamentals of Immigration
  - a. Admissions Process (SEE CHART)
  - b. Important terms:
    - i. Visa vs. Status
    - ii. Nonimmigrant visa vs. Immigrant visa
    - iii. Unlawful Presence
    - iv. Greencard
    - v. I-94 Cards
    - vi. Employment Authorization/EAD
    - vii. EWI vs. Overstay
    - viii. Adjustment of Status vs. Consular Processing
    - ix. Visa Bulletin
    - x. DACA
  - c. Preference categories:
    - i. Family Based:
      - \*Immediate Relatives – spouse, minor child (under 21) or parent of USC (if parent, USC must be over 21).
      - 1. 1st Preference– adult unmarried sons & daughters of U.S. citizens.
      - 2. 2A – spouse or child of LPR
      - 3. 2B – adult unmarried son or daughter of LPR
      - 4. 3rd – married son or daughter of USC
      - 5. 4th – Sibling of USC
    - ii. Employment based
      - 1. 1st - Extraordinary Ability Aliens; Multinational Managers/Executives; Outstanding Professors & Researchers.

2. 2nd – Advanced Degree Holders (Bachelors + 5 years); Exceptional Ability Aliens; National Interest Waivers, Schedule A RNs & PTs.
3. 3rd – Professionals; Skilled Workers; Other Workers.
4. 4th – Special Immigrants: Religious Workers; Juvenile Immigrants Dependent on State Court.
5. 5th – Immigrant Investors (\$1 Million + 10 jobs)

d. Naturalization

- i. Basic Requirements:
- ii. Continuous Residence
- iii. Physical Presence
- iv. State Residence
- v. Good Moral Character
- vi. English Language
- vii. Civics/History
- viii. Oath of Allegiance
- ix. Statutory Bars

e. EOIR PROCEEDINGS

- i. Immigration Judges (IJ) conduct formal court proceedings
- ii. IJs act independently in deciding matters before them
- iii. IJ decisions are administratively final unless appealed/certified to BIA (Board of Immigration Appeals)
- iv. In removal proceedings, IJs determine whether an alien should be allowed to enter or remain in the U.S.
- v. IJs have jurisdiction to consider various forms of relief from removal (e.g. voluntary departure, asylum, cancellation of removal, AOS, protection under the Convention Against Torture, etc)

f. Sources of Immigration law – primarily statutes and regulations.

II. Basic criminal issues in immigration:

a. *Padilla v. Kentucky*,  
130 S.C. 1473 (2010)

i. Key points:

1. Deportation is a “particularly severe penalty” and “intimately related” to the criminal process.
2. The Court rejects the collateral-versus-direct distinction as it relates to immigration.

3. **Affirmative, correct advice is required by defense counsel – silence is insufficient. The Court makes no distinction between affirmative mis-advice and silence.**
  4. The Court endorses “informed consideration” regarding deportation consequences by both prosecutors and defendants during plea-bargain process.
- ii. Providing Effective Counsel Under *Padilla*
    1. Properly identify your client’s status;
    2. Consider immigration consequences to the charges and possible plea agreements, as well as the impact of sentencing;
    3. Advise of “clear” consequences;
    4. When consequences are unclear, advise of the possibility of immigration issues;
    5. Either refer the client to an immigration attorney or consult with one directly during the course of the case.
- b. What’s a conviction in immigration law?
- i. Can be different from criminal law.
  - ii. Defined by 8 U.S.C. § 1101(a)(48)(A) [INA § 101(a)(48)]
  - iii. (A) “... formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where-
  - iv. A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and
  - v. the judge has ordered some form of punishment, penalty, or restraint on the alien’s liberty to be imposed.”
  - vi. EXAMPLES OF CONVICTIONS:
    1. Found guilty at trial
    2. Guilty or nolo contendere plea
    3. Deferred adjudications if an adjudication of guilt
    4. Diversions without formal adjudication of guilt if:
    5. Sufficient facts admitted and
    6. Restraint on liberty (probation, community service)
    7. Expunged convictions
- c. Types of crimes:

