Special Programs/Services and Miscellaneous Reference Material

Special Programs/Services and Miscellaneous Calls

Things to Know About Filing for Asylum

OVERVIEW

Refugee status is not the only special program option available to foreign nationals who seek protection in the United States. Foreign nationals may file for asylum if they are already in the U.S. and wish to seek protection here and remain in the United States on a permanent basis. Filing for asylum may allow a foreign national to remain in the United States based on past persecution or a well-founded fear of future persecution in their country of origin based on one or more of the following factors:

- Race
- Religion
- Nationality
- Membership in a particular social group
- Political Opinion

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Who can apply for Asylum?

You may apply for asylum if you are:

- Physically present in the United States or arriving at a port of entry to the United States.

In order to be eligible for asylum you would also need to establish that you are:

- Unable or unwilling to return to your country of nationality or, if stateless, country of last habitual residence, because of past persecution or a well-founded fear of future persecution on account of your race, religion, nationality, membership in a particular social group, or political opinion (including resistance to coercive population control measures).

Note: ***You can include a spouse and any unmarried children under age 21 who are physically present in the United States in your asylum application. If your asylum application is approved, you may be able to petition for certain family members who are not yet in the United States.***

You may file for asylum regardless of your immigration status in the United States. However, if you have been placed in proceedings in Immigration Court, you cannot apply with USCIS; you'll have to apply with the Immigration Court.

When can I apply for Asylum?

If you choose to file for asylum, in order to remain eligible you must file the application within 1 year of your last arrival into the United States unless you can demonstrate either:

- Changed circumstances, which materially affect your eligibility for asylum, or
- Extraordinary circumstances relating to the delay in filing.

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Are there differences in the application processes between filing with USCIS and filing with the immigration court?

An asylum applicant may be classified as either an:

- **Affirmative Asylum Applicant – (applied initially with USCIS) or**
- **Defensive Asylum Applicant – (applied initially with Immigration Court)**

Affirmative Asylum Process –

- Asylum applicant, who has not been placed in removal proceedings, comes forward to USCIS and files an application for asylum. He or she has initiated the process.
-
- USCIS will either approve the asylum application, deny the asylum application, or refer the individual to Immigration Court where the asylum adjudication process will continue.

Defensive Asylum Process --

- The U.S. government initiates action to remove an alien from the United States. An alien files an asylum application with the Immigration Court as a defense against removal from the United States.

- An immigration judge adjudicates the asylum application.

Note: In both the affirmative and defensive process, in order to be granted asylum, the applicant must meet the 1-year filing deadline described above, or show that an exception applies.

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What is the process for Requesting Asylum at the Port of Entry?

Step 1
Ask an Immigration Representative/United States Government Official "How do I apply for asylum?"

Step 2
What happens next will depend on the individual's particular circumstances, but generally the individual will receive an interview with a U.S. government official where he or she can explain why they wish to seek asylum. The individual may be detained for a certain amount of time while his or her case is resolved.

If I'm outside the country, how do I seek Asylum?

If you are outside of the United States, you would be seeking refugee status. You should speak with an officer at the nearest United States Consulate or United States Embassy. The officer will advise you about the correct procedures to follow.

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How do I apply for Asylum with USCIS?

To apply for asylum, the principal applicant must submit to the USCIS Service Center that has jurisdiction over the applicant's place of residence the following:

- Two (2) copies of an original Form I-589, Application for Asylum and Withholding of Removal, which is completed in English and signed by the applicant and preparer, if any. The Form I-589 must have original signatures and should be accompanied by any available supplementary documents and/or detailed statements explaining why you are seeking asylum.

- One (1) passport-style photograph taken within 30 days of filing the Form I-589.

- One (1) Copy of All Passport Pages - If an applicant has a passport, he/she should submit one (1) copy of it cover to cover, with the asylum application and bring the original to the asylum interview.

- The Asylum Division may provide language interpreters at the interview if the applicant requests an interpreter in advance.

Do I need a translator to accompany me to my appointment or interview?

The Asylum Division may provide language interpreters at the interview if you, the applicant, request an interpreter in advance. If you are hearing impaired, USCIS may be able to provide a sign language interpreter, if requested in advance. You may also bring your own interpreter with you, if he/she is able to certify that he/she can accurately translate to and from English and your native language.

Can my Child or other relative be my translator?

Unless it is an emergency situation, children and other immediate relatives should not be used as interpreters. Every attempt should be made to use an interpreter who is a disinterested third party. (***Please note that local offices have the discretion to accept or reject any person as an interpreter).***

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What about my Spouse and Children?

A spouse and any child (under the age of 21 and unmarried) who is physically present in the United States may be included on the principal applicant's I-589 as a dependent derivative. If an applicant has a spouse or child in the U.S. who wants to be included as a dependent on the Form I-589, an applicant must also submit the following for each dependent:

1. One (1) additional copy of the principal applicant's original Form I-589.
2. One (1) passport-style photograph taken within 30 days of filing Form I-589.
3. Three (3) copies of a marriage certificate, if the dependent is a spouse.
4. Three (3) copies of a birth certificate, if the dependent is a child.

If a principal applicant does not have and is unable to obtain a marriage or birth certificate, he or she may submit three (3) copies of secondary evidence of the relationship. Secondary evidence may include, but is not limited to, medical records, school records and religious documents. Affidavits or sworn statements may also be accepted. All original documents should be brought to the asylum interview.

What if I don't appear for an interview?

It is very important that you appear for the asylum interview, especially if you are not in lawful immigration status. If you fail to appear for the asylum interview and your failure to appear is not excused, USCIS may refer your asylum application to an immigration judge by issuing a Notice to Appear (NTA) and placing you into removal proceedings. If you cannot appear for the scheduled asylum interview, you should send a written request to the asylum office that has jurisdiction over the asylum application explaining the reason you cannot appear and requesting that the interview be rescheduled.

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What happens when an application is referred to the Immigration Court?

An asylum applicant that has been referred to the Immigration Court by an asylum office will receive a new hearing on his or her claim to asylum by an immigration judge. The immigration judge hearing the case makes an independent determination on asylum eligibility and is not bound by the decision of the asylum office. The immigration judge may consider any evidence submitted to the asylum office, and may also consider new evidence provided in Immigration Court. Asylum applicants have the right to be represented by an attorney, at no cost to the U.S. Government, at all stages of the asylum process, including while in removal proceedings.

If the immigration judge finds the applicant ineligible for asylum, the applicant may appeal this decision to the Board of Immigration Appeals (BIA).

- If the applicant receives an oral decision from the judge, he/she must state in court if he/she wishes to appeal that decision.
- The immigration judge provides the applicant with the appropriate appeal forms that must be filed within 30 days of the judge's decision.
- If the applicant receives a written decision, the applicant's appeal rights will be specified on the decision form.
- The timely filing of an appeal allows the applicant to remain in the United States while the appeal is pending, and to apply for (or renew) employment authorization.
- Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge, is the form that must be filed with the BIA to appeal the decision of an immigration judge.

Where can I find additional information?

The USCIS Asylum Division released a pamphlet entitled ***Information Guide for Prospective Asylum Applicants***, which is intended to serve as a practical resource for potential asylum applicants. You may access this Guide be visiting the Asylum Division's website at www.uscis.gov/asylum and select the appropriate link on the right-hand side.

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Employment Authorization While the Asylum Application is Pending

An asylum applicant cannot file a Form I-765, Application for Employment Authorization, unless at least 150 days have elapsed since the asylum applicant filed his or her asylum application, and the case is still pending. An asylum application is considered "pending" if the case meets either of the following criteria:

- 150 days has passed and no decision has been made on the Form I-589; or
- The Form I-589 was referred by the Asylum Office to the Immigration Court and, after 150 days from the date it was filed, has not yet been decided by an immigration judge.

If the applicant's case history meets any one of the above scenarios, he/she may file a Form I-765 under the (c)(8) category. There is no fee for the initial application. Applicants should see the Form I-765 instructions for more detailed information.

Important Notes:

- **If an application for asylum is denied before 150 days from the date of filing the Form I-589, the asylum applicant is not eligible to file for employment authorization under the (c)(8) category on the Form I-765 at any time thereafter.**
- **If an application for asylum is denied before an application for employment authorization filed under the (c)(8) category is decided, the employment authorization will be denied.**

NOTE: E- filing may also be available for Form I-765.

How long does USCIS have to make a decision on the *initial* Form I-765?

If properly filed, USCIS must make a decision on the *initial* Form I-765 under the (c)(8) category within 30 days from the date it was received at the Service Center. Failure to adjudicate the initial (c)(8) Form I-765 within 30 days will render the applicant eligible to request an interim EAD from a USCIS local office.

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Traveling Outside the U.S. While the Asylum Application is pending

Do I have to get a travel document before I leave the United States while my application for asylum is pending?

May I apply for a travel document to leave the United States and return while my application for asylum is pending?

What form do I use to apply for Advance Parole?

Once I have the Advance Parole document, can I travel to any country?

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Special Programs/Services and Miscellaneous Calls

Traveling Outside the U.S. While the Asylum Application is pending

Do I have to get a travel document before I leave the United States while my application for asylum is pending?

Yes. If you leave the United States without first obtaining Advance Parole, your application for asylum could be considered abandoned.

May I apply for a travel document to leave the United States and return while my application for asylum is pending?

You may apply for Advance Parole while your asylum application is pending. If your application is approved and you obtain Advance Parole, you may depart and return to the United States. However you should be aware that obtaining Advance Parole does not guarantee reentry into the United States.

What form do I use to apply for Advance Parole?

The Form I-131, Application for Travel Document, is used to apply for Advance Parole.

Once I have the Advance Parole document, can I travel to any country?

An Advance Parole document may allow you to re-enter the United States and continue to pursue your application for asylum. However, an applicant for asylum who leaves the United States with an Advance Parole document and returns to the country from which they are claiming persecution shall be presumed to have abandoned his or her application, unless the applicant is able to establish compelling reasons for such return.

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Special Programs/Services and Miscellaneous Calls

Information for Victims of Human Trafficking

OVERVIEW

The Trafficking Victims Protection Act of 2000 provides valuable assistance to persons who have been subjected to human trafficking. These services include interpreters, witness protection, and avenues by which these persons can lawfully remain in the United States, including the "T" nonimmigrant category. The **T** nonimmigrant category is for a person who is or has been the victim of a severe form of trafficking in people. This is a unique category. It is designed to strengthen the ability of law enforcement agencies to investigate and prosecute human trafficking, and also offer protection to trafficking victims.

To be eligible, the applicant must show that –

- the person is a victim of a severe form of trafficking in persons as defined by law, and is physically present in the U.S. because of such trafficking;
- the person has complied with any reasonable requests from a law enforcement agency for assistance in the investigation or prosecution of human trafficking, (or is under the age of 18, or is unable to cooperate due to physical or psychological trauma); and
- the person would suffer extreme hardship involving unusual and severe harm upon removal.

The Trafficking Victims Protection Act of 2000 provides valuable assistance to persons who have been subjected to human trafficking. These services include interpreters, witness protection, and avenues by which these persons can lawfully remain in the United States, including the "T" nonimmigrant category. For more information about the "T" nonimmigrant category**,** please go back to the main page and see the Guide entitled "Nonimmigrant Services" or call the USCIS National Customer Service Center at 1-800-375-5283.

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Special Programs/Services and Miscellaneous Calls

Information for Abused Spouses, Children, and Parents of U.S. Citizens or Permanent Residents; and Information for widow(er)s of deceased U.S. Citizens

OVERVIEW

Information about VAWA: The Violence Against Women Act (VAWA) and Battered Immigrant Women Protection Act of 2000 (BIWPA) provide battered alien spouses and children of U.S. citizens or Lawful Permanent Residents (LPR) eligibility to self-petition for lawful permanent residence. The Act also allows for an abused parent of a U.S. citizen son or daughter to self-petition for lawful permanent residence.

Information about Widow(er)s: Effective October 28, 2009, the President signed the FY2010 DHS Appropriations Act into law, allowing widows or widowers of U.S. Citizens to qualify for permanent resident status regardless of how long the couple was married. The new law removes the two-year marriage requirement previously necessary to qualify for permanent resident status. Additionally, the new law applies to any unmarried minor children of the widow(er).

Information for Abused Spouses, Children, and Parents of U.S. Citizens or Permanent Residents - FAQs

FAQs about Widow(er)s of Deceased U.S. Citizens on next page

Information for Widow(er)s of Deceased U.S. Citizens - FAQs

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General Information on Self-Petitioning as an Abused Spouse, Child, or Parent

Who is eligible to self-petition as an abused spouse, child, or parent?

You may be able to apply for self-petition if you are:

- If you are an abused spouse of a U.S. Citizen or lawful permanent resident

  Note: **You may include all of your unmarried children under the age of 21 on your petition as derivative beneficiaries as long as they have not filed their own self-petition.**

- If you are an abused child (under 21 and unmarried) of a U.S. citizen or lawful permanent resident parent.

  Note: **You may include all of your unmarried children under the age of 21 on your petition as derivative beneficiaries as long as they have not filed their own self-petition.**

- If you are the parent, stepparent, or adoptive parent of a child who has been abused by your U.S. citizen or lawful permanent resident spouse.

  Note: **All children, abused or non-abused, may be included in your self-petition as long as they have not filed their own self-petition.**

- If you are the abused parent, stepparent, or adoptive parent of a U.S. citizen son or daughter.

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What are the basic requirements?

If you choose to file a VAWA self-petition application, you must meet the following basic requirements:

For a self-petitioning spouse:

- Must be legally married to the abusive U.S. citizen or lawful permanent resident.
    - A self-petition may be filed if the self-petitioner believed the marriage was legally valid, but the marriage was not legitimate solely because of the bigamy of the abusive spouse.
    - A self-petition may be filed if the marriage was terminated by the abusive spouse's death within the two years prior to filing.
    - A self-petition may also be filed if the marriage to the abusive spouse was terminated, within the two years prior to filing, by divorce related to the abuse.
    - A self-petition may also be filed if the abusive spouse lost or renounced citizenship or LPR status within the two years prior to filing due to an incident of domestic violence.
    - Common Law marriage: If the place or state where the common law marriage took place recognizes the common law marriage as valid, then it is valid for immigration purposes, but proof of the marriage in the form of a marriage certificate must be presented to USCIS or a U.S. Consulate.
- Must have entered into the marriage to the U.S. citizen or lawful permanent resident in good faith.
- Must have been battered or subjected to extreme cruelty during the marriage, or must be the parent of a child who was battered or subjected to extreme cruelty by the U.S. citizen or lawful permanent resident spouse during the marriage.
    - Must have been battered or subjected to extreme cruelty in the United States unless the abusive spouse is an employee of the United States government or a member of the uniformed services of the United States.
- Is required to be a person of good moral character.
- Must have resided with the U.S. citizen or LPR spouse.

To establish all of these eligibility criteria, any relevant credible evidence will be considered.

Answer continues on next page.

For a self-petitioning child or parent of an abused child:

- Must qualify either as the child of the abuser, as defined in the INA for immigration purposes, or as the parent of the abused child.
- Must have been battered or subjected to extreme cruelty by the U.S. citizen or lawful permanent resident parent, or must be the parent of a child who was battered or subjected to extreme cruelty by the U.S. citizen or lawful permanent resident parent.
    - Must have been battered or subjected to extreme cruelty in the United States unless the abusive parent is an employee of the United States government or a member of the uniformed services of the United States.
- Is required to be a person of good moral character.
- Must have resided with the U.S. citizen or LPR parent.

