



Obama Administration Announces New Policy Stopping The Deportation Of Qualified Undocumented Youth

Insights

6.18.12

On June 15, 2012, Secretary of Homeland Security Janet Napolitano announced that, effective immediately, young people who were brought to the United States as children through no fault of their own will be considered for relief from deportation, known as "deferred action."

Deferred action is a discretionary determination that the U.S. government will not place an individual in deportation proceedings or deport an individual from the U.S. If granted deferred action under this new policy, an individual will be permitted to remain in the U.S. and apply for work authorization for a renewable period of two years. However, deferred action does not grant immigration status or a pathway to citizenship, because those benefits can only be granted through congressional legislative action.

In order to qualify for deferred action, an individual must satisfy the following criteria:

1. Is not over the age of thirty;
2. Came to the U.S. under the age of sixteen;
3. Has continuously resided in the U.S. for at least five years before June 15, 2012 and was present in the United States on June 15, 2012;
4. Is currently in school, has graduated from high school, has obtained a GED, or is an honorably-discharged veteran of the U.S. Coast Guard or U.S. Armed Forces; and
5. Has not been convicted of a felony, a significant misdemeanor, multiple misdemeanors, or otherwise poses a threat to national security or public safety.

In order to apply for deferred action, individuals subject to a final order of removal, and individuals who have never been placed in removal proceedings, will submit their applications to U.S. Citizenship and Immigration Services (USCIS). Individuals with a case pending before the Executive Office for Immigration Review or federal court will submit their application to Immigration Customs and Enforcement (ICE).

Deferred action will only be available to those who individually meet the criteria outlined above. Their immediate relatives, including dependents, will not be eligible to receive deferred action unless they also meet the eligibility criteria. Individuals whose requests for deferred action are

denied will be referred to ICE if they have a criminal conviction or there is a finding of fraud in their application.

Although this policy goes into effect immediately, USCIS and ICE are not currently accepting applications for deferred action. USCIS and ICE will be issuing more details regarding the application process in the coming days and expect to begin implementing the application process within the next 60 days. We will continue to monitor the development of this new policy and will provide updates as new information becomes available.

For more information contact any member of our Global Immigration Practice Group at (404) 231-1400.

This Global Immigration Alert provides an overview of a specific new law. It is not intended to, and should not be construed as, legal advice on any particular fact situation.