- i. Crimes Involving Moral Turpitude Not well-defined, but referenced under both grounds of inadmissibility and deportability.
  - 1. Consequences:
    - a. Inadmissible (includes adjustment of status), sometimes even if the client only admitted the essential elements, unless a “petty offense.”
    - b. Petty offense exception to inadmissibility: one CIMT if maximum penalty does not exceed one year, and actual sentence of imprisonment not more than six months.
    - c. Deportable/Removable
      - i. if conviction within five years of the date of admission *AND* if the crime carries a sentence for which one year or longer *may be imposed*. (Do NOT depart the U.S. – attempted re-entry triggers the harsher inadmissibility standard).
      - ii. Multiple CIMTs: two or more offenses after admission not arising out of a single scheme of criminal misconduct, regardless of confinement authorization.
- ii. Aggravated Felony
  - 1. Also very difficult to define. § 1101(a)(43)(A)-(U) [INA § 101(a)(43)(A)-(U)]
  - 2. Statute operates as a long, ever-expanding list of crimes, many with side-references to other statutes for definitions.
  - 3. NOT a ground of inadmissibility, and should not bar adjustment or a visa. *But often will fall into an additional category to deny these items, or can lead to discretionary denial.*
  - 4. Is a ground for removal from the United States.
- iii. Controlled Substance Offenses: May qualify as Ag Fel, CIMT, or both, but is also covered as its own crime.
  - 1. “Controlled Substance” as defined by section 102 of the Controlled Substance Act (21 USC § 802).
  - 2. Inadmissibility: An individual who has been convicted of or *admits to* having committed a violation of is inadmissible.

3. Also a person can be denied admission or permanent resident status if there is “reason to believe” that they have been involved with trafficking in controlled substances.
4. Deportability: removable if a final conviction.
5. Exception to removability for 1 count of simple marijuana possession involving 30 grams or less.
6. Drug Paraphernalia is not clearly a controlled substance offense.
7. *In sum: there is exceedingly low tolerance for even minor controlled substance offenses. Handle with care.*

iv. DOMESTIC VIOLENCE

1. Deportability: Under INA § 237(a)(2)(E), conviction any time after admission for crimes of domestic violence, stalking, child abuse, child neglect, or child abandonment will render the foreign national deportable.
  2. “Crime of Domestic Violence” applies the federal definition of “crime of violence” at 18 USC § 16.
  3. Negligent or reckless conduct probably should not be included.
  4. For divisible statutes, the least culpable conduct will apply.
  5. Simple assaults and battery statutes often do not meet the federal definition of “crimes of violence”
  6. Victim, defined:
    - a. current/former spouses;
    - b. person with whom the individual has a child;
    - c. a person with whom the individual has cohabited or is currently cohabiting;
    - d. Person similarly situated to a spouse, as defined by the domestic/family violence laws of the jurisdiction where offense occurred;
    - e. Catch-all: Any other person protected by any domestic violence laws of the U.S., any state, Indian government, or local government.
    - f. Violations of Protective Orders: deportable. Note the lower standard.
- d. *The criminal defense attorney’s number one job in representing foreign-born individuals is to make sure that the client has enough information to balance whether risking a conviction at trial is worth it in light of the plea offered, and the immigration consequences that come with it.*

### III. Deferred Action for Childhood Arrivals.

- a. What is it: Not a path to citizenship nor is it a grant of any formal status, but simply a decision to defer the removal (deportation) of an individual. These individuals can obtain employment authorization for the period of deferral.
- b. Who is eligible? Must meet these criteria:
  - i. Individuals who entered the U.S. under the age of 16 as of June 15, 2012;
  - ii. Individuals who continuously resided in the U.S. for 5 or more years prior to June 15, 2012 and are still present in the U.S.;
  - iii. Must not be over the age of thirty;
  - iv. Individuals who are currently in school, have graduated from high school, or similar educational accomplishments; or individuals honorably discharged from the U.S. Armed Forces of Coast Guard;
  - v. Have no felony offense convictions; no significant misdemeanor convictions or multiple misdemeanor offenses; AND
  - vi. Do not otherwise pose a threat to national security.
- c. How long does it last? Permissions are granted in increments of 2 years.
- d. Who is ineligible because of criminal history?
  - i. Felony convictions.
  - ii. Significant misdemeanors.

#### From the USCIS Website

“For the purposes of this process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.”



- iii. Multiple Misdemeanors: 3 or more misdemeanors not occurring on the same day and not arising out of related conduct.