To establish all of these eligibility criteria, any relevant credible evidence will be considered.

For a self-petitioning parent:

- Must qualify as the parent of a U.S. citizen son or daughter.
    - A self-petition may be filed if the abusive U.S. citizen son or daughter lost or renounced citizenship status related to an incident of domestic violence or died within the two years prior to filing.
- Must have been battered or subjected to extreme cruelty by the U.S. citizen son or daughter.
- Is required to be a person of good moral character.
- Must have resided with the U.S. citizen son or daughter.

To establish all of these eligibility criteria, any relevant credible evidence will be considered.

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How Do I Apply for Benefits?

Notice of Receipt

After you have filed your VAWA self-petition, you will receive an acknowledgement or Notice of Receipt within a few weeks after mailing the application to USCIS.

Once the Self-Petition is approved

If Form I-360 is approved, USCIS has the option of placing you in deferred action. This occurs if you, the self-petitioner, do not have a lawful status in the United States. Deferred action is an act of administrative convenience that means that, at this time, the government is deferring or delaying any removal action against you. At any time, however, deferred action can be revoked and removal proceedings can be initiated.

How do I get Employment Authorization?

Once your Form I-360 is approved, you then become eligible to apply for an Employment Authorization Document.

- File the Form I-765 (Application for Employment Authorization) with the Vermont Service Center.
- If you received deferred action, indicate on the Form I-765 that you are seeking employment authorization according to 8 CFR 274a.12(c)(14).
- If you did not receive deferred action, indicate on the Form I-765 that you are seeking employment authorization according to 8 CFR 274a.12(c)(31).
- You must include the required photos, proper fee or fee waiver,
- You must sign the application (Form I-765),
- You must reside in the United States,
- You must include a copy of the Form I-360 approval notice with your employment application.

Note: If applicant requests information regarding E-filing for Form I-765, refer to NCSC E-filing script for further information.

Note: Ask the customers if they have adjusted yet. (Received permanent resident card already, if so they do not need to file Form I-765)

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How Do I Adjust to Permanent Resident Status?

- If you are an immediate relative of a U.S. citizen, you do not have to wait for an immigrant visa number to become available. You may concurrently file the USCIS Form I-485 (Application to Register Permanent Residence or Adjust Status) with the Form I-360 VAWA self-petition at the Vermont Service Center. If you file Form I-485 after your VAWA self-petition is approved, submit your Form I-485 along with your Form I-360 approval notice to the USCIS Lockbox Facility.

- If you do need a visa number to adjust to permanent resident status, you must wait for the visa number to become available before filing the Form I-485.

Do I have to pay any penalty fees if I am self-petitioning?

No, penalty fees are only assessed for aliens applying for adjustment of status under INA section 245(i). VAWA self-petitioners are eligible to adjust status under INA section 245(a).

My Application was denied. Can I file an appeal?

If your application is denied, the denial letter will tell you how to appeal. Generally, you may file a Notice of Appeal along with the required fee or a fee waiver request within 33 days of receiving the denial. Once the fee is collected or the fee waiver is approved and the form is processed, the appeal will be referred to the Administrative Appeals Office.

Can Anyone Help Me?

Yes, please contact The Victims of Domestic Violence Hotline at 1-800-799-7233 or 1-800-787-3224 (TDD) for information about shelters, mental health care, legal advice and other types of assistance, including information about self-petitioning for immigration status.

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Can a divorced spouse seek relief through self-petitioning?

Under current law, effective since October 28, 2000, you can self-petition as long as your marriage was terminated within two years of the filing of a VAWA self-petition (see Chapter 2 for further information regarding divorce and applying for self-petition). If you do not qualify under this section, you may be eligible for cancellation of removal under section 240A(b)(2) of the INA. You must meet the other requirements including having been physically present in the United States for 3 years immediately preceding the filing of the application for cancellation of removal and demonstrating extreme hardship upon removal.

- A self-petition will be denied if the applicant remarries before the VAWA self-petition is approved.

Can a man self-petition under the Violence Against Women Act?

Yes, you may self-petition. The provisions for the application apply to victims of either sex.

My abusive husband/wife filed an I-130 on my behalf. What happens to my application now?

You can transfer the priority date established for the I-130 to the I-360 self-petition application. It is important to understand that this results in a shorter waiting time if you are waiting for a visa number.

What do I need to do if I am a Conditional Resident and I am a battered spouse or child of a U.S. citizen or Lawful Permanent Resident?

Normally, conditional residents must file to remove the conditions within the 90 days prior to the expiration of the Conditional Permanent Resident Card. However, if you are filing a waiver of the joint filing requirement because of abuse or extreme cruelty, you may file to remove the conditions even after the expiration of the Conditional Permanent Resident Card. You should file the USCIS Form I-751 (Petition to Remove the Conditions on Residence) with all relevant evidence as specified in the form's instructions.

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Information for Widow(er)s of Deceased U.S. Citizens – FAQs

What is the effect of the new law upon widow(er)s of deceased U.S. Citizens and their children?

On October 28, 2009, the President signed the FY2010 DHS Appropriations Act into law, allowing eligible widows or widowers of U.S. citizens to qualify for permanent resident status regardless of how long the couple was married. The new law removes the two-year marriage requirement previously necessary for a widow(er) to qualify for permanent resident status as an immediate relative of his or her late U.S. citizen spouse. Additionally, when a widow(er) qualifies as an immediate relative under the law, his or her unmarried minor children will also qualify for the same status. The law applies equally to widow(er)s living abroad, who are seeking immigrant visas, and to widow(er)s in the United States, who want to become permanent residents based on their marriage.
The new law only affects the ability of a widow(er) to file for permanent resident status as an immediate relative of their deceased U.S. Citizen spouse. All other requirements to obtain a visa remain in force. Specifically, the widow(er) must still establish that:

- He or she was the citizen's legal spouse.
- The marriage was bona fide and not an arrangement solely to confer immigration benefits to the beneficiary.
- He or she has not remarried.
- He or she is admissible as an immigrant.
- In an adjustment of status case, that he or she meets all other adjustment eligibility requirements and merits a favorable exercise of discretion.

I had a pending Form I-130 when my spouse passed away and would like to find out if I can continue on some type of special program

As of October 28, 2009, any pending or approved Form I-130 that was filed on a widow(er)'s behalf prior to the citizen spouse's death will automatically convert to a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, even if the spouses were married less than two years when the citizen spouse died, so long as, on the date of the citizen spouse's death, the surviving widow(er) qualifies as an immediate relative. Eligibility for classification as an immediate relative ceases if the widow(er) has remarried.

Additionally, any Form I-130 that has been the subject of litigation in any Federal court on the issue of the effect of the petitioner's death is reopened for a new decision. USCIS will identify those cases that are the subject of litigation that were pending on October 28, 2009. Once a case is identified, USCIS will notify the widow(er) in writing that their Form I-130 has been reopened and adjudicated as a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant.

If I had a pending Form I-130, how do I find out if my petition has been converted to a Form I-360?

Your Form I-130 will automatically convert to a widow(er)'s Form I-360. If it was pending when your spouse died, USCIS will adjudicate your converted I-360 and notify you with a decision. If it was already approved, it will remain approved. If your case has been the subject of litigation in any Federal court on the issue of the effect of the petitioner's death on your Form I-130, you will receive notification from USCIS that the Form I-130 has been reopened.

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How will USCIS know whether this new law applies to my specific case?

If you are a named plaintiff in a court case challenging the denial of your spouse's Form I-130, USCIS already knows about your case because of the lawsuit. If your spouse's Form I-130 remains pending before USCIS, USCIS may not be aware of your spouse's death. In this situation, you should write to the USCIS office where your case is pending, with a copy of your filing receipt showing the USCIS receipt number, any other notice issued in your case, and a copy of your spouse's death certificate.

What happens if I remained in the U.S. after my U.S. Citizen spouse passed away, while awaiting a decision on my Form I-130?

Generally, if a widow(er) remained in the United States after the U.S. citizen petitioner passed away, while awaiting the outcome of Form I-130 that can now be approved as a Form I-360, they will be deemed not to have accrued any unlawful presence as a matter of policy. This protection applies only to widow(er)s who had a Form I-130 pending before USCIS, the Board of Immigration Appeals, or the courts on October 28, 2009, but applies even if the widow(er) was not in a lawful status while the now-converted Form I-360 was pending. If your spouse never filed a Form I-130 for you, you may file a Form I-360 within the applicable filing period, but the new filing will not affect any unlawful presence you already have accrued.

What if my Form I-130 was already approved before my U.S. Citizen spouse passed away?

If the Form I-130 was approved before the U.S. citizen petitioner's death, it will automatically convert to an approved I-360. Unmarried minor children of the widow(er) will also be eligible to seek an immigrant visa or adjustment of status based on the approved Form I-360.

What if I had a pending Form I-485 when my U.S. Citizen spouse passed away?

If USCIS has jurisdiction to act on a Form I-485, Application to Register Permanent Residence or Adjust Status, that is the subject of litigation on this issue in any Federal court, USCIS will notify applicants in writing that their Form I-485 has been reopened. If the widow(er) entered the United States as a K-1 nonimmigrant and filed an I-485 after marrying the deceased U.S. citizen, he or she will be deemed the beneficiary of a Form I-360 Widow(er) petition. If a widow(er) with an approved Form I-130 and a pending Form I-485 left the United States voluntarily after his or her petitioning U.S. citizen spouse died, and thus "abandoned" his or her adjustment application, the approved Form I-130 is converted to an approved Form I-360, so that the widow(er) may apply for an immigrant visa abroad.

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If my U.S. Citizen spouse has passed away and I do not have a petition pending with USCIS, how do I obtain status as a widow(er)?

If your U.S. citizen spouse died on or after October 28, 2009, you will have two years from the date of the citizen spouse's death to file a Form I-360 petition.

If your U.S. citizen spouse died before October 28, 2009, and a Form I-130 pending on October 28, 2009, the new law allowed you to file a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, for yourself and your unmarried minor children. But the filing deadline, if your spouse died before October 28, 2009, was October 28, 2011, For this reason, it is no longer possible to file a widow(er) petition if your spouse died before October 28, 2009.

Where do I file Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant?

The Form I-360 and filing instructions can be found at the USCIS website, under the "Forms" link.

What about the minor children of the widow(er)?

The child of a widow(er) whose Form I-360 is approved may be included in the widow(er)'s petition as long as they meet the definition for "child" under the Immigration and Nationality Act. Where the deceased citizen filed a Form I-130 for his or her spouse that was pending at the time of his or her death, and the Form I-130 can now be adjudicated as a Form I-360 petition, the child(ren) of the widow(er) will be included in the Form I-360. An individual qualifies as the "child" of a widow(er) depending on their age when the visa petition was filed. For those cases that were pending on October 28, 2009, the Form I-360 filing date is the date on which the deceased citizen filed the prior Form I-130. If a widow(er) has an unmarried son or daughter who was under 21 when the deceased citizen filed the Form I-130, that individual will still be considered under 21 for purposes of the widow(er)'s Form I-360.

I previously filed Form I-360 to obtain deferred action as a widow(er). What happens to that Form I-360?

If you were already granted deferred action, and received an employment authorization document on that basis, USCIS will not terminate your deferred action or your EAD. Now that Congress has enacted the new legislation, any Form I-360 that was filed to obtain deferred action and has not yet been adjudicated as a deferred action request will now be considered to be an I-360 widow(er)s petition. If your prior I-360 was already approved as a deferred action request, USCIS will, on its own motion, reopen your Form I-360 and adjudicate it as an I-360 widow(er) petition. It will not be necessary for you to file a formal motion or to pay a new Form I-360 filing fee.

Back to General Information about Filing for Self-Petition Special Programs and Services

The deferred action guidance said I could obtain employment authorization if my deferred action Form I-360 was approved. If my deferred action Form I-360 is now considered a widow(er)'s visa petition, does that mean I can apply for employment authorization before my Form I-360 is approved?

If you filed a Form I-360 as a deferred action request, you are still in the U.S. and your Form I-360 now qualifies as a widow(er)'s visa petition, the filing of an adjustment application (Form I-485), with the required filing fee will make it possible for you to file a Form I-765 to apply for employment authorization based on the pending Form I-485.

Does it make a difference whether my children had a Form I-360 filed on their behalf?

Anyone who qualifies ad your "child" can be included as a derivative beneficiary on your converted I-360, regardless of whether your child was also the beneficiary of his or her own Form I-130.

Back to General Information about Filing for Self-Petition Special Programs and Services

Special Programs/Services and Miscellaneous Calls

Information about the Diversity Visa Program

OVERVIEW

The Diversity Visa Program is a visa lottery program through the Immigration Act of 1990 that provides another opportunity for aliens to gain lawful permanent admission into the United States. Applicants are selected at random by the U.S. Department of State (DOS) during a predetermined selection period. Selection by DOS does not, however, guarantee that a person may apply for, or be granted, adjustment of status. Among other things, there must be a diversity visa number available (as determined by DOS) to the alien, and even if so, the alien must still establish that he or she is admissible and otherwise eligible for adjustment of status.

How do I File an Application for the Diversity Visa Program?

Can I Apply for Adjustment of Status based on Selection in the Diversity Visa Lottery?

Can I get Information About Scams or Fraud in the Diversity Visa Program?

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Can I Apply for Adjustment of Status based on Selection in the Diversity Visa Lottery?

If you are present in the United States in a valid nonimmigrant status and are planning to seek adjustment of status to that of a lawful permanent resident based on your selection in the diversity visa (DV) program, you may submit an adjustment of status application. For information on the fee and where to file go to the USCIS web site at www.uscis.gov and select the Immigration Forms link.

The Department of State advised USCIS that each month it would provide the cut-off numbers for the Diversity Immigrant category 60 days in advance. This advance notice is being provided to allow USCIS additional time to process the background checks for DV applicants. USCIS will not accept adjustment of status applications until the beginning of the DV program year on October 1. Applications for adjustment of status filed under the DV program may be accepted for processing any time during the 60-day period preceding the cut-off date provided in the Visa Bulletin. You must present your receipt or other satisfactory proof of payment (canceled check) for the diversity processing fee to USCIS at the time of your adjustment interview.

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Special Programs/Services and Miscellaneous Calls

Information about Class Action Lawsuits against USCIS

OVERVIEW

The following information is presented for those individuals who are part of the Santillan Settlement Agreement.

Santillan Settlement Agreement

The Santillan Settlement Agreement terminated in July of 2010. Although no longer mandated by the settlement agreement, USCIS strives to continue the practices previously mandated by the agreement. For more information about being Granted A Green Card by an Immigration Judge or Board of Immigration Appeals.

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Special Programs/Services and Miscellaneous Calls

Filing for Permanent Resident Status Under Special Conditions

OVERVIEW

USCIS provides resources by which aliens from a variety of countries may gain permanent resident status through special conditions. This includes "Special Immigrant" status, among others. Using the information below, you can find the special conditions to be eligible to apply.