#### IV. Immigration Reform

- a. First, a few myths of immigration.
  - i. MYTH #1: People who are here illegally have “jumped the line
  - ii. MYTH #2: It is a crime to be in the United States illegally
  - iii. MYTH #3: Someone who Entered Without Inspection can remain in the U.S. if they have a child born in the U.S.
  - iv. MYTH #4: Immigrants are a drain on our country’s economy.
- b. Considerations of the reform debate:
  - i. Amnesty?
  - ii. DREAM Act;
  - iii. Change in the types and numbers of available visas;
  - iv. Protection of U.S. jobs while ensuring adequate foreign labor and skilled workers;
  - v. Protection of U.S. border/national security;
  - vi. Ability to identify immigrants more easily;
  - vii. Removal of undocumented/criminal immigrants;
  - viii. Prosecution of criminal immigrants;
  - ix. Conservation of government resources;
  - x. Citizenship versus residence versus deferred action.
- c. The status of the current debate.

# Fundamentals of Immigration

## Admissions Process

**Obtain Passport  
(Foreign Govt)**

**Obtain Notice of  
Approval (if req'd)  
(USCIS)**

**Use Passport &  
NOA to Obtain  
Visa (if req'd)  
(DOS - Consulate)**

**Use Passport, Visa  
& NOA to Obtain  
I-94 at POE  
(CBP)**

**Repeat as Needed!  
-- Extensions  
-- Travel**



**Smith Debnam**  
ATTORNEYS AT LAW  
*Knowing how.*

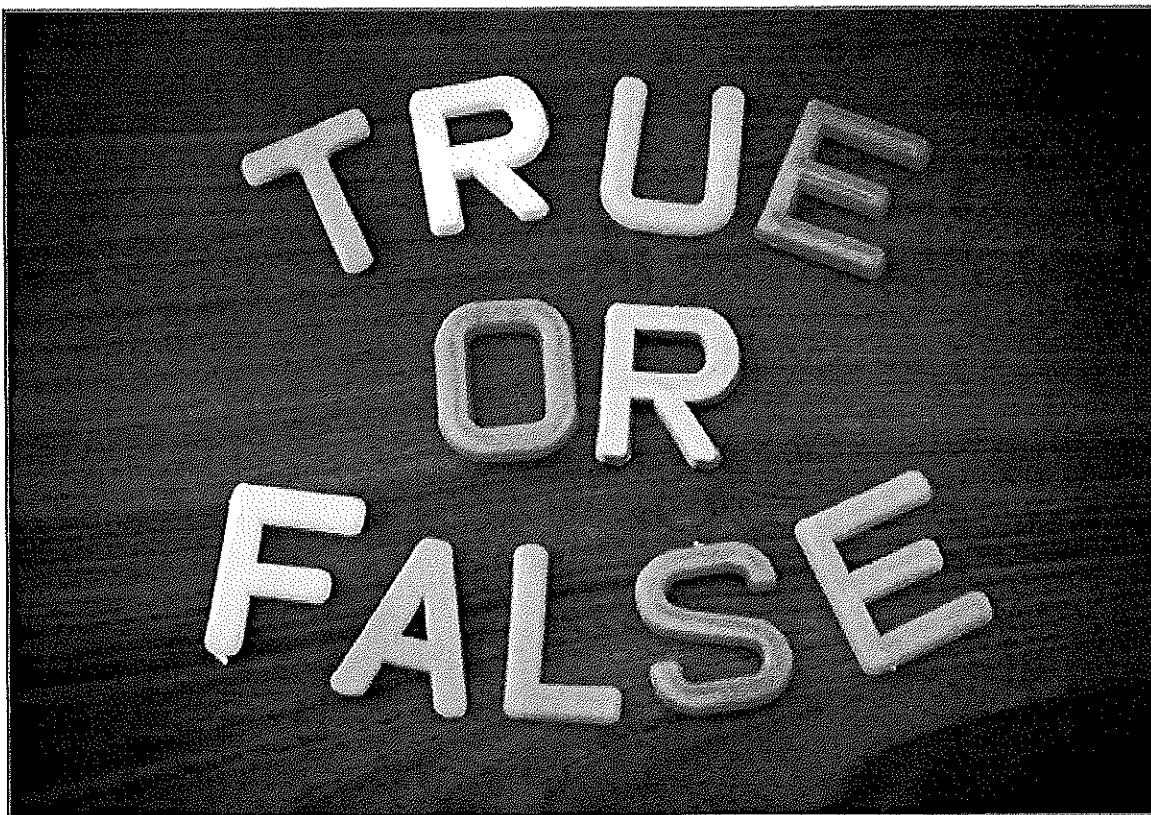


## Busting Myths About Deferred Action

Categories: Administration, Children, Congress, Deferred action, Economics, Myths, President Obama, Prosecutorial Discretion, Restrictionists, Students, Undocumented Immigration, USCIS