- **Immigration through Investment**
- **Immigration through the Legal Immigration Family Equity Act (LIFE)**
- **Immigration through "The Registry" Provision of the Immigration and Nationality Act**
- **Immigration as a "Special Immigrant"**
- **Immigration Benefits Granted by the Immigration Court**
- Immigration through Country-Specific Adjustment
  - **Immigration through the Cuban Adjustment Act**
  - **Immigration through the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)**
  - **Immigration through the Nicaraguan Adjustment and Central American Relief ACT (NACARA)**
  - **Immigration for Eligible Individuals from Vietnam, Cambodia, Laos**

FAQ Regarding Special Immigrant Juvenile Perez-Olanao Settlement

- **What is the Special Immigrant Juvenile Perez-Olano Settlement?**
- **Who are considered class members?**
- **How long is this Perez-Olano Settlement Agreement in effect?**
- **How do I request to reopen my case under the Settlement Agreement?**
- **Can I request a fee waiver?**
- **My case was denied when I was under 21, but currently I am over 21. Am I eligible to file Form I-290B?**
- **What would happen if my Motion to Re-open is granted?**
- **What if USCIS denied my Motion to Reopen?**
- **Where can I find these Specific Settlement Agreement filing instructions?**
- **I am a Special Immigrant Juvenile, what form do I need to file to adjust status?**

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What is the Special Immigrant Juvenile Perez-Olano Settlement?

Perez-Olano v. Holder is a class-action lawsuit filed on behalf of juvenile aliens who may have been eligible for Special Immigrant Juvenile (SIJ) status or SIJ-based adjustment of status because they were abused, abandoned, or neglected.

Who are considered class members?

All aliens including, but not limited to, Special Immigrant Juveniles who, on or after May 13, 2005, apply or applied for Special Immigrant Juvenile status or Special Immigrant Juvenile-based Adjustment of Status based upon their alleged Special Immigrant Juvenile eligibility.

How long is this Perez-Olano Settlement Agreement in effect?

The settlement agreement is effective from December 14, 2010 until December 13, 2016.

How do I request to reopen my case under the Settlement Agreement?

Class members can file the Form I-290B, Notice of Appeal or Motion with the appropriate fee or fee waiver (I-912) and mail it to:

Applicants filing under the Perez-Olano Settlement Agreement (POSA):

For U.S. Postal Service (USPS) deliveries, use the following address:

USCIS
P.O. Box 5510
Chicago, IL 60680-5510

For private courier (non-USPS) deliveries, use the following address:

USCIS
Attn: POSA
131 South Dearborn – 3rd Floor
Chicago, IL 60603-5517

Can I request a fee waiver?

You may file Form I-912 request for a Fee Waiver with supporting documents in conjunction with the Form I-290B Notice of Appeal or Motion.

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My case was denied when I was under 21, but currently I am over 21. Am I eligible to file Form I-290B?

Yes, you may file Form I-290B, Notice of Appeal or Motion if your SIJ petition or SIJ-based application for adjustment of status was denied or revoked if:

- The I-360 or SIJ-based I-485 was denied or revoked on or after May 13, 2005
- For reasons related to age-out, dependency age-out, or specific consent; and
- Re-adjudication will only be with respect to age eligibility and specific consent.

What would happen if my Motion to Re-open is granted?

The immigration service officer will then re-adjudicate the Form I-360 in accordance with the settlement agreement

What if USCIS denied my Motion to Reopen?

If the Motion to Reopen is denied you may appeal to the Administrative Appeals Office.

Where can I find these Specific Settlement Agreement filing instructions?

These Specific Settlement Agreement filing instructions are posted on the landing page of the Form I-290B, Notice of Appeal or Motion -at www.uscis.gov.

I am a Special Immigrant Juvenile, what form do I need to file to adjust status?

You may file Form I-360 in conjunction with Form I-485, or file Form I-485 after your petition for Special Immigrant Juvenile status (Form I-360) has been approved. You will need to submit other required documents when you submit your SIJ-based Form I-485. For further information regarding Forms please visit www.uscis.gov

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Special Programs/Services and Miscellaneous Calls

Parole: Humanitarian and Significant Public Benefit Parole

OVERVIEW

Parole is used sparingly on a case-by-case basis to bring someone who is otherwise inadmissible into the U.S. for a temporary period of time due to an urgent humanitarian reason or for significant public benefit. USCIS may grant parole to an individual who is outside the U.S. and is seeking to enter the U.S. for urgent humanitarian reasons or for significant public benefit for a temporary period of time that corresponds with the length of time needed to satisfy the purpose of the parole. Generally, parole is not granted for longer than one year.

Frequently Asked Questions

- **How do I file for humanitarian parole?**
- **How long will it take USCIS to make a decision on my application for humanitarian parole?**
- **Can I request to have my application for humanitarian parole expedited?**
- **What are the criteria that may support a request for expedited humanitarian parole?**
- **Where can I get more information about humanitarian parole?**

Note: Information for Lautenberg Category Members who were offered Parole but did not travel to the U.S. by 9/30/11.

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How do I file for humanitarian parole?

To file for humanitarian or significant public benefit parole you must:

- Complete Form I-131, Application for Travel Document, and include the correct filing fee for each parole applicant or submit Form I-912, Request for Fee Waiver;
- Complete Form I-134, Affidavit of Support, along with supporting documentation for each applicant, in order to demonstrate that the beneficiary will not become a public charge; and
- Include a detailed explanation and evidence of your circumstances.

If you are represented by an attorney, he or she must file a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.

Requests for parole must be submitted to the USCIS Dallas Lockbox:

For US Postal Service (USPS) deliveries:
USCIS
P.O. Box 660865
Dallas, TX 75266

For Express mail and courier deliveries:
USCIS
Attn: HP
2501 S. State Hwy 121, Business
Suite 400
Lewisville, TX 75067

How long will it take USCIS to make a decision on my application for humanitarian parole?

You will receive a written notice once we have received your application and again when your case has been decided. It can take between 90-120 days to process a parole application. The Humanitarian Affairs Branch (HAB) reviews all parole requests after Lockbox processing to identify those that require expedited processing because of urgent, time-sensitive circumstances. If you do not receive a notice that HAB has received your case within 30 days of filing the application packet with the Dallas Lockbox, you may contact HAB in writing at the following address:

DHS/USCIS/Humanitarian Affairs Branch (HAB)
20 Massachusetts Avenue NW 3rd Floor
HAB Mail Stop 2100
Washington, DC 20529

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Can I request to have my application for humanitarian parole expedited?

Yes. In addition to filing the parole application package with the correct fee at the Dallas Lockbox, you must also send an e-mail to ExpediteParole@dhs.gov. In the e-mail, please include the following information:

1. Beneficiary: Person outside the U.S. requiring humanitarian parole to enter the U.S.

- Name
- Date of Birth
- Country of Birth

2. Applicant: Person who completes Form I-131 on behalf of the beneficiary identified above (the applicant may also be the beneficiary)

- Name
- Contact information (include address, telephone number, and e-mail address)

3. Reason for Expedited Parole Request: Please provide a concise statement of the specific time sensitive reason for parole with a date by which the beneficiary must enter the United States, if known.

4. Alien Number: If you have already received a letter from the Humanitarian Affairs Branch (HAB) stating that it takes 90-120 days from date of receipt for USCIS to process this type of case, please include the nine-digit alien number provided in the body of the letter.

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What are the criteria that may support a request for expedited processing of humanitarian parole?

Circumstances that may justify a request for expedited processing of a humanitarian or significant public benefit parole application include, but are not limited to, the following:

- Medical emergency, generally involving life and death, where the person seeking parole needs to enter the U.S. immediately;
- Person seeking parole needs to attend a **civil** court hearing that requires his/her presence in the U.S. within the next 15 days; or
- Other urgent situation that requires immediate action.

Note: If you are requesting expedited parole because you need to attend a **criminal** court hearing or if the potential beneficiary has been previously deported or removed from the U.S. or is currently in removal or deportation proceedings, then your request should be sent to the following address:

Branch Chief, Law Enforcement Parole Branch
ICE Office of International Affairs
800 North Capitol Street, NW
Washington, DC 20536-5096

Where can I get more information about humanitarian parole?

Please visit our website at www.uscis.gov and select the "Humanitarian Parole" link under the heading "Humanitarian" in the center of the screen.

Lautenberg Category Members who were offered Parole but did not travel by September 30, 2011, may still be eligible for Parole.

Individuals who were authorized "Lautenberg" parole by the USCIS Field Office in Moscow and who missed the original deadline to travel to the United States may now have another opportunity to travel.

Individuals who were already authorized for parole had until September 30, 2011 to enter the U.S. However, Congress has reinstated the Lautenberg Amendment and any remaining Lautenberg parolees may now be permitted to travel to the U.S. by the new deadline of September 30, 2012, if they are still interested and eligible. If you were previously authorized parole and believe you qualify, please contact the USCIS Field Office in Moscow at Moscow.dhs@dhs.gov for additional information.

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Special Programs/Services and Miscellaneous Calls

Commonwealth of the Northern Mariana Islands (CNMI)

OVERVIEW

On May 8, 2008, the Consolidated Natural Resources Act (CNRA) was signed into law. The CNRA extends most provisions of U.S. immigration law to the Commonwealth of the Northern Mariana Islands (the CNMI) for the first time. The transition period for implementation of U.S. immigration law in the CNMI began on November 28, 2009, and is scheduled to end on December 31, 2014. Note, however, that the CNRA does contain provisions allowing for the extension of the transition period.

The CNRA created a CNMI-only transitional worker nonimmigrant visa category, and, on September 7, 2011, USCIS promulgated regulations governing the CNMI-only Transitional Worker nonimmigrant visa category for foreign workers in the CNMI. This new nonimmigrant category is known as a CW visa. The CW visa category was created by Congress to help the CNMI transition from its previous foreign worker permit system to U.S. immigration law, and will only be available while the transition period is in effect.

What CNMI information are you seeking? (Please choose an option below)

CNMI E-2 Investor Status

Parole for Certain Aliens in the CNMI

Employment Authorization and Verification (for those with umbrella permits)

Foreign Nationals whose worker permits expire before CNMI-only visa categories are available (for those without umbrella permits)

The new CNMI Transitional Worker Visa Category (CW)

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CNMI E-2 Investor Status

For information about the new E-2 CNMI Investor nonimmigrant visa classification, please visit our homepage at www.uscis.gov and select the "News" link and then select the "Questions and Answers" link on the left-hand side and select the CNMI E-2 information under December 2010. Information about CNMI E-2 Nonimmigrant Status. You can also access additional information on U.S. immigration law in the CNMI by visiting www.uscis.gov and selecting the "Laws" tab at the top of the page and then selecting "Immigration from the Commonwealth of the Northern Mariana Islands (CNMI)" on the left hand side of the page.

Parole

For information about Parole for Certain Aliens in the CNMI, please visit our website at www.uscis.gov and select the "News" link and then select the "Questions and Answers" link on the left-hand side and select the Parole information under November 2009. Information about Parole for Certain Aliens in the CNMI. You can also access additional information on U.S. immigration law in the CNMI by visiting www.uscis.gov and selecting the "Laws" tab at the top of the page and then selecting "Immigration from the Commonwealth of the Northern Mariana Islands (CNMI)" on the left hand side of the page.

Employment Authorization and Verification (for those with umbrella permits)

For information about Employment Authorization and Verification in the CNMI for those with umbrella permits, please visit our website at www.uscis.gov and select the "News" link and then select the "Questions and Answers" link on the left-hand side and select the Employment Authorization and Verification information under March 2010. Information about Employment Authorization and Verification. You can also access additional information on U.S. immigration law in the CNMI by visiting www.uscis.gov and selecting the "Laws" tab at the top of the page and then selecting "Immigration from the Commonwealth of the Northern Mariana Islands (CNMI)" on the left hand side of the page.

Foreign Nationals whose work permits expire before CNMI-only visa categories are available (for those without umbrella permits)

For information about what foreign nationals without umbrella permits should do if their work permits expire before the CNMI visa categories become available, please visit our website at www.uscis.gov and select the "News" link and then select the information about work permits under April 2010. Information for Foreign Nationals whose work permits expire before CNMI-only visa categories are available. You can also access additional information on U.S. immigration law in the CNMI by visiting www.uscis.gov and selecting the "Laws" tab at the top of the page and then selecting "Immigration from the Commonwealth of the Northern Mariana Islands (CNMI)" on the left hand side of the page.

CNMI Transitional Worker Visa Catetory (CW)

- General Questions
- Questions about Filing
- Questions for Workers
- Questions about Travel

More information on our Website about the CNMI Transitional Worker Visa Category (CW)

General Questions

- What does the CNMI-Only Transitional Worker (CW) visa do?
- How will the rule affect foreign workers living and working in the CNMI?
- What are the requirements to qualify for a CNMI-Only Transitional Worker Visa?

Questions about Filing

- When may employers begin filing petitions for workers?
- What must an employer do to petition for a foreign worker?
- Does an employer need to file a separate Form I-129CW for each transitional worker?
- What are the filing fees associated with a Form I-129CW?
- What evidence should an employer provide with the Form I-129CW petition?

Questions for Workers

- How can an eligible individual obtain a CW-1 or CW-2 visa from outside the CNMI?
- Can an individual with CW-1 status change employers?
- How long is CW status valid?
- I am a foreign worker who has been living and working lawfully in the CNMI, and my employer is willing to sponsor me for the CW visa. What steps do I need to take to obtain CW status in the CNMI?
- How do my dependents apply to receive CW status?
- I am a foreign worker living abroad and an employer in the CNMI is willing to sponsor me. What are the steps I need to take to obtain a CW visa?
- If I am working for an employer who has sponsored me for CW-1 status in the CNMI, and my umbrella permit expires on Nov. 27, 2011, can I continue working until a decision is made on the petition?
- What happens to CW-1 transitional workers and their dependents at the end of the transition period?

Questions about Travel

- As a CW-1 or CW-2 status holder, what do I need to do in order to travel?
- Can workers with advance parole travel abroad and work with an authorized umbrella permit upon their return to the CNMI?
- Can individuals with CW status return from travel outside the CNMI?
- Is CW status valid in any part of the United States other than the CNMI?
- Can individuals with CW nonimmigrant status, or with CW visas, transit through the Guam airport?

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What does the CNMI-Only Transitional Worker (CW) visa do?

The CW visa provides lawful U.S. temporary, nonimmigrant status to eligible foreign workers who:

- Are or will be employed by an eligible employer in the CNMI during the transition period; and
- Are ineligible for another nonimmigrant worker classification under the INA.

The purpose of the transition period is to allow employers and employees the necessary time to move in an orderly fashion from the prior CNMI permit system to the INA classifications. Therefore, The transition period allows time for employers to adjust their hiring practices and for eligible foreign workers to obtain the necessary qualifications and seek nonimmigrant or immigrant visa classifications available under the INA.

How will the rule affect foreign workers living and working in the CNMI?

The CW classification allows employers in the CNMI to sponsor foreign workers who otherwise would be ineligible for status under the INA through the end of the transition period, currently set to end on l Dec. 31, 2014. At the end of the transition period, CW classification will no longer be available when the transition period ends, and foreign works will need to seek an appropriate nonimmigrant or immigrant classification under the INA. The CW regulation provides for more than 22,000 foreign workers in CW status during the first year of the transition period, but, as required by statute, this number will be reduced annually by at least one and ultimately to zero by the end of the transition period.

What are the requirements to qualify for a CNMI-Only Transitional Worker Visa?

Requirements for Employers
To be eligible to petition for workers for CW visa status, employers must:

- Be engaged in a legitimate business, as defined in the final rule;
- Consider all available U.S. workers for the position;
- Offer terms and conditions of employment consistent with the nature of the employer's business and the nature of the occupation, activity and industry in the CNMI;
- Comply with all federal and CNMI requirements relating to employment, including but not limited to nondiscrimination, occupational safety and minimum-wage requirements; and
-

Requirements for Workers
An individual may be eligible for CW-1 nonimmigrant classification if he or she:

-
- Will enter or stay in the CNMI to work in an occupational category designated as needing foreign workers to supplement the resident workforce;
- Is petitioned for by an employer;
- Is not present in the United States, other than the CNMI;
- Is lawfully present in the CNMI if present in the CNMI;
- Is not inadmissible to the United States or has been granted any necessary waiver of a ground of inadmissibility; and
- Is ineligible for status in another nonimmigrant worker classification under U.S. immigration law.