by Ben Winograd

August 15, 2012



Beginning today, undocumented immigrants brought to the country as children may officially submit requests for deferred action, a form of prosecutorial discretion that protects recipients from deportation and allows them to work legally in the United States for up to two years. As might be expected, numerous inaccuracies have surfaced in media coverage and other commentary about the initiative, known formally as Deferred Action for Childhood Arrivals (DACA). Below, we address common falsehoods about deferred action in general and the Obama administration's initiative in particular.

**Myth: Deferred action is an invention of the Obama administration.**

Neither the exercise of prosecutorial discretion nor the granting of deferred action are recent developments in the enforcement of immigration law. For as long as Congress has placed limits on who may enter or remain in the United States, authorities have possessed discretion to prioritize the removal of some immigrants over others. And since at least the 1970s, the federal government has formally designated certain immigrants (including John Lennon) as non-priorities for removal. Thus, while the DACA initiative may result in more immigrants receiving deferred action than in the past, the concept itself is not new.

**Myth: The deferred action initiative is unconstitutional.**

Critics of the President have taken to labeling the initiative an unconstitutional end-run around Congress. This critique ignores not only the historic use of prosecutorial discretion to manage resources, but the recent Supreme Court decision that recognizes the executive branch's authority to grant deferred action. Moreover, since the Reagan administration, federal regulations have authorized the issuance of work permits to immigrants who are granted deferred action. Thus, far from thwarting the will of Congress, the initiative is consistent with federal law.

**Myth: Deferred action is "amnesty."**

As we explained on Monday, deferred action is not "amnesty." Recipients of deferred action are neither placed on a path to citizenship nor given any formal immigration status. Even though the government has temporarily pledged not to deport them, and they are considered to be lawfully present, they have no legal "right" to remain in the country. They cannot sponsor family members to come to the United States; may not travel abroad without receiving advance permission from the government; and do not receive a "green card."

**Myth: Deferred action provides "immunity" from deportation.**

Many commentators have said that recipients of deferred action will receive "immunity" from deportation, implying that the government may not revoke the protection. In truth, deferred action is a purely discretionary form of relief that can be rescinded at any time by this or any future administration.

**Myth: Deferred action will allow undocumented immigrants to get jobs that could have gone to unemployed natives.**

Most of the immigrants who are currently or potentially eligible for deferred action are still in school (K-12) and will not be competing for jobs against anyone. In fact, only around half a million are not currently in school, which amounts to between 0.3% and 0.5% of the total U.S. workforce. Moreover, the DACA initiative will enable more undocumented youth to go to college and then to join the labor force as skilled workers. And economists have found that highly educated immigrant workers are not in job competition with the vast majority of native-born workers.

**Myth: The deferred action initiative will cost taxpayer money.**

Based on a misleadingly headlined report from the Associated Press, critics of the initiative have said it could cost more than \$500 million in taxpayer dollars. Yet as we previously explained, U.S. Citizenship and Immigration Services (USCIS), the agency that will process deferred action requests, is funded almost entirely by application fees paid by immigrants themselves. With limited exceptions, immigrants requesting deferred action under the initiative must pay a non-refundable \$485 fee. Depending on how many immigrants apply, the deferred action initiative could potentially *raise* money for USCIS.

**Myth: Immigrants must have entered the country illegally to qualify for deferred action.**

Numerous media outlets, including National Public Radio, have reported that immigrants may only request deferred action if they initially entered the country illegally. Many people residing in the country unlawfully came to the United States on visas, however, and overstayed their authorized period of stay. Consequently, deferred

action may be granted regardless of how an individual entered the country, provided all other requirements are met.

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Tags: [daca](#), [deferred action](#), [Deferred Action for Childhood Arrivals](#), [illegal immigration](#), [immigration blog](#), [is deferred action amnesty](#), [is deferred action unconstitutional](#), [myths about deferred action](#), [undocumented immigrant children](#), [will deferred action cost taxpayer money](#)

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## Consideration of Deferred Action for Childhood Arrivals Process

FAQs updated January 18, 2013

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. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. Deferred action does not provide an individual with lawful status.