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Questions about Filing

When may employers begin filing petitions for workers?

Employers may begin filing petitions on Oct. 7, 2011. An employer, however, cannot apply for a worker more than six months before the date the employer needs the worker's services. For example, if an employer needs a worker's services on July 1, the employer may submit a petition for the worker no earlier than Jan. 1 of the same year.

If a worker is currently employed in the CNMI under an "umbrella permit" or other CNMI work authorization expiring Nov. 27, 2011, when must an employer petition for that worker to obtain CW status?

The employer must petition for the worker on or before Nov. 27, 2011. The employee must be lawfully present in the CNMI as of the date of filing the petition in order to be eligible for a grant of CW status. Employees whose work authorization under the CNRA expires Nov. 27, 2011, and who do not have a CW petition filed on their behalf by that date, will no longer be lawfully present in the CNMI. A petition to sponsor these workers as CW-1 nonimmigrants must be postmarked no later than Nov. 28, 2011 (for example, by the end of the first business day after Sunday, Nov. 27, 2011, CNMI local time).
Workers no longer lawfully present in the CNMI must leave the CNMI before their employers can file the petition. They cannot reenter the CNMI and resume employment until the petition is granted and they obtain a CW visa at a U.S. Consulate abroad.

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Does an employer need to file a separate Form I-129CW for each transitional worker?

No. An employer can file a single petition for multiple workers, so long as all workers:

- Will work in the same occupational category;
- Will be employed for the same period of time;
- Will be employed in the same location; and
- Are requesting the same action in Part 2 of the petition (Change of Status, Extension of Status, etc.).

What evidence should an employer provide with the Form I-129CW petition?

The employer must complete the form fully, including the attestations needed to establish eligibility. The employer should submit evidence, to the extent available, to support the elements in the attestation. For example, in order to support the attestation that there are no qualified U.S. workers available to fill the position, the employer may submit evidence that the job vacancy has been posted in daily newspaper want ads or on job vacancy websites, such as those operated by the CNMI Department of Labor and private recruitment firms.

Questions for Workers

How can an eligible individual obtain a CW-1 or CW-2 visa from outside the CNMI?

Once an I-129CW filed with USCIS by the employer is approved, the eligible individual applying from outside the CNMI must contact the U.S. Department of State to apply for a CW-1 or CW-2 visa based on the employer's approved petition. The CW-2 classification is limited to dependents of CW-1 status holders (spouses and unmarried children under the age of 18).

Can an individual with CW-1 status change employers?

Yes, but the new employer must file a Form I-129CW petition with USCIS. A CW-1 worker may work for the prospective new employer after the new employer files a nonfrivolous Form I-129CW petition for a change of employer. If the petition is denied, work authorization ceases.

How long is CW status valid?

CW-1 status will be granted for up to one year. The employer may request an extension of status by filing a new I-129CW petition. A dependent's CW-2 status generally expires on the same day as the principal's CW-1 status and can be extended when the principal's CW-1 status is extended.

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I am a foreign worker who has been living and working lawfully in the CNMI, and my employer is willing to sponsor me for the CW visa. What steps do I need to take to obtain CW status in the CNMI?

In this situation, the following steps should be taken:

Step 1: For you to obtain a CW visa, the sponsoring employer must first submit the following documents:

A Form I-129CW;
The $325 application fee;
The mandatory $150 education fee; and
Supporting evidence certifying that the information provided about you, your employer and the job position are accurate and meets eligibility requirements.

Step 2: If the petition is approved, USCIS will mail an approval notice to your employer. Your employer will need to send you the original approval notice to your address abroad.

After you receive the approval notice, you will need to schedule a nonimmigrant visa interview at the U.S. Consulate or Embassy nearest to you. Your dependents may simultaneously apply for CW-2 visas with the U.S. Department of State and do not need to file a Form I-129CW or Form I-539. The Department of State has separate application and fee requirements for visa applications.
You and your dependents will not have CW-1 or CW-2 status until you obtain a CW visa from the U.S. Department of State and are admitted to the CNMI. The approval of a Form I-129CW for consular processing approves the classification only and does not grant you any additional status in the CNMI.

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How do my dependents apply to receive CW status?

As a derivative of your employer's application for you to obtain CW-1 status, your dependents lawfully present in the CNMI may apply for CW-2 status. Applicants for CW-2 status must submit:

- The $290 application fee;
- The $85 biometrics services fee if applicable;
- A copy of your approval notice and Form I-94 documenting admission to the CNMI in the CW-1 classification (if available); and
- Form I-539, Application to Change/Extend Nonimmigrant Status.

Dependents may not need to file Form I-539, depending on how the primary CW-1 status is being processed.

If	Then
You are requesting consular processing of your CW-1 status at a U.S. Consulate or Embassy abroad…	your dependents may also seek consular processing of their CW-2 status at the same time. Dependents do not need to file a Form I-539 if they file for CW status from outside the CNMI.
You are in the CNMI and your employer has filed the Form I-129CW requesting CW-1 status for you…	your dependents may file a Form I-539 at the same time or at any time while the I-129CW is pending. The I-539 must be accompanied by an additional biometrics fee unless the dependent is under 14 years of age or is 79 or older. However, your dependents' Form I-539 will not be approved if your employer's petition or the application for your grant of status is denied. If the Form I-539 is approved, USCIS will send your dependents an approval notice as evidence of the approved Form I-539 with a Form I-94 as evidence of CW-2 status.

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I am a foreign worker living abroad and an employer in the CNMI is willing to sponsor me. What are the steps I need to take to obtain a CW visa?

In this situation, the following steps should be taken:
Step 1: For you to obtain a CW visa, the sponsoring employer must first submit the following documents:
A Form I-129CW;
The $325 application fee;
The mandatory $150 education fee; and
Supporting evidence certifying that the information provided about you, your employer and the job position are accurate and meets eligibility requirements.

Step 2: If the petition is approved, USCIS will mail an approval notice to your employer. Your employer will need to send you the original approval notice to your address abroad.

After you receive the approval notice, you will need to schedule a nonimmigrant visa interview at the U.S. Consulate or Embassy nearest to you. Your dependents may simultaneously apply for CW-2 visas with the U.S. Department of State and do not need to file a Form I-129CW or Form I-539. The Department of State has separate application and fee requirements for visa applications.
You and your dependents will not have CW-1 or CW-2 status until you obtain a CW visa from the U.S. Department of State and are admitted to the CNMI. The approval of a Form I-129CW for consular processing approves the classification only and does not grant you any additional status in the CNMI.

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If I am working for an employer who has sponsored me for CW-1 status in the CNMI, and my umbrella permit expires on Nov. 27, 2011, can I continue working until a decision is made on the petition?

Yes. If you are lawfully employed in the CNMI under a CNMI grant of work authorization that expired on Nov. 27, 2011, and your employer filed a CW petition for you on or before Nov. 28, 2011, you are authorized to continue your employment until USCIS makes a decision on the petition.

What happens to CW-1 transitional workers and their dependents at the end of the transition period?

At the end of the transition period, Dec. 31, 2014, the CW classification will cease to exist (unless the transitional worker program is extended by the U.S. Secretary of Labor). Transitional workers holding CW status must obtain nonimmigrant or immigrant status under the INA before this date if they wish to stay in the CNMI lawfully.

Questions about Travel

As a CW-1 or CW-2 status holder, what do I need to do in order to travel?

CW status holders must obtain a CW-1 or CW-2 visa from the U.S. Department of State abroad if they wish to travel abroad and reenter the CNMI. The Department of State has separate application and fee requirements for visa applications. For more information on traveling outside of the CNMI, please visit the Department of State website.

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Can workers with advance parole travel abroad and work with an authorized umbrella permit upon their return to the CNMI?

Yes. Workers with a valid umbrella permit and a valid travel document can continue to travel and return legally to work in the CNMI if they have applied for and been granted advance parole.

USCIS has used advance parole and parole-in-place as temporary measures because no visa classification under the INA allowed legitimate workers to continue to travel and return to the CNMI after traveling internationally or within the United States without a visa. Advance parole will not normally be considered for individuals who have received CW status in the CNMI, and who therefore can obtain a visa abroad for their return to the CNMI.

Can individuals with CW status return from travel outside the CNMI?

A CW-1 or CW-2 nonimmigrant may leave the CNMI, but he or she must have the appropriate visa to reenter the CNMI. The CW worker must apply for a CW visa at a U.S. Embassy or Consulate abroad before seeking readmission to the CNMI. If the CW-1 or CW-2 status is obtained while in the CNMI, the nonimmigrant will be given a Form I-94, Arrival-Departure Record, as documentation of CW status.

Is CW status valid in any part of the United States other than the CNMI?

No, CW status is limited to the CNMI. Individuals with CW status who travel or attempt to travel, without otherwise receiving authorization, to any other part of the United States including Guam have violated their CW status and are subject to removal from the United States to their country of nationality. However, there is one exception as noted in the following FAQ.

Can individuals with CW nonimmigrant status, or with CW visas, transit through the Guam airport?

Individuals who are nationals of the Philippines may travel between the CNMI and the Philippines through the Guam airport under the following conditions:

- Outbound from the CNMI to the Philippines via Guam: The individual is in valid CW status and is traveling on a direct itinerary involving a flight stopover or connection in Guam of no more than eight hours, and the individual remains at the Guam airport during the transit.
- Inbound from the Philippines to the CNMI via Guam: The individual has a valid CW visa and is traveling on a direct itinerary involving a flight stopover or connection in Guam of no more than eight hours, and the individual remains at the Guam airport during the transit.
- Individuals in CW status or with CW visas who are not Philippine nationals are not eligible for the Guam transit exceptions.

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Special Programs/Services and Miscellaneous Calls

Haitian Relief Measures

OVERVIEW

USCIS is committed to the effort to assist in the recovery from the earthquake that struck on January 12, 2010 and has announced temporary relief measures that will be made available to those individuals who are unable to return to their home country or are currently traveling in the United States due to the destruction and humanitarian crisis in Haiti.

Frequently Asked Questions

FAQs continue on next page

- **Is USCIS/DHS going to grant Temporary Protected Status to Haitian nationals?**
- **Can an applicant for adjustment-of-status (Form I-485) travel to Haiti to assist family members without forfeiting his or her application? Can such applicants travel to Haiti to attend funerals?**
- **Can a naturalized citizen, originally from Haiti, sponsor nieces and/or nephews or other extended minor family members who were orphaned as a result of the devastation?**
- **I am a U.S. Citizen in the process of adopting a Haitian child. What is the U.S. Government doing to help me?**

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Are Haitian nationals eligible for Temporary Protected Status?

Yes, certain Haitian nationals may be eligible for Temporary Protected Status. To be eligible, an applicant must establish that he or she has been continuously residing in the United States since January 12, 2011 and continuously physically present in the United States since July 23, 2011, as well as meet other admissibility requirements and not be barred from TPS by certain criminal history, security or other mandatory ineligibilities. For the most up to date information on TPS for Haitians, please check our website at www.uscis.gov and click "Humanitarian" and then click "Temporary Protected Status" and then on the left click "TPS Designated Country" Haiti .

What temporary relief measures will USCIS make available to Haitian nationals in response to the earthquake devastating that country?

Temporary relief measures available to nationals of Haiti include favorable adjudication, where possible, of requests for change or extension of nonimmigrant status, acceptance of applications for change or extension of nonimmigrant status submitted after the alien's authorized period of admission has expired, re-parole of aliens granted parole by USCIS, extension of certain grants of advance parole, expedited processing of advance parole requests, favorable and expedited adjudication, where possible, of requests for off-campus employment authorization due to severe economic hardship for F-1 students, expedited processing of immigrant petitions for children of U.S. citizens and lawful permanent residents (LPRs), issuance of employment authorization where appropriate and assistance to LPRs stranded overseas without documents. In addition, since the earthquake, Haiti has been designated twice for Temporary Protected Status. The current TPS designation and the extension of the first designation are for 18 months and expire on January 22, 2013**.** For more information on TPS for Haitians, see TPS Haiti.

Who will be eligible for temporary relief?

All nationals of Haiti with current immigration benefits or benefit applications pending with USCIS may be eligible for temporary relief. Temporary Protected Status has specific eligibility criteria. See TPS Haiti.

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I am a Haitian national, currently I cannot return to Haiti due to the earthquake and my allowed time to stay in the US is expiring or about to expire. What are my options? Can I work during my stay in the US?

You may be eligible for Temporary Protected Status under the designation of Haiti for TPS. In addition, there are certain other avenues for extending or maintaining other immigration benefits that may apply in your case, even if you cannot obtain TPS or in addition to your TPS grant.

Haitian nationals wishing to change or extend their nonimmigrant status must submit an application, per existing standards, and submit evidence establishing that their inability to return to Haiti prior to the expiration of their authorized period of admission was due to the events of January 12, 2010.

Change or Extension of Nonimmigrant Status:

- USCIS has implemented procedures to adjudicate favorably where possible applications for change or extension of nonimmigrant status following the expiration of an applicant's period of admission.
    - Forms I-539, Application to Extend/Change Nonimmigrant Status, currently in process and newly filed applications for Haitian nationals are being identified for immediate processing.
    - B visa non-immigrant visitors can apply for six month extensions of their visas, as long as they remain affected by the earthquake. All other nonimmigrant aliens must continue to meet existing criteria for change or extension of status.
    - In cases where an alien is no longer able to extend his or her current nonimmigrant status, whenever possible favorable consideration will be given to requests for change of status to B-1 or B-2.

Employment Authorization:

- Certain nonimmigrant classifications are not permitted to apply for or receive employment authorization. Nonimmigrant visitors, for instance, would not be granted work authorization. Applicants may only work while in the U.S. if the law allows them to receive employment authorization.

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I am a Haitian national, I was granted parole to enter the United States temporarily. I cannot return to Haiti due to the earthquake and my allowed time to stay in the US is expiring or about to expire. What are my options? Can I work during my stay in the US?

You may be eligible for Haiti TPS. If you did not file during one of the initial registration periods for Haiti, you may be able to apply for TPS as a Late Initial Filer, however, you only have 60 days after the expiration of your parole to apply for TPS. You may also apply for TPS while you still have parole. There are specific requirements, however, to obtain TPS under the Haiti designation. For example, you must have continuously resided in the United States since January 12, 2011 and been continuously physically present in the United States since July 23, 2011, among other requirements. See TPS for Haiti.

In addition, a Haitian national who has already been paroled into the U.S., may apply to extend the period of parole. If an alien presents a genuine, expired or unexpired Form I-94, which contains an expiration date of January 12, 2010 or later, and the alien demonstrates that he or she was or is prevented from returning to Haiti prior to the expiration of his or her parole as a direct result of the earthquake, he or she may file for re-parole. The length of the extension is at the Director's discretion but normally should not exceed 6 months.

Re-parole Affected Parolees:
Aliens may file for re-parole at the USCIS District office with jurisdiction over their current place of residence in the U.S.: USCIS Office Locations He or she would need to file an I-131, Application for Travel Document, with the fee of $360, and would include a copy of his or her Form I-94, and a description of why he or she is prevented from returning to Haiti. For more information on this, see "humanitarian parole" under the "humanitarian" section of www.uscis.gov.

Employment Authorization:

- Parolees in the U.S. may apply for employment authorization. For how to apply, please refer to the Form I-765 instructions**.**

Current requests to extend Advance Parole status will be adjudicated on a case by case basis.