If you need further information and cannot find it on this Web page or in our [Frequently Asked Questions](#), you may contact our National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TDD for the hearing impaired). Customer service officers are available Monday – Friday from 8 a.m. – 8 p.m. in each U.S. time zone.

### Find on this Page

[Guidelines](#)

[Filing Process](#)

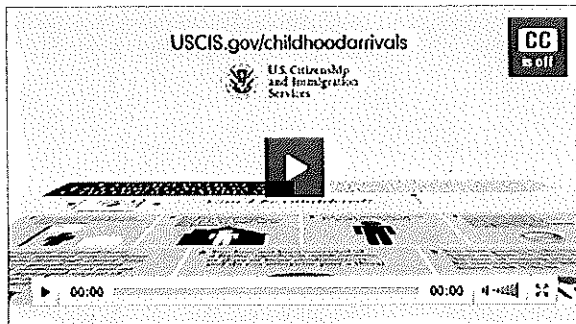
[Travel Requirements and Restrictions](#)

[National Security and Public Safety Guidelines](#)

[Renewing Deferred Action Under This Process](#)

[Don't Be a Victim of Immigration Scams](#)

[View the Consideration of Deferred Action for Childhood Arrivals Process Video](#)



### Guidelines

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.

### Age Requirements

Anyone requesting consideration for deferred action under this process must have been under 31 years old as of June 15, 2012. You must also be at least 15 years or older to request deferred action, unless you are currently in removal proceedings or have a final removal or voluntary departure order, as summarized in the table below:

#### Your situation

I have never been in removal proceedings, or my proceedings have been terminated before making my request.

I am in removal proceedings, have a final removal order, or have a voluntary departure order, and I am not in immigration detention.

#### Required age

At least 15 years old at the time of submitting your request and not over 31 years of age as of June 15, 2012.

Not above the age of 31 as of June 15, 2012, but you may be younger than 15 years old at the time you submit your request.

### Timeframe for Meeting the Guidelines

#### You must prove

##### That on June 15, 2012 you

Were under 31 years old  
Had come to the United States before your 16th birthday

##### As of the date you file your request you

Have resided continuously in the U.S. since June 15, 2007;

### Related Links

- [Deferred Action for Childhood Arrivals Data](#)
- [How Do I Request Consideration of Deferred Action for Childhood Arrivals \(also available in Spanish, Chinese and Vietnamese\)](#)
- [Deferred Action for Childhood Arrivals - Flyer \(3884KB PDF\)](#)
- [Deferred Action for Childhood Arrivals: Guidance for Employers \(573KB PDF\)](#)

### Frequently Asked Questions

- [Frequently Asked Questions](#)
- [Frequently Asked Questions Korean \( PDF\)](#)
- [Frequently Asked Questions Portuguese \( PDF\)](#)
- [Frequently Asked Questions Spanish](#)
- [Frequently Asked Questions Tagalog \( PDF\)](#)

### Filing Tips

[What You Need to Know: Filing Tips for Deferred Action for Childhood Arrivals](#)

### Forms

- [Form 821D Posted for Public Comment](#)
- [I-821D, Consideration of Deferred Action for Childhood Arrivals](#)
- [I-765, Application for Employment Authorization](#)
- [G-1145, E-Notification of Application/Passport Acceptance Consideration of Deferred Action for Childhood Arrivals Fee Exemption Guidance](#)

### Other USCIS Links

- [Avoid Scams](#)
- [Find Legal Services](#)
- [Press Releases](#)

### Non-USCIS Links

- [Social Security Number - Deferred Action For Childhood Arrivals](#)

### DHS Links

- [DHS Memo: Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the US](#)

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**You must prove**

**That on June 15, 2012 you**

Were physically present in the United States  
 Entered without inspection by this date, or your lawful immigration status expired as of this date

**As of the date you file your request you**

Were physically present in the United States; and  
 Are in school, have graduated from high school in the United States, or have a GED, or  
 Are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States

**Education and Military Service Guidelines**

**Your school or military status at the time of requesting deferred action under this process**

**Meet education or military service guidelines for deferred action under this process (Y/N)**

I graduated from:

Yes

Public or private high school, or  
 Secondary school.  
 Or  
 I have obtained a GED.

I am currently enrolled in school.