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I am a Haitian national student currently enrolled in school in the US; due to the earthquake in Haiti I can no longer cover the cost of my education. What are my options? Can I work during my stay in the US?

Nonimmigrant F-1 students from Haiti who may be unable to continue to cover the cost to engage in a full course of study may need off-campus employment authorization. An F-1 student who can demonstrate that he or she is from Haiti can apply for employment authorization to work off-campus.
The student needs to be recommended for employment by the Designated School Official (DSO) and should submit Form I-765, Application for Employment Authorization along with the Form I-20 with approval from the DSO to the USCIS Service Center with jurisdiction. Please refer to the Form I-765 instructions for specific guidance. For additional details about this temporary form of relief to Haitian nationals, please visit our Web site at www.uscis.gov.

In addition, a Haitian with an F-1 student visa may also be eligible for TPS and be able to receive an EAD as a result of having TPS. However, if you also wish to maintain your student status, you must further ensure that your employment does not violate the terms of your student status. There are special employment-related procedures available to Haitians who wish to maintain their student status and also to work while in TPS. You need to coordinate with your school if you wish to work while in TPS, but also maintain your student status.

I am a Haitian national currently in the US under an Order of Supervision pursuant to a stay of removal issued by U.S. Immigration and Customs Enforcement. Can I work during my stay in the US?

You may be authorized to work and should submit Form I-765, Application for Employment Authorization, and USCIS will adjudicate as promptly as possible.

I am a Haitian national; I have a pending case with USCIS and need my case expedited due to the earthquake in Haiti. What are my options?

When there is a demonstrated need for immediate relief, USCIS will expedite certain applications. Standard requirements for security checks remain in place under expedited procedures.

Expedited Processing:

- **Relative Petitions for Minor Children of legal permanent residents and U.S. citizens Residing in Haiti:**
  - In cases where the petitioner requests expedited processing of a Form I-130, Petition for Alien Relative, for a child from Haiti, the case will be expedited in situations where a visa number is readily available.
- **Requests for Advance Parole:**
  - Haitian nationals with benefit applications pending in the United States may need to travel quickly for emergent reasons and will need to apply for advance authorization for parole to return to the United States. USCIS will expedite the Form I-131, Application for Travel Document, when an applicant demonstrates an emergent need to travel.

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I am a Haitian national; I have lost my resident status documents due to the earthquake in Haiti. What are my options?

Persons Stranded Without Documents:

- USCIS overseas offices will continue to assist legal permanent residents who have lost their documents. Database checks and interviews will continue to be conducted during and outside of business hours to rapidly verify status and authorize issuance of boarding letters at the consulate in Haiti. Boarding letters permit airlines to allow aliens to travel to the United States.

I am a Haitian national; I am in removal proceedings and cannot leave due to the earthquake in Haiti. What are my options?

Individuals from Haiti who are under a final order of removal may be granted a stay of removal. This temporary suspension is specific to Haiti due to the massive infrastructure damage.

- Decisions will be made on a case-by-case basis and based on specific circumstances.
- Where appropriate and authorized by law, nonimmigrant visitors and aliens that receive a stay of removal may be eligible to apply for or receive employment authorization so that they may financially support themselves, or potentially help the rebuilding effort by sending remittances to Haiti.

If a person from Haiti is out-of-status, will this person be eligible for any relief?

A person whose nonimmigrant status has expired may be able to file for a change or extension of status, if he or she was in a valid, nonimmigrant status.

Can a person from Haiti, who is out-of-status, travel to his or her country to assist stricken family members and return to the U.S.?

A person from Haiti who is out of status may travel to Haiti, but will not be eligible for Advance Parole. Advance parole is permission to re-enter the United States.

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Can an applicant for adjustment-of-status (Form I-485) travel to Haiti to assist family members without forfeiting his or her application? Can such applicants travel to Haiti to attend funerals?

Aliens who have pending applications for permanent residence, Form I-485, are eligible for advance parole if they have an approved Form I-131 Request for Advance Parole. Aliens wishing to return to Haiti to assist family members or attend funerals can request expedited processing of their I-131's as described above. So long as the alien has been approved for Advance Parole, he or she may travel for short periods of time outside of the United States without abandoning the application for permanent residence.

What is the Help HAITI Act of 2010?

The Help HAITI Act of 2010 allows certain Haitian orphans paroled into the United States to become lawful permanent residents. Applications for permanent residence under this law may be filed any time on or before December 9, 2013. To be eligible for permanent residence under the Help HAITI Act of 2010, the orphan must have been inspected and granted paroled into the United States under the humanitarian parole policy announced by the Secretary of Homeland Security on January 18, 2010. To apply, Form I-485, Application to Register Permanent Residence or Adjust Status, must be filed with fee, along with Form I-693, Report of Medical Examination and Vaccination Record,; a copy of the I-94 that was received upon parole and evidence of identity and nationality. For more information and filing instructions, please visit the USCIS website: www.uscis.gov and read the Help HAITI Act of 2010. You may also call 877-424-8374 or email NBC.adoptions@dhs.gov.

Can a naturalized citizen, originally from Haiti, sponsor nieces and/or nephews or other extended minor family members who were orphaned as a result of the devastation?

A U.S. citizen, whether naturalized or born in the United States, may not file a Form I-130, Petition for Alien Relative, on behalf of a niece, nephew or other minor extended family member who was orphaned as a result of the earthquake. A U.S. citizen may only petition for his or her spouse, parents, children, adult sons and daughters, and brothers and sisters.

Information about how and if a U.S. citizen may adopt a child from Haiti, can be found at: www.adoptions.state.gov
"Haiti" can be selected from the list of countries.

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I am a U.S. Citizen in the process of adopting a Haitian child. What is the U.S. Government doing to help me?

USCIS and the U.S. Department of State have worked together to expedite certain pending Haitian adoption cases. To help USCIS improve our processing of Haitian adoption cases, please send us detailed information about your adoption case to HaitianAdoptions@dhs.gov. In the e-mail please provide as much information as possible, such as:

- Name of prospective adoptive parents;
- Prospective adoptive parent contact information;
- Name of matched child;
- Child's date of birth;
- Current location of child;
- Date Form I-600A was filed and with which USCIS office;
- Date Form I-600 was filed and with which USCIS office;
- Whether the adoption in Haiti was finalized; and
- The Haitian or U.S. documents you are able to provide (Only list the documents, do not send copies).

Finally, we encourage you to visit our website at www.uscis.gov and the U.S. Department of State website at www.adoption.state.gov for more information and updates.

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Special Programs/Services and Miscellaneous Calls

Information about Other Special Programs, including Cuban Migration, Immigrant Status for Iraqi and Afghan Translators, and Visas for Certain Iraqi Nationals Who Worked for the U.S. Government, the Wounded Warrior Program, and the MAVNI Pilot Program

OVERVIEW

USCIS provides resources by which foreign nationals from a variety of countries may gain permanent resident status through special programs. This includes Special Program for Cuban Migration, among others. Using the information below, you can find special programs that allow them to apply for permanent resident status. Also included below is information about other programs such as Operation Vigilant Sentry and the Wounded Warrior Program.

- Information Regarding the Parole for Cuban Medical Professionals from Third Countries.

  Cuban Advance Parole Program for Family Members

  On August 11, 2006, the Department of Homeland Security announced a new program that will allow some family members in Cuba, who are the beneficiary of an approved Visa Petition from a family member in the United States, to apply for a parole to enter the U.S. Final regulations and operating procedures for this program are in the process of being developed. When these regulations and procedures are finished, in place, and announced, this program will begin. We will notify you as soon as this happens.

- Information Regarding the Cuban Family Reunification Parole Program

  On November 21, 2007, the Department of Homeland Security announced the Cuban Family Reunification Parole (CFRP) Program. Under this program, U.S. Citizenship and Immigration Services (USCIS) is offering beneficiaries of approved family-based immigrant visa petitions an opportunity to receive a discretionary grant of parole to come to the United States rather than remain in Cuba to apply for lawful permanent resident status (i.e., a “green card”). The purpose of the program is to expedite family reunification through safe, legal, and orderly channels of migration to the United States and to discourage dangerous and irregular maritime migration. General information concerning this new Cuban parole program is available on the USCIS website, www.uscis.gov, or by calling the USCIS National Customer Service Center at (800) 375-5283.

Continued on next page

- Information Regarding Special Immigrant Status for Afghan and Iraqi Civilian Translators.

  Special immigrant status is available to Afghan and Iraqi nationals who have worked directly for the United States Military as translators. Created by the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), this new immigration category allows translators and their families to gain admission to the United States, apply for permanent residency and eventually acquire U.S. Citizenship. To request special immigrant status, translators must file a "Petition for Amerasian, Widow(er), or Special Immigrant" (Form I-360) with the required evidence. The requirements which must be met in order to apply for this special petition as well as the required evidence that must accompany the I-360 can be found in the July 2, 2007 fact sheet.

  Pursuant to the USCIS Fact Sheet dated July 2, 2007, the USCIS has received enough petitions requesting special immigrant status from certain Afghan and Iraqi translators to meet this year's visa cap which allows up to 500 Afghan and Iraqi nationals per year to immigrate under this special program. Priority dates for this special class of visa petitions can be found on the Department of State website at www.travel.state.gov.

- Information Regarding the New Special Immigrant Visa for Certain Iraqi Nationals Who Worked for the U.S. Government

  On July 9, 2008, the U.S. Citizenship and Immigration Services (USCIS) announced guidelines for a new special immigrant visa for certain Iraqi nationals who worked for, or were contractors of the United States government in Iraq for at least one year after March 20, 2003. Section 1244 of the Defense Authorization Act for Fiscal Year 2008 authorizes 5,000 special immigrant visas for Iraqi employees and contractors each year for fiscal years (FY) 2008 through 2012, as well as their spouses and children. There are no filing or biometric fees associated with this petition.

  For additional information regarding the **Iraqi Refugee Processing/Special Immigrant Visa Processing (SIV)** go to: http://www.uscis.gov/files/article/iraqi_refugee_fs_11feb09.pdf

Information Regarding the Military Accessions Vital to National Interest (MAVNI) Recruitment Pilot

MAVNI is a military recruitment pilot program. This program recruits certain legal aliens (nonimmigrants) whose skills and considered vital to the national interest. Those holding critical skills (physicians, nurses, and experts in certain languages) would be eligible. This pilot program will recruit up to 1,000 nonimmigrants and will continue for a period of up to one year.

Note: For information about this program, including information on how and where to apply and eligibility requirements, please call our toll-free number at 1-800-375-5283..

Continued on next page

- Information about the USCIS Wounded Warrior Program

USCIS established the Wounded Warrior Program to recruit and hire severely wounded veterans. While not guaranteeing a job, USCIS provides veterans the opportunity to interview for available positions. USCIS has established a liaison with many organizations, including:

- U.S. Army Wounded Warrior Program;
- Soldier and Family Assistance Centers;
- Department of Veterans Affairs, Vocational Rehabilitation and Employment;
- Department of Defense's Operation Warfighter;
- U.S. Marine Corps Wounded Warrior Regiment;
- Department of Labor's Americas Heroes at Work;
- Salute America's Heroes; and
- National Reconnaissance Office.

While USCIS is committed to recruiting all severely wounded veterans, to maintain consistency with other federal wounded warrior programs, our recruiting is focused on those who:

- Suffer from injuries or illness incurred in the line of duty after September 10, 2001, and
- Receive or expect to receive a Department of Defense or Veterans Affairs disability rating of 30 percent or greater in categories such as: loss of limb, loss of vision/blindness, spinal cord/paralysis, permanent disfigurement, loss of hearing/deafness, severe burns, traumatic brain injury, post-traumatic stress disorder, and any other condition requiring extensive hospitalization or multiple surgeries; or
- Receive a Department of Defense or Veterans Affairs combined rating equal to or greater than 50 percent for any other combat or combat related condition.

Interested candidates are encouraged to send their resume (USAJOBS Resume Builder), and their DD Form 214 and DoD/VA letter of disability rating (if issued) to vicky.crawford@dhs.gov. Interested candidates are also encouraged to call USCIS Recruiting at 202-233-2500 and ask for the Wounded Warrior Program Manager.

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Special Programs/Services and Miscellaneous Calls

Freedom of Information Act (FOIA) FAQs

OVERVIEW

Enacted in 1966, The Freedom of Information Act (FOIA) is a federal law that gives the public greater access to Federal Government records and information with certain exemptions, such as National Security Information, Confidential Business Information, Personal Privacy, Certain Law Enforcement Records, etc. The Act can be found at 5 U.S.C. Section 552.

Frequently Asked Questions

FAQs continue on next page

- **The CD I received was broken. How can I get a replacement?**
- **I received a "no record" letter and would like to have a second search done. How do I request another search?**
- **I received a letter stating that my request was being closed out as a duplicate request. I still need my information. Am I going to receive it?**
- **I received my response and there were pages marked "Referred to another government agency." What does this mean?**
- **How do I file a FOIA request for a border incident, or for information regarding voluntary removal?**

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What is FOIA?

The Freedom of Information Act (FOIA or the Act) is a law enacted in 1966 that provides any person with the right to request access to government records, except those records exempted by the Act (e.g., classified national security, business proprietary, personal privacy, and investigative). The Act provides the public with the right to know or be informed about activities, decisions and policies of U.S. federal agencies. The Act can be found at 5 U.S.C. § 552.

Who is eligible to file a request under FOIA?

Any person can file a request under FOIA, including U.S. citizens, Legal Permanent Residents, foreign nationals, organizations and associations.

Who is eligible to file a request under the Privacy Act?

To file a request under the Privacy Act, the requester must either be a U.S. citizen or a Legal Permanent Resident.

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How Do I submit a FOIA request or obtain a copy of my file?

- You must submit all requests in writing. USCIS does not require you to use a specific form. You have the option to submit a completed Form G-639, Freedom of Information/Privacy Act Request. You may download Form G-639 from our website at www.uscis.gov/foia. Please read the instructions to the form. The form outlines the required information needed to submit your FOIA request.
- Individuals who are the subject of the record being requested must consent to the release of information by signing the request. If using Form G-639, see Number 3.
- Individuals who are the subject of the record being requested must verify their identity by signing the request. Signatures must either be notarized or executed under penalty of perjury. If using Form G-639, see Number 4.
- Individuals requesting access to their own records must consent to pay all costs incurred up to $25 by signing the request. If using Form G-639, see Number 5.

Please submit your FOIA request to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

Where do I submit a FOIA request?

Please submit all new FOIA requests, FOIA inquiries, FOIA status requests, and address changes for a FOIA case to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

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What is the National Records Center (NRC)?

The National Records Center is a facility that houses approximately 25 million immigration A-files at one location. In addition, all FOIA/PA operations for USCIS are centralized at this location.

How long will it take to receive a response to my FOIA request?

By statute there is a mandatory timeframe for responding to a FOIA request. The Act requires that government agencies respond to a FOIA request within 20 business days.

How can I check on the status of my FOIA request?

You may check the status of your request by going to our website at www.uscis.gov. The left-hand side of the homepage has a link to the "FOIA Request Status Check". You must have the NRC control number associated with the FOIA request. This number is located in the upper right hand portion on all correspondence received from the NRC. It is an alpha-numeric number and will begin with three letters. Alternatively, status requests may be submitted to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

I received a letter from USCIS stating my request was put on the complex track. What does that mean?

USCIS uses a 3 track FOIA processing system.