Yes

See the [Education section](#) of the FAQs for a full explanation of who is considered currently in school.

I was in school but dropped out and did not graduate. I am not currently in school and am not an honorably discharged veteran of the Coast Guard or Armed Forces of the U.S.

No

I am an honorably discharged veteran of the Coast Guard or Armed Forces of the U.S.

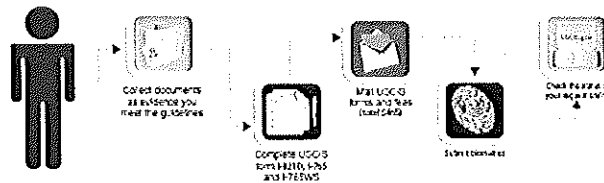
Yes

Please see our [Frequently Asked Questions](#) for more detail on school-related guidelines.

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**Filing Process for Consideration of Deferred Action for Childhood Arrivals**

If you meet the guidelines for deferred action under this process, you will need to complete the following steps to make your request to USCIS.



**Collect documents as evidence you meet the guidelines.**  
 You will need to submit supporting documents with your request for consideration of deferred action for childhood arrivals. You can submit legible copies of these documents unless the instructions specify you must submit an original document.

**Examples of Documents to Submit to Demonstrate you Meet the Guidelines**  
 Please see the [instructions](#) to Form I-821D, [Consideration of Deferred Action for Childhood Arrivals](#), for further details on acceptable documentation.

<p><b>Proof of identity</b></p>	<p>Passport or national identity document from your country of origin</p> <p>Birth certificate with photo identification</p> <p>School or military ID with photo</p> <p>Any U.S. government immigration or other document bearing your name and photo</p>
<p><b>Proof you came to U.S. before your 16th birthday</b></p>	<p>Passport with admission stamp</p> <p>Form I-94/I-95/I-94W</p> <p>School records from the U.S. schools you have attended</p> <p>Any Immigration and Naturalization Service or DHS document stating your date of entry (Form I-862, Notice to Appear)</p> <p>Travel records</p> <p>Hospital or medical records</p>
<p><b>Proof of immigration status</b></p>	<p>Form I-94/I-95/I-94W with authorized stay expiration date</p> <p>Final order of exclusion, deportation, or removal issued as of June 15, 2012</p> <p>A charging document placing you into removal proceedings</p>
<p><b>Proof of presence in U.S. on June 15, 2012</b></p>	<p>Rent receipts or utility bills</p>

<p>Proof you continuously resided in U.S. since June 15, 2007</p>	<p>Employment records (pay stubs, W-2 Forms, etc)                  School records (letters, report cards, etc)                  Military records (Form DD-214 or NGB Form 22)                  Official records from a religious entity confirming participation in a religious ceremony                  Copies of money order receipts for money sent in or out of the country                  Passport entries                  Birth certificates of children born in the U.S.                  Dated bank transactions                  Social Security card                  Automobile license receipts or registration                  Deeds, mortgages, rental agreement contracts                  Tax receipts, insurance policies</p>
<p>Proof of your student status at the time of requesting consideration of deferred action for childhood arrivals</p>	<p>School records (transcripts, report cards, etc) from the school that you are currently attending in the United States showing the name(s) of the school(s) and periods of school attendance and the current educational or grade level                  U.S. high school diploma or certificate of completion                  U.S. GED certificate</p>
<p>Proof you are an honorably discharged veteran of the Coast Guard or Armed Forces of the U.S.</p>	<p>Form DD-214, Certificate of Release or Discharge from Active Duty                  NGB Form 22, National Guard Report of Separation and Record of Service                  Military personnel records                  Military health records</p>

See our [Frequently Asked Questions](#) for information on submitting affidavits or circumstantial evidence to support your request

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Complete the required two forms and worksheet



Form name	Fee
I-821D, <a href="#">Consideration of Deferred Action for Childhood Arrivals</a>	Total fee of \$465. \$380 fee plus \$85 fee for biometric services.
I-765, <a href="#">Application for Employment Authorization</a>	These fees cannot be waived.
I-765WS, <a href="#">Worksheet</a>	

**Form Filing Tips**

- Forms must be mailed to the [USCIS Lockbox](#).
- You cannot e-file your deferred action request for this process.
- If you have questions call the Customer Service Center at 1-800-375-5283; do NOT visit a USCIS field office in person.
- Write your name, date of birth, and mailing address exactly the same way on each form.
- Failure to submit Forms I-821D, I-765, I-765WS and the \$465 fee will result in your package being rejected.
- We prefer that you download the forms from [our website](#), fill them out electronically, and then print your forms.
- Use black ink only. Do NOT use highlighters or red ink on your forms as they may make your materials undetectable when scanned.
- Ensure that you are using the correct edition of the form. The correct, most current edition of every USCIS form is always available for FREE download on this website.
- Ensure that you provide all required supporting documentation and evidence.
- Organize and label evidence by the guideline it meets.
- Be sure to sign all of your forms.
- Be sure that you mail all pages of the forms.
- If you must change your form, we recommend that you begin with a new form, rather than trying to white out information, which can lead to scanning errors.



**Mail your forms to the appropriate USCIS Lockbox.**  
 See the [mailing instructions](#) for Form I-821D. Include the required forms, fees and supporting documentation with your filing. Remember to carefully follow instructions and fully complete your forms. USCIS will not accept incomplete forms or forms without proper fee. USCIS will mail you a receipt after accepting your request. You may also choose to receive an email and/or text message notifying you that your form has been accepted by completing a [Form G-1145, E-Notification of Application/Petition Acceptance](#).



**Visit an Application Support Center (ASC) for biometric services.**  
 After USCIS receives your complete request with fees, we will send you a notice scheduling you to visit an ASC to for biometric services. If you fail to attend your ASC appointment, USCIS may deny your request for deferred action. Children under 14 in removal proceedings, with a final removal order, or with a voluntary departure order, and who are not in immigration detention, will appear at the ASC for photographs only.





Check the status of your request on [Case Status Online](#).  
 The 90-day period for reviewing Form I-765 filed together with Form I-821D begins if and when USCIS decides to defer action in your case.

**Fee Exemptions**

There are no fee waivers available for the deferred action for childhood arrivals process. [Fee exemptions](#) are available in very limited circumstances. Visit the Fee Exemption page for more details.

**If USCIS Defers Action in Your Case**

If USCIS defers action in your case and grants employment authorization, you will receive a notice of decision in writing and an Employment Authorization Document separately in the mail.

**If USCIS Does Not Exercise Deferred Action in Your Case**

If USCIS decides not to defer action in your case, you cannot appeal the decision or file a motion to reopen or reconsider. USCIS will not review its discretionary determinations.

USCIS will apply our policy guidance governing the referral of cases to U.S. Immigration and Customs Enforcement (ICE) and the issuance of Notices to Appear (NTA). Your case does not involve a criminal offense, fraud, or a threat to national security or public safety, your case will not be referred to ICE for purposes of removal proceedings except where DHS determines there are exceptional circumstances. For more detailed information on the applicable NTA policy visit [www.uscis.gov/NTA](http://www.uscis.gov/NTA).

**Administrative Errors**

You may request a review using the Service Request Management Tool process if you met all of the process guidelines and you believe that your request was denied because of an administrative error. Examples of administrative errors include USCIS denying your request for deferred action because:

USCIS believes you abandoned your case by not responding to a Request for Evidence (RFE) and you claim that you did respond to the RFE within the prescribed time; or

USCIS mailed the RFE to the wrong address, even though you had submitted a Form AR-11, Change of Address, or changed your address online at [www.uscis.gov](http://www.uscis.gov) before the issuance of the Request for Evidence.

To make a service request, you must call the National Customer Service Center at 1-800-375-5283. A USCIS customer service representative will then forward your request to the proper USCIS office. Your service request will be reviewed for accuracy and USCIS will send you a letter informing you of its decision.

The USCIS National Customer Service Center is now open Monday – Friday from 8 a.m. – 8 p.m. in each U.S. time zone.

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**Travel Requirements and Restrictions**

Certain travel outside the United States may affect the continuous residence guideline. Traveling outside the U.S. before August 15, 2012 will not interrupt your continuous residence if the travel was brief, casual, and innocent. If you travel outside the United States after August 15, 2012 and before your request for deferred action is adjudicated, you will not be considered for deferred action under this process.

Deferred action will terminate automatically if you travel outside the United States without receiving advance parole from USCIS. If USCIS approves your request for deferred action, you may travel outside the United States only if you receive advance parole from USCIS before traveling.