- Track 1 is a request for very specific information or documents. A request for a copy of a green card or your naturalization certificate is an example of a Track 1 request. These are considered simple requests because they require minimal documents to be researched and reviewed.
- Track 2 requests ask for a copy of the entire record. These are considered complex requests because they require research and review of more documents.
- Track 3 requests involve individuals served with a charging document that are scheduled for an immigration hearing.

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How do I change the track of my case (Simple versus Complex - How do I Narrow the scope of my request)?

If you have requested an entire copy of your file, your request has been placed in Track 2, or the complex track. You may narrow the scope of your request from a copy of the entire record to a copy of specific documents. This will move your request to Track 1. Track 1 cases are typically processed in a shorter amount of time than Track 2 cases because fewer documents are being reviewed for release. If you have been served with a charging document and are currently scheduled for a hearing before an immigration judge, you may ask for Track 3 status. Track 3 cases receive accelerated processing.

To narrow the scope of your request or change the track of your case, you may mail, e-mail or fax a request to modify your FOIA request to include only specific documents. Please include your NRC control number, the specific document(s) you are requesting, your current address, and your signature. If you wish to obtain Track 3 status, you will need to submit the request in writing and include one of the following documents:

- Notice to Appear (Form I-862);
- Order to Show Cause (Form I-122);
- Notice of Referral to Immigration Judge (Form I-863); or
- A written Notice of Continuation of a scheduled hearing before the immigration judge.

All submissions may be submitted to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

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I have a hearing before a Judge. Why was my Track 3 request denied?

Most Track 3 cases are denied because the requestor failed to provide the proper documentation. You must submit either a

- Notice to Appear (Form I-862);
- Order to Show Cause (Form I-122);
- Notice of Referral to Immigration Judge (Form I-863); or
- A written Notice of Continuation of a scheduled hearing before the immigration judge.

The document submitted must be properly signed and must contain a future, certain date. Court orders that contain a past court date, or a court date to be determined are not sufficient for Track 3 status.

I need to have my FOIA request expedited. How do I do that?

Requests for expedited treatment must be submitted in writing. A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. Certification can be accomplished either by having your statement notarized by a notary public or by self-certifying. In order to self-certify the requester must add a sentence at the end of the request for expedited treatment that the information contained in the request is true and correct to the best of their knowledge and belief. The request must be signed under penalty of perjury. You may refer to the bottom of Form G-639 for an example.

Submit your request, along with your NRC control number, to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

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I can't afford to pay the fees for my FOIA request. Can I have the fees waived?

Request for fee waivers must be submitted in writing. Submit your request, along with your NRC control number, to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

How do I change the mailing address on my existing FOIA request?

To change the address where your records will be mailed, you must submit notification including the old address, the new address, NRC control number, and the signature of the requestor in writing to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

How do I change the attorney or representative on my FOIA request?

Requests to change attorneys will only be accepted with the consent of the original attorney. The original attorney must mail or fax a written, signed request asking for the substitution of the parties. If you cannot obtain the written notification from the original attorney, your newly appointed attorney must submit a new Form G-28 along with your new request. This will be treated as a new request and the process will begin anew. Please include your NRC control number and submit it to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

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How can I request that my records be sent to me via overnight or express mail?

To receive records via overnight or express mail, an account with Federal Express is required. You will need to provide us with your account information in writing. We will send the response ONLY via Federal Express. Please include your NRC control number and submit it to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

How do I make a "Request for a Certification of Non-Existence of a Record"?

To obtain a certification of the non-existence of a record, you need to send your name, date of birth, country of birth and any other pertinent information to:

U.S. Citizenship and Immigration Services
ATTN: Records Operations Branch
1200 First Street NE
Washington, D.C. 20529-2204

Additional information concerning Certificates of Non-Existence or Dual Citizenship may be obtained on our webpage: Dual Citizenship Research FAQs.

How do I obtain Certified Copies of my naturalization certificate or other documents?

We do not certify copies of records. If you have lost your original naturalization certificate, you must submit an application to have it replaced. To apply for a replacement Naturalization or Citizenship Certificate file Form N-565, Application for Replacement Naturalization/Citizenship Document.

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I filed a FOIA request and received a request for more information. Why do I need to provide additional information?

Many individuals have the same or similar names. It is important that we properly identify the correct record related to your request. The additional information is needed to assist us in quickly and accurately locating your records.

I received a request for more information and I need more time to get the documents. Can I get an extension of time to supply the requested information?

Yes. If you need more time than was given in your acknowledgement letter to supply additional information you may request additional time. Please include your NRC control number and submit it to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 648010
Lee's Summit, MO 64064-8010
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

I received the documents I requested. Can I get better quality copies?

The copies you were provided in response to your FOIA request were the best copies available. Many of our documents are old and we provide the best available copy.

I received my requested records. However, I didn't receive everything. How can I get the missing documents?

If the cover letter you received attached to your records included instructions on how to file an appeal, you may file an appeal within 60 days from the date of the letter. After 60 days, you must submit a new FOIA request. If there was no appeal paragraph contained in the letter, you must submit a new FOIA request.

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The CD I received was broken. How can I get a replacement?

Please send a written request including your contact information and the NRC control number and we will mail a duplicate copy. Please send your request to one of the following:

Address: Department of Homeland Security
National Records Center
PO BOX 64801
Lee's Summit, MO 64064
Fax: 816-350-5785
E-mail: USCIS.FOIA@DHS.GOV

I received a "no record" letter and would like to have a second search done. How do I request another search?

We conducted a comprehensive search of all records based upon the information your provided. If you have additional information which may assist us in locating a record, you may submit the new FOIA request along with the additional information to the NRC along with a request that a second search be conducted. Please be sure to reference your original control number in your request to assist us. Your request will be considered to be a new request. If your request is related to genealogy or historical records, those must now be submitted to the USCIS Genealogy program.

I received a letter stating that my request was being closed out as a duplicate request. I still need my information. Am I going to receive it?

Your letter should contain a reference to a second NRC control number. That should be the request that your records will be processed under.

I received my response and there were pages marked "Referred to another government agency." What does this mean?

Occasionally there will be documents in an immigration record that were created by another government agency. We are unable to process those documents under FOIA and must send them to the other agency for their review and disclosure. If the cover letter you received with your records indicated that pages were referred to another government agency, you will receive separate correspondence from that agency.

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How do I file a FOIA request for a border incident, or for information regarding voluntary removal?

For information related to incidents at the border, or other border related information, or voluntary removal, please submit a FOIA request to U.S. Customs and Border Protection at the following address:

U.S. Customs and Border Protection
Attn: FOIA Division
799 9th Street NW, Mint Annex
Washington, DC 20229-1177

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Special Programs/Services and Miscellaneous Calls

Miscellaneous Reference Material

OVERVIEW

This section covers information on topics that are better answered by USCIS or other government agencies. This section is a reference source to other government agencies.

Miscellaneous Reference Material

If you are from the Media or for persons wishing general information about immigration

Please call USCIS, Office of Communications, Public Affairs: 202-272-1200

If you wish to register a complaint about employee misconduct or about the service you received from a USCIS employee

(1) You should first file your complaint in writing to the Office Director at the office where you were served. You can obtain office addresses online at www.uscis.gov

(2) If you have tried working with the local office Director and feel you didn't receive an appropriate response, you can contact the Office of Security and Integrity. You can report employee misconduct by fax at 202-233-2453 or by mail at the following address:

Chief, Investigations Division
OSI MS 2275
USCIS
633 Third Street NW, 3rd Floor
Washington, DC 20529-2275

(3) If you wish to report allegations of criminal misconduct by a USCIS employee, you may call the Office of the Inspector General at their toll-free line 1-800-323-8603, by fax at 202-254-4292, or by e-mail at dhsoighotline@dhs.gov.

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For information about immigration enforcement or illegal immigration activity/illegal alien
(1) Please call the U.S. Immigration and Customs Enforcement (ICE) at their toll-free tip line: 1-866-347-2423 or see their Website at www.ice.gov
(2) You may also visit the U.S. Customs and Border Protection Website at www.cbp.gov or call their toll-free line: 1-800-BE-ALERT.

For information about entering the U.S. and inspections at a Port of Entry
Please visit the U.S. Customs and Border Protection Website at www.cbp.gov

For information about Social Security Cards and Social Security Account Numbers
Please visit the Social Security Administration Website at www.ssa.gov or call their toll-free line: 1-800-772-1213

General information about labor laws or labor issues
Please visit the Department of Labor Website at www.dol.gov

Specific information:
about foreign labor certifications or labor condition applications
Please visit the DOL Employment and Training Administration Website at www.doleta.gov or www.foreignlaborcert.doleta.gov
about foreign national employees wishing to report abuse from a U.S. employer, such as wage and hour violations
Please visit the DOL Employment Standards Administration Website at www.dol.gov/esa/whd or call their toll free line: 1-866-487-9243.

Information about visa processing, priority dates, U.S. Consulates or Embassies abroad, or passports
Please visit the Department of State Website at www.state.gov or http://travel.state.gov

Specific information:
about Foreign Consulates in the U.S.
Please visit the following Department of State Webpage: www.state.gov/misc/10125.htm
about obtaining United Kingdom (UK) visas
The USCIS Application Support Center (ASC) provides biometric-capture services to the UK government for the processing of UK visa applicants residing in the United States. As such, the ASCs have NO AUTHORITY to review or answer questions about the UK visa process.

Continued on next page

The information provided here is for those UK visa applicants who seek additional information on the UK visa application process.

The free website for UK visa applicants to find answers to UK processing question is www.visainfoservices.com. There is also a call center operated through UKBAIG's commercial partner, WorldBridge:

1 - 900 - 656 - 5000 – Calls cost US $3 per minute.
OR
1 - 212 - 796 - 5773 – US $12 flat fee (residents outside the US will need to call this number.)

Please note: Worldbridge is NOT able to provide information on the status of an application that has already been submitted. Worldbridge's service complements the comprehensive information on visas for the UK and Overseas Territories already available through the UK visas website.

Customers who reside in Canada

Customers residing in Canada may use the general inquiry mailbox USCIS.Canada@dhs.gov. The mailbox provides customer service to those in Canada who cannot access the National Customer Service Center through the 1-800 number.

Information for Civil Surgeons seeking guidance on technical instructions

Please visit the Center for Disease Control Website at www.cdc.gov/ncidod/dq/civil.htm

Information about taxes, taxpayer identification numbers, and income tax reporting issues

Please visit the U.S. Internal Revenue Service Website at www.irs.gov

Information about the USCIS Genealogy Program (Fee-for Service Program Replaces Lengthy Freedom of Information Act / Privacy Act (FOIA) Request).

Please visit the new USCIS Genealogy Program Webpage at: http://www.uscis.gov/genealogy
Questions about the USCIS Genealogy Program may be sent to Genealogy.USCIS@dhs.gov

Questions from the Media or from persons wishing general information about the USCIS Customer Identity Verification Pilot (CIV)

Please contact your local USCIS Field Office to obtain information about the USCIS Customer Identity Verification Pilot.

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Information about a matter in Immigration Court (administered by the U.S. Department of Justice, Executive Office for Immigration Review)

Please visit the EOIR Website at www.usdoj.gov/eoir or call their electronic information system: 1-800-898-7180. This system requires the caller's A-Number for case information.

Information about immigration related free/pro bono legal services

Please visit the EOIR Website at www.usdoj.gov/eoir/probono/states.htm

Information about State Vital Statistics Bureaus

Please visit the National Center for Health Statistics Website at www.cdc.gov/nchs/nvss

Information about the Citizenship Grant Program

Please visit our Webpage: www.uscis.gov/grants

Calls about contacting the Selective Service?

If you are between 18 and 26, you can register for the Selective Service:

- At any United States Post Office; or
- On the Selective Service System website at: www.sss.gov

To confirm that you are registered, if you can't remember your number or for more information about selective service requirements and procedures:

- Check the Selective Service System's website, or
- Call them at 1-847-688-6888 or call the toll free number at 1-888-655-1825

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Additional Links

Resources	Related Sites
• Forms & Fees • Processing Times • Case Status Online • SRMT - Referrals • Office Locator • "How Do I...?" • Appointments (INFOPASS) • FOIA • Genealogy • E-Filing • Citizenship Grant Program • USCIS Questions and Answers • Glossary of Immigration Terms • News@ USCIS News Room	• Department of Homeland Security • Customs and Border Protection • Immigration and Customs Enforcement • Department of State • Social Security Administration • Internal Revenue Service • Department of Labor

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Special Programs/Services and Miscellaneous Calls

Consideration of Deferred Action for Childhood Arrivals

OVERVIEW

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.

Note: If the answer to your question is not found in the following FAQs, please call the USCIS National Customer Service Center at 1-800-375-5283.

FREQUENTLY ASKED QUESTIONS

Back to Deferred Action Special Programs and Services

FAQs about Eligibility and Filing a Request for Deferred Action

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FAQs about Evidence and Supporting Documentation

- What evidence or supporting documentation should I submit with my Consideration of Deferred Action for Childhood Arrivals?
- What additional documentation should I submit if I am currently or have been in removal proceedings?
- What documentation may be sufficient to prove identity?
- What documentation may be sufficient to demonstrate that I came to the United States before the age of 16?
- What documentation may be sufficient to demonstrate that my immigration status had expired as of June 15, 2012?
- What documentation may be sufficient to demonstrate that I was physically present in the United States as of June 15, 2012?
- How do I establish that I am currently in school?
- What documentation may be sufficient to demonstrate that I have graduated from high school?
- What documentation may be sufficient to demonstrate that I have obtained a General Education Development (GED)?
- What documentation may be sufficient to demonstrate that I am currently in school, have graduated from high school, or have obtained a general education development certificate (GED)?
- What documentation may be sufficient to demonstrate that I am an honorably discharged veteran of the Coast Guard or Armed Forces of the United States?
- What documentation may be sufficient to demonstrate that I have resided in the United States for at least 5 years preceding June 15, 2012?
- May I file affidavits as proof that I meet the guidelines for consideration of deferred action for childhood arrivals?
- Will USCIS consider circumstantial evidence that I have met certain guidelines?
- Will USCIS consider circumstantial evidence that I have met the education guidelines?

FAQs about Brief Departures, Advance Parole (travel), and Background Checks

- Do brief departures from the United States interrupt the continuous residence requirement?
- May I travel outside of the United States before USCIS has determined whether to defer action in my case?
- Will I be able to travel outside of the United States if my case is deferred pursuant to the consideration of deferred action for childhood arrivals process?
- May I request advance parole if USCIS has deferred action in my case and I am subject to a final order of removal?
- Will USCIS conduct a background check when reviewing my request for consideration of deferred action for childhood arrivals?
- What do background checks involve?

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FAQs about Form I-765, Application for Employment Authorization

- Am I eligible for employment authorization if my removal is deferred pursuant to the consideration of deferred action for childhood arrivals process?
- Do I have to apply for employment authorization when I request deferred action for childhood arrivals?
- Do I have to show economic necessity to be granted employment authorization?
- How long will it take USCIS to adjudicate my application for employment authorization?
- Can I obtain a fee waiver or fee exemption for this process?
- If I am in removal proceedings and ICE grants me deferred action for childhood arrivals, how do I apply for employment authorization?
- How do I answer Question 16 on Form I-765?
- If my period of deferred action is extended, will I need to re-apply for an extension of my employment authorization?

Other FAQs

- Where do I file Form I-821D, Consideration of Deferred Action for Childhood Arrivals?
- What happens after I submit my request for consideration of deferred action for childhood arrivals?
- How soon after USCIS receives a Consideration of Deferred Action for Childhood Arrivals will the individual receive a decision?
- Can I appeal USCIS's determination?
- If USCIS does not exercise deferred action in my case, will I be placed in removal proceedings?
- Can I extend the period of deferred action in my case?
- If I am currently in school and USCIS defers action in my case, what will I have to demonstrate if I request that USCIS renew the deferral after two years?
- Does deferred action provide me with a path to permanent residence status or citizenship?
- How can I get more information about deferred action for childhood arrivals?
- Do I accrue unlawful presence if I have a pending request for consideration of deferred action for childhood arrivals?
- If my case is deferred, am I in lawful status for the period of deferral?

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FAQs about the Unauthorized Practice of Immigration Law (UPIL)

- What is the Unauthorized Practice of Immigration Law (UPIL)?
- How is UPIL relevant to deferred action for childhood arrivals?
- How can I avoid becoming a victim of fraud, scams, and UPIL?
- Someone told me if I pay them a fee, they can expedite my deferred action for childhood arrivals request, is this true?
- What steps will USCIS and ICE take if I engage in fraud through the new process?

Cases in Other Immigration Processes (ICE or CBP)

- Will I be considered to be in unlawful status if I had an application for asylum or cancellation of removal pending before either USCIS or the Executive Office for Immigration Review (EOIR) on June 15, 2012?
- Can I request consideration of deferred action for childhood arrivals from USCIS if I am in immigration detention under the custody of ICE?
- If I am about to be removed by ICE and believe that I meet the guidelines for consideration of deferred action for childhood arrivals, what steps should I take to seek review of my case before removal?
- If individuals meet the guidelines for consideration of deferred action for childhood arrivals and are encountered by Customs and Border Protection (CBP) or ICE, will they be placed into removal proceedings?
- If I accepted an offer of administrative closure under the case-by-case review process or my case was terminated as part of the case-by-case review process, can I be considered for deferred action under this process?
- If I declined an offer of administrative closure under the case-by-case review process, can I be considered for deferred action under this process?
- If my case was reviewed as part of the case-by-case review process but I was not offered administrative closure, can I be considered for deferred action under this process?
- How will ICE and USCIS handle cases involving individuals who do not satisfy the guidelines of this process but believe they may warrant an exercise of prosecutorial discretion under the June 2011 Prosecutorial Discretion Memoranda?
- What should I do if I meet the guidelines of this process and have been issued an ICE detainer following an arrest by a state or local law enforcement officer?
- If my case is referred to ICE for immigration enforcement purposes or if I receive an NTA, will information related to my family members and guardians also be referred to ICE for immigration enforcement purposes?

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What guidelines must I meet to be considered for deferred action for childhood arrivals?

Pursuant to the Secretary's June 15, 2012 memorandum, in order to be considered for deferred action for childhood arrivals, you must submit evidence, including support documents, showing that 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.

These guidelines must be met for consideration of deferred action for childhood arrivals. USCIS retains the ultimate discretion on whether deferred action is appropriate in any given case.

Note: If you would like further clarification of convictions, felonies, misdemeanors and/or threat to national security /public safety, please call the USCIS National Customer Service Center at 1-800-375-5283.

How old must I be in order to be considered for deferred action under this process?

- If you have never been in removal proceedings, or your proceedings have been terminated before your request for consideration of deferred action for childhood arrivals, you must be at least 15 years of age or older at the time of filing your request and meet the other guidelines.
- If you are in removal proceedings, have a final removal order, or have a voluntary departure order, and are not in immigration detention, you can request consideration of deferred action for childhood arrivals even if you are under the age of 15 at the time of filing your request and meet the other guidelines.
- In all instances, you cannot be the age of 31 or older as of June 15, 2012 to be considered for deferred action for childhood arrivals.

Note: If you would like to know what the other guidelines are, the response can be found in the "What guidelines must I meet to be considered for deferred action" FAQ.

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

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 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

Does "currently in school" refer to the date on which the request for consideration of deferred action is filed?
To be considered "currently in school" under the guidelines, you must be enrolled in school on the date you submit a request for consideration of deferred action under this process.

Who is considered to be "currently in school" under the guidelines?
To be considered "currently in school" under the guidelines, you must be enrolled in:

- a public or private elementary school, junior high or middle school, high school, or secondary school;
- an education, literacy, or career training program (including vocational training) that is designed to lead to placement in postsecondary education, job training, or employment and where you are working toward such placement; or
- an education program assisting students either in obtaining a regular high school diploma or its recognized equivalent under State law (including a certificate of completion, certificate of attendance, or alternate award), or in passing a General Educational Development (GED) exam or other equivalent State-authorized exam.

Such education, literacy, or career training programs include, but are not limited to, programs funded, in whole or in part, by Federal or State grants. Programs funded by other sources may qualify if they are administered by providers of demonstrated effectiveness, such as institutions of higher education, including community colleges, and certain community-based organizations.

In assessing whether such an education, literacy or career training program not funded in whole or in part by Federal or State grants is of demonstrated effectiveness, USCIS will consider the duration of the program's existence; the program's track record in assisting students in obtaining a regular high school diploma or its recognized equivalent, in passing a GED or other state-authorized exam, or in placing students in postsecondary education, job training, or employment; and other indicators of the program's overall quality. For individuals seeking to demonstrate that they are "currently in school" through enrollment in such a program, the burden is on the requestor to show the program's demonstrated effectiveness.

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If I am enrolled in a literacy or career training program, can I meet the guidelines?
Yes, in certain circumstances. You may meet the guidelines if you are enrolled in an education, literacy, or career training program that is designed to lead to placement in postsecondary education, job training, or employment and where you are working toward such placement. Such programs include, but are not limited to, programs funded by Federal or State grants, or administered by providers of demonstrated effectiveness.

If I am enrolled in an English as a Second Language (ESL) program, can I meet the guidelines?
Yes, in certain circumstances. You may meet the guidelines only if you are enrolled in an ESL program as a prerequisite for your placement in postsecondary education, job training, or employment and where you are working toward such placement. You must submit direct documentary evidence that your participation in the ESL program is connected to your placement in postsecondary education, job training or employment and that the program is one of demonstrated effectiveness.

Will my immediate relatives or dependents be considered for deferred action for childhood arrivals?
No. The new process is open only to those who satisfy the guidelines. As such, immediate relatives, including dependents of individuals whose cases are deferred pursuant to the consideration of deferred action for childhood arrivals process, may not be considered for deferred action as part of this process unless they independently satisfy the guidelines.

Can I be considered for deferred action even if I do not meet the guidelines to be considered for deferred action for childhood arrivals?
This process is only for individuals who meet the specific guidelines announced by the Secretary. Other individuals may, on a case-by-case basis, request deferred action from USCIS or ICE in certain circumstances, consistent with longstanding practice.

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How do I request consideration of deferred action for childhood arrivals?
Beginning August 15, 2012, to request consideration of deferred action for childhood arrivals from USCIS, you must submit Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to USCIS. This form must be completed, properly signed and accompanied by a Form I-765, Application for Employment Authorization, and a Form I-765WS, Worksheet, establishing your economic need for employment. If you fail to submit a completed Form I-765 (along with the accompanying filing fees for that form, totaling $465), USCIS will not consider your request for deferred action. Please read the form instructions to ensure that you submit all the required documentation to support your request.

You must file your request for consideration of deferred action for childhood arrivals at the USCIS Lockbox. You can find the mailing address and instructions at www.uscis.gov/I-821D. After your Form I-821D, Form I-765, and Form I-765 Worksheet have been received, USCIS will review them for completeness, including submission of the required fee, initial evidence and supporting documents. If it is determined that the request is complete, USCIS will send you a receipt notice. USCIS will then send you an appointment notice to visit an Application Support Center (ASC) for biometric services. Please make sure you read and follow the directions in the notice. Failure to attend your biometrics appointment may delay processing of your request for consideration of deferred action, or may result in a denial of your request.

Each request for consideration of deferred action for childhood arrivals will be reviewed on an individual, case-by-case basis. USCIS may request more information or evidence from you, or request that you appear at a USCIS office. USCIS will notify you of its determination in writing.

All individuals who believe they meet the guidelines, including those in removal proceedings, with a final removal order, or with a voluntary departure order (and not in immigration detention), may affirmatively request consideration of deferred action for childhood arrivals from USCIS through this process. Individuals who are currently in immigration detention and believe they meet the guidelines may not request deferred action from USCIS but should identify themselves to their detention officer or to 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.

Can I receive E-Notification of the receipt of Form I-821D, Consideration of Deferred Action for Childhood Arrivals?
You may elect to receive an e-mail and/or text message notifying you that your form has been accepted. To do so, you must complete Form G-1145, E-Notification of Application/Petition Acceptance, and clip it to the first page of your request for deferred action. To download a copy of Form G-1145, including the instructions, please refer to www.uscis.gov/G-1145.

Is there a time-frame or deadline by which I must submit Form I-821D, Consideration of Deferred Action for Childhood Arrivals?
No, there is no time-frame or deadline by which a request for deferred action must be submitted.

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Will the information I share in my request for consideration of deferred action for childhood arrivals be used for immigration enforcement purposes?

Information provided in this request is protected from disclosure to U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) for the purpose of immigration enforcement proceedings unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to U.S. Immigration and Customs Enforcement under the criteria set forth in USCIS's Notice to Appear guidance (www.uscis.gov/NTA).

Individuals whose cases are deferred pursuant to the consideration of deferred action for childhood arrivals process will not be referred to ICE. The information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of deferred action for childhood arrivals, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense. The above information sharing policy covers family members and guardians, in addition to the requestor.

This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

Can I request consideration of deferred action for childhood arrivals under this process if I am currently in a nonimmigrant status (e.g. F-1, E-2, H-4) or have Temporary Protected Status (TPS)?

No. You can only request consideration of deferred action for childhood arrivals under this process if you currently have no immigration status and were not in any lawful status on June 15, 2012.

What evidence or supporting documentation should I submit with my Consideration of Deferred Action for Childhood Arrivals?

Evidence and supporting documentation that you file with your Consideration of Deferred Action for Childhood Arrivals should demonstrate that you meet all of the following criteria:

1. Entered without inspection before June 15, 2012, and had no lawful immigration status as of that date and you remain unlawfully present or, if you were admitted and your lawful immigration status expired as of June 15, 2012;
2. Proof that you are at least 15 years of age at the time of filing, if required;
3. Arrived in the United States before the age of 16;
4. You were born after June 15, 1981;
5. Have continuously resided in the United States since June 15, 2007 through the date of filing;
6. Were present in the United States on June 15, 2012; and
7. Are currently in school, graduated or received a certificate of completion from high school, obtained a general educational development certificate (GED), or you are an honorably discharged veteran of the Coast Guard or U.S. Armed Forces.

You do not need to submit original documents unless USCIS requests them.

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What additional documentation should I submit if I am currently or have been in removal proceedings?
Submit a copy of the removal order or any document issued by the immigration judge or the final decision of the Board of Immigration Appeals (BIA), if available.

What documentation may be sufficient to prove identity?
Documentation sufficient to prove identity may include:

- Passport;
- Birth certificate accompanied by photo identification;
- Any national identity document from your country of origin bearing your photo and/or fingerprint;
- Any U.S.-government immigration or other document bearing your name and photograph (e.g. Employment Authorization Documents (EADs), expired visas, driver's license, non-driver card, etc.);
- Any school-issued form of identification with photo;
- Military identification document with photo; or
- Any other document that you believe is relevant.

What documentation may be sufficient to demonstrate that I came to the United States before the age of 16?
Documentation sufficient to demonstrate that you came to the United States before the age of 16 may include:

- Passport with an admission stamp indicating when you entered the United States;
- I-94/I-95/I-94W Arrival/Departure Record;
- Any INS or DHS document stating your date of entry;
- Travel records, such as transportation tickets showing your dates of travel to the United States;
- School records (transcripts, report cards, etc.) from the schools that you attended in the U.S. showing the name(s) of schools and periods of attendance;
- Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- Official records from a religious entity in the U.S. confirming your participation in a religious ceremony, rite, or passage (e.g. baptism, first communion, wedding); or
- Any other document that you believe is relevant.

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What documentation may be sufficient to demonstrate that my immigration status had expired as of June 15, 2012?
Documentation sufficient to demonstrate that your immigration status had expired as of June 15, 2012 may include:

- I-94/I-95/I-94W Arrival/Departure Record showing the date your authorized stay expired;
- Final order of exclusion, deportation, or removal issued as of June 15, 2012, submit a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing you into removal proceedings, if applicable; or
- Any other document that you believe is relevant to show that as of June 15, 2012, you were present in the U.S. after your lawful status expired.

What documentation may be sufficient to demonstrate that I was physically present in the United States as of June 15, 2012?
Documentation sufficient to demonstrate that you were present in the United States on June 15, 2012 may include:

- Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service;
- Employment records (e.g. pay stubs, W-2 forms, tax records, letters from employer(s), or, if you are self-employed, letters from banks and other firms with whom you have done business);
    - In all of these documents, your name and name of the employer or organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and include the employer's contact information. Such letters must include: 1) your address (es) at time of employment; 2) exact period(s) of employment; 3) period(s) of any layoffs; and 4) duties with the employer.
- Military records;
- School records (transcripts, report cards, etc.) from the schools that you attended in the U.S., showing the name(s) of schools and periods of attendance;
- Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- Official records from a religious entity in the U.S. confirming your participation in a religious ceremony, rite, or passage (e.g. baptism, first communion, wedding);
- 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, correspondence between you and another person or organization, U.S. Social Security Administration records, automobile license receipts, title, vehicle registration, deed, mortgages, rental agreements, contracts to which you have been a party, tax receipts, insurance policies, receipts, or postmarked letters;
- Any other relevant document.

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How do I establish that I am currently in school?

Documentation sufficient for you to demonstrate that you are currently in school may include, but is not limited to:

- evidence that you are enrolled in a public or private elementary school, junior high or middle school, high school or secondary school; or
- evidence that you are enrolled in an education, literacy, or career training program (including vocational training) that is designed to lead to placement in postsecondary education, job training, or employment and where you are working toward such placement, and that the program is funded in whole or in part by Federal or State grants or is of demonstrated effectiveness; or
- evidence that you are enrolled in an education program assisting students either in obtaining a regular high school diploma or its recognized equivalent under State law (including a certificate of completion, certificate of attendance, or alternate award), or in passing a General Educational Development (GED) exam or other such State-authorized exam, and that the program is funded in whole or in part by Federal or State grants or is of demonstrated effectiveness.

Such evidence of enrollment may include: acceptance letters, school registration cards, letters from school or program, transcripts, report cards, or progress reports showing the name of the school or program, date of enrollment, and current educational or grade level, if relevant.

Note: If you would like further clarification of evidence documents, school information and/or academic requirements, please call the USCIS National Customer Service Center at 1-800-375-5283.

What documentation may be sufficient to demonstrate that I have graduated from high school?

Documentation sufficient for you to demonstrate that you have graduated from high school may include, but is not limited to, a high school diploma from a public or private high school or secondary school, or a recognized equivalent of a high school diploma under State law, including a General Education Development (GED) Certificate, certificate of completion, a certificate of attendance, or an alternate award from a public or private high school or secondary school.

Note: If you would like further clarification of evidence documents, school information and/or academic requirements, please call the USCIS National Customer Service Center at 1-800-375-5283.

What documentation may be sufficient to demonstrate that I have obtained a General Education Development (GED)?

Documentation sufficient for you to demonstrate that you have obtained a GED may include, but is not limited to, evidence that you have passed a GED exam, or other comparable State-authorized exam, and, as a result, you have received the recognized equivalent of a regular high school diploma under State law.