Application procedures for advance parole for individuals with deferred action are being finalized. USCIS expects to incorporate those requirements into USCIS [Form I-131, Application for Travel Document](#), in the near future and will inform the public when the new form is available. Should you have a compelling need to travel outside the United States before the new instructions are issued for reasons related to your current employment, education or humanitarian purposes, you may submit Form I-131 and request advance parole from USCIS by attaching a copy of your DACA approval Form I-797, and a letter that explains your compelling need to travel to your application and send it to:

If mailing using U.S. Postal Service:

USCIS  
 P.O. Box 5757  
 Chicago, IL 60680-5757

If mailing using USPS express mail/courier:

USCIS  
 Attn: Deferred Action for Childhood Arrivals  
 131 S. Dearborn – 3rd Floor  
 Chicago, IL 60603-5517

Travel Dates	Type of Travel	Does it Affect Continuous Residence
On or after June 15, 2007, but before Aug. 15, 2012	brief	No
	casual	
	innocent	
After Aug. 15, 2012, and before you have	For an extended time	Yes
	Because of an order of exclusion, deportation, or removal	
	To participate in criminal activity	
After Aug. 15, 2012, and before you have	Any	Yes.

Travel Dates	Type of Travel	Does it Affect Continuous Residence
requested deferred action		
After Aug. 15, 2012, and after you have requested deferred action	Any	<p>Yes. You cannot travel while your request is under review. You cannot apply for advance parole unless and until DHS has determined whether to defer action in your case.</p> <p>In addition, if you have previously been ordered deported and removed and you depart the United States without taking additional steps to address your removal proceedings, your departure will likely result in your being considered deported or removed, with potentially serious future immigration consequences.</p>

**Note:** If you have been ordered deported or removed, and you then leave the United States, your departure may result in your being considered deported or removed, with potentially serious future immigration consequences.

For detailed information see the [Travel section](#) of the Frequently Asked Questions.

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### National Security and Public Safety Guidelines

If you 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, or are otherwise deemed to pose a threat to national security or public safety, you will not be considered for deferred action under this process.

**What is the difference between "significant misdemeanor", "non-significant misdemeanor", and "felony"?**

Felony	Significant Misdemeanor	Non-significant Misdemeanor
A felony is a federal, state or local criminal offense punishable by imprisonment for a term exceeding one year.	A significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and: <ol style="list-style-type: none"> <li>Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,</li> <li>If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.</li> </ol>	A crime is considered a non-significant misdemeanor (maximum term of imprisonment is one year or less but greater than five days) if it: <ol style="list-style-type: none"> <li>Is not an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; and</li> <li>Is one for which the individual was sentenced to time in custody of 90 days or less.</li> </ol>

A minor traffic offense will not be considered a misdemeanor for purposes of this process, but it is important to emphasize that driving under the influence is a significant misdemeanor regardless of the sentence imposed. You can find detailed information in the [National Security and Public Safety section](#) of the Frequent Asked Questions.

### Renewing Deferred Action Under This Process

Individuals whose case is deferred under this process will not be placed into removal proceedings or removed from the United States for a period of two years, unless terminated. You may request consideration for a two-year extension of deferred action through a process to be detailed in the future. As long as you were under the age of 31 on June 15, 2012, you may request a renewal even after turning 31. Your request for an extension will be considered on a case-by-case basis.

### Don't Be a Victim of Immigration Scams

Dishonest practitioners may promise to provide you with faster services if you pay them a fee. These people are trying to scam you and take your money. Visit our [Avoid Scams](#) page to learn how you can protect yourself from immigration scams.

Make sure you seek information about consideration of deferred action for childhood arrivals from official government sources such as USCIS or the Department of Homeland Security. If you are seeking legal advice, visit our [Find Legal Services](#) page to learn how to choose a licensed attorney or accredited representative.

Remember you can download all USCIS forms for free at [www.uscis.gov/forms](http://www.uscis.gov/forms).

### Combatting Fraud

USCIS is committed to safeguarding the integrity of the immigration process. If individuals knowingly make a misrepresentation, or knowingly fail to disclose facts, in an effort to have their case deferred or obtain work authorization through this process, they will be treated as an immigration enforcement priority to the fullest extent permitted by law, and be subject to criminal prosecution and/or removal from the United States.

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Find this page at [www.uscis.gov/childhoodarrivals](http://www.uscis.gov/childhoodarrivals)

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