Note: If you would like further clarification of evidence documents, school information and/or academic requirements, please call the USCIS National Customer Service Center at 1-800-375-5283.

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What documentation may be sufficient to demonstrate that I am currently in school, have graduated from high school, or have obtained a general education development certificate (GED)?

Documentation sufficient to demonstrate that you are currently in school, have graduated from high school, or have obtained a GED certificate may include:

- School records (transcripts, report cards) from the schools that you attended in the U.S., showing the name(s) of schools and periods of attendance and the current educational or grade level;
- U.S. high school diploma or certificate of completion;
- U.S. GED certificate; or
- Any other relevant document.

Note: If you would like further clarification of evidence documents, school information and/or academic requirements, please call the USCIS National Customer Service Center at 1-800-375-5283.

What documentation may be sufficient to demonstrate that I am an honorably discharged veteran of the Coast Guard or Armed Forces of the United States?

Documentation sufficient to demonstrate that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States may include:

- 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; or
- Any other relevant document.

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What documentation may be sufficient to demonstrate that I have resided in the United States for at least 5 years preceding June 15, 2012?
Documentation sufficient to demonstrate that you have resided in the United States for at least 5 years preceding June 15, 2012 may include:

- Rent receipts, utility bills(gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service;
- Employment records (e.g., pay stubs, W-2 Forms, tax records, letters from employers, or, if you are self-employed, letters from banks and other firms with whom you have done business);
    - In all of these documents, your name and name of employer or organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and include the employer's contact information. Such letters must include: 1) your address (es) at time of employment; 2) exact periods of employment; 3) periods of any layoffs; and 4) duties with the employer.
- Military records;
- School records (transcripts, report cards, etc.) from the schools that you attended in the U.S., showing the name(s) of schools and periods of attendance;
- Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- Official records from a religious entity in the U.S. confirming your participation in a religious ceremony, rite, or passage (e.g. baptism, first communion, wedding);
- 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, correspondence between you and another person or organization, U.S. Social Security Administration records, automobile license receipts, title, vehicle registration, deed, mortgages, rental agreements, contracts to which you have been a party, tax receipts, insurance policies, receipts, or postmarked letters;
- Any other relevant document.

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May I file affidavits as proof that I meet the guidelines for consideration of deferred action for childhood arrivals?
Affidavits generally will not be sufficient on their own to demonstrate that you meet the guidelines for USCIS to consider you for deferred action for childhood arrivals.

However, affidavits may be used to support meeting the following guidelines only if the documentary evidence available to you is insufficient or lacking:

- A gap in the documentation demonstrating that you meet the five year continuous residence requirement; and
- A shortcoming in documentation with respect to the brief, casual and innocent departures during the five years of required continuous presence.

If you submit affidavits related to the above criteria, you must submit two or more affidavits, sworn to or affirmed by people other than yourself, who have direct personal knowledge of the events and circumstances. Should USCIS determine that the affidavits are insufficient to overcome the unavailability or the lack of documentary evidence with respect to either of these guidelines, it will issue a Request for Evidence, indicating that further evidence must be submitted to demonstrate that you meet these guidelines.

USCIS will not accept affidavits as proof of satisfying the following guidelines:

- You are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development certificate, or are an honorably discharged veteran from the Coast Guard or Armed Forces of the United States;
- You were physically present in the United States on June 15, 2012;
- You came to the United States before reaching your 16th birthday;
- You were under the age of 31 on June 15, 2012; and
- Your criminal history, if applicable.

If the only evidence you submit to demonstrate you meet any of the above guidelines is an affidavit, USCIS will issue a Request for Evidence, indicating that you have not demonstrated that you meet these guidelines and that you must do so in order to demonstrate that you meet that guideline.

Note: If you would like additional information or clarification on the guidelines for an affidavit and/or circumstantial evidence, please call the USCIS National Customer Service Center at 1-800-375-5283.

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Will USCIS consider circumstantial evidence that I have met certain guidelines?

Circumstantial evidence may be used to establish the following guidelines and factual showings if available documentary evidence is insufficient or lacking and shows that:

- You were physically present in the United States on June 15, 2012;
- You came to the United States before reaching your 16th birthday;
- You satisfy the five year continuous residence requirement, as long as you present direct evidence of your continued residence in the United States for a portion of the required five-year period and the circumstantial evidence is used only to fill in gaps in the length of continuous residence demonstrated by the direct evidence; and
- Any travel outside the United States during the five years of required continuous presence was brief, casual, and innocent.

However, USCIS will not accept circumstantial evidence as proof of any of the following guidelines to demonstrate that you:

- Were under the age of 31 on June 15, 2012; and
- Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.

For example, if you do not have documentary proof of your presence in the United States on June 15, 2012, you may nevertheless be able to satisfy the guideline circumstantially by submitting credible documentary evidence that you were present in the United States shortly before and shortly after June 15, 2012, which under the facts presented may give rise to an inference of your presence on June 15, 2012 as well. However, circumstantial evidence will not be accepted to establish that you have graduated high school. You must submit direct documentary evidence to satisfy that you meet this guideline.

Note: If you would like additional information or clarification on the guidelines for an affidavit and/or circumstantial evidence, please call the USCIS National Customer Service Center at 1-800-375-5283.

Will USCIS consider circumstantial evidence that I have met the education guidelines?

No. Circumstantial evidence will not be accepted to establish that you are currently in school, have graduated or obtained a certificate of completion from high school, or have obtained a general education development certificate. You must submit direct documentary evidence to satisfy that you meet the education guidelines.

Note: If you would like additional information or clarification on the guidelines for an affidavit and/or circumstantial evidence, please call the USCIS National Customer Service Center at 1-800-375-5283.

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Do brief departures from the United States interrupt the continuous residence requirement?
A brief, casual, and innocent absence from the United States will not interrupt your continuous residence. If you were absent from the United States for any period of time, your absence will be considered brief, casual, and innocent, if it was before August 15, 2012, and:

- The absence was short and reasonably calculated to accomplish the purpose for the absence;
- The absence was not because of an order of exclusion, deportation, or removal;
- The absence was not because of an order of voluntary departure, or an administrative grant of voluntary departure before you were placed in exclusion, deportation, or removal proceedings; and
- The purpose of the absence and/or your actions while outside the United States were not contrary to law.

Documents that you can submit that may show that the absence was brief, casual, and innocent include but are not limited to:

- Plane or other transportation ticket or itinerary showing the travel dates;
- Passport entries;
- Hotel receipts showing dates you were abroad;
- Evidence of the purpose for travel (e.g., wedding, funeral);
- Advance Parole Document; and
- Any other evidence to support a brief, casual, and innocent absence.

May I travel outside of the United States before USCIS has determined whether to defer action in my case?
No. After August 15, 2012, if you travel outside of the United States, you will not be considered for deferred action under this process.

If USCIS defers action in your case, you will be permitted to travel outside of the United States only if you apply for and receive advance parole from USCIS.

Any travel outside of the United States that occurred before August 15, 2012, will be assessed by USCIS to determine whether the travel qualifies as brief, casual and innocent.

If you are in unlawful status and/or are currently in removal proceedings, and you leave the United States without a grant of advance parole, you will be deemed to have removed yourself and will be subject to any applicable grounds of inadmissibility if you seek to return.

Note: If you would like additional information on travel, please call the USCIS National Customer Service Center at 1-800-375-5283.

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Will I be able to travel outside of the United States if my case is deferred pursuant to the consideration of deferred action for childhood arrivals process?

Not automatically. If USCIS has decided to defer action in your case and you want to travel outside the United States, you must apply for advance parole by filing a Form I-131, Application for Travel Document, and paying the applicable fee. USCIS will determine whether your purpose for international travel is justifiable based on the circumstances you describe in your request.

Generally, USCIS will only grant advance parole if you are traveling for humanitarian purposes, educational purposes, or employment purposes. You may not apply for advance parole unless and until USCIS determines whether to defer action in your case pursuant to the consideration of deferred action for childhood arrivals process. You cannot apply for advance parole at the same time as you submit your request for consideration of deferred action for childhood arrivals. All advance parole requests will be considered on a case-by-case basis.

Note: If you would like additional information on travel, please call the USCIS National Customer Service Center at 1-800-375-5283.

May I request advance parole if USCIS has deferred action in my case and I am subject to a final order of removal?

If USCIS has deferred action in your case under the deferred action for childhood arrivals process and you are subject to a final order of removal, you may request advance parole if you meet the guidelines for advance parole. However, once you have received advance parole, you should seek to reopen your case before the Executive Office for Immigration Review (EOIR) and obtain administrative closure or termination before you travel outside the country. If you have any questions about this process, you may call 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.

Will USCIS conduct a background check when reviewing my request for consideration of deferred action for childhood arrivals?

Yes. You must undergo biographic and biometric background checks before USCIS will consider whether to exercise prosecutorial discretion under the consideration of deferred action for childhood arrivals process. If you have been convicted of any felony, a significant misdemeanor offense, three or more misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct, or otherwise pose a threat to national security or public safety, you will not be considered for deferred action for childhood arrivals except where DHS determines there are exceptional circumstances.

What do background checks involve?

Background checks involve checking biographic and biometric information provided by the individuals against a variety of databases maintained by DHS and other federal government agencies.

Am I eligible for employment authorization if my removal is deferred pursuant to the consideration of deferred action for childhood arrivals process?

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. For the consideration of deferred action for childhood arrivals process, the application for employment authorization must be filed together with the request for consideration of deferred action for childhood arrivals and will be reviewed after a determination is made on deferred action. Information about employment authorization requests is available on USCIS's website at www.uscis.gov/I-765.

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Do I have to apply for employment authorization when I request deferred action for childhood arrivals?
Yes, you must submit Form I-765, Application for Employment Authorization, and Form I-765WS (Form I-765 Worksheet), together with Form I-821D, Consideration of Deferred Action for Childhood Arrivals. You must also submit both the Form I-765 filing fee and the biometric services fee. Please read Form I-765 filing instructions for complete information. Also, visit our Web site at www.uscis.gov/I-765 for filing instructions.

Do I have to show economic necessity to be granted employment authorization?
Yes, to determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current income, annual expenses, and the total value of your assets. You must provide this information on the Form I-765WS (Form I-765 Worksheet). Please read Form I-765 filing instructions for complete information.

How long will it take USCIS to adjudicate my application for employment authorization?
USCIS should adjudicate applications for employment authorization (Form I-765) within 90 days. However, this 90-day period does not begin until DHS has decided whether to defer action in your case. Remember, you must file the following forms together: Form I-821D; Form I-765; and Form I-765WS.

Can I obtain a fee waiver or fee exemption for this process?
There are no fee waivers available for employment authorization applications connected to the deferred action for childhood arrivals process. There are very limited fee exemptions available. Requests for fee exemptions must be filed and favorably adjudicated before an individual files his/her request for consideration of deferred action for childhood arrivals without a fee. For more information, including frequently asked questions, please visit our Web site at www.uscis.gov/childhoodarrivals.

Note: If you would like additional information on the guidelines or qualifications for a fee waiver or fee exemption, please call the USCIS National Customer Service Center at 1-800-375-5283.

If I am in removal proceedings and ICE grants me deferred action for childhood arrivals, how do I apply for employment authorization?
If U.S. Immigration and Customs Enforcement (ICE) granted you deferred action for childhood arrivals, you may file a stand-alone Form I-765, Application for Employment Authorization, with USCIS to request work authorization. Provide a copy of the order, notice, or document granting you deferred action. For question 15 on Form I-765, enter "Unlawful Status: Deferred Action for Childhood Arrivals by ICE." Please read Form I-765 filing instructions for complete information. You do not need to file Form I-821D. Please visit our Web site at www.uscis.gov/I-765 for filing instructions. Additional information is also available from the ICE Office of Public Advocate at www.ice.gov/about/offices/enforcement-removal-operations/publicadvocate.

How do I answer Question 16 on Form I-765?
On Form I-765, Application for Employment Authorization, enter (c)(33) in Question 16 as the letter and number of the category for which you are applying for employment authorization.

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If my period of deferred action is extended, will I need to re-apply for an extension of my employment authorization?
Yes. If USCIS decides to defer action for additional periods beyond the initial two years, you must also have requested an extension of your employment authorization.

Where do I file Form I-821D, Consideration of Deferred Action for Childhood Arrivals?
Note: Select www.uscis.gov/I-821D and see the information in the "Where to File" section of the form.

What happens after I submit my request for consideration of deferred action for childhood arrivals?
After your Form I-821D, Form I-765 and Form I-765WS have been received, USCIS will review them for completeness, including submission of the required fees, initial evidence and supporting documents. If it is determined that the request is complete, USCIS will send you a receipt notice. USCIS will then send you a notice scheduling a visit at an Application Support Center for biometric services. You may also choose to receive an e-mail and/or text message notifying you that your form has been accepted by completing a Form G-1145, E-Notification of Application/Petition Acceptance. Please see www.uscis.gov/G-1145 for E-notification instructions.

Each request for consideration of deferred action for childhood arrivals will be reviewed on an individual, case-by-case basis. You will be notified of USCIS's determination in writing. USCIS may request more information or evidence, or may request that you appear at a USCIS office. There is no appeal or motion to reopen/reconsider the denial of a request for consideration of deferred action of childhood arrivals.

How soon after USCIS receives a Consideration of Deferred Action for Childhood Arrivals will the individual receive a decision?
The time it takes to process your case depends on whether you filed the request with all of the required evidence and supporting documentation.

Can I appeal USCIS's determination?
No. You cannot file a motion to reopen or reconsider, and cannot appeal the decision if USCIS denies your request for consideration of deferred action for childhood arrivals. USCIS will not review its discretionary determinations.

You may request a review if you meet all of the process guidelines and you believe that your request was denied in error. Additional information about this process will be posted on the USCIS website at www.uscis.gov.

Note: If you would like additional information about a denial, please call the USCIS National Customer Service Center at 1-800-375-5283.

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If USCIS does not exercise deferred action in my case, will I be placed in removal proceedings?
If you have submitted a request for consideration of deferred action for childhood arrivals and USCIS decides not to defer action in your case, USCIS will apply its policy guidance governing the referral of cases to U.S. Immigration and Customs Enforcement (ICE) and the issuance of Notices to Appear (NTA). If 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. If after a review of the totality of circumstances USCIS determines to defer action in your case, USCIS will likewise exercise its discretion and will not issue you a Notice to Appear.

Note: If you would like additional information, please call the USCIS National Customer Service Center at 1-800-375-5283.

Can I extend the period of deferred action in my case?
Yes. Unless terminated, individuals whose case is deferred pursuant to the consideration of deferred action for childhood arrivals process will not be placed into removal proceedings or removed from the United States for a period of two years. You may request consideration for an extension of that period of deferred action. As long as you were not above the age of 30 on June 15, 2012, you may request a renewal after turning 31. Your request for an extension will be considered on a case-by-case basis.

If I am currently in school and USCIS defers action in my case, what will I have to demonstrate if I request that USCIS renew the deferral after two years?
If you are in school at the time of your request and your case is deferred by USCIS, in order to have your request for an extension considered, you must show at the time of the request for renewal either (1) that you have graduated from the school in which you were enrolled and, if that school was elementary school or junior high or middle school, you have made substantial, measurable progress toward graduating from high school, or, (2) you have made substantial, measurable progress toward graduating from the school in which you were enrolled.

If you are currently in an education program that assists students either in obtaining a high school diploma or its recognized equivalent under State law, or in passing a GED exam or other equivalent State-authorized exam, and your case is deferred by USCIS, in order to have your request for an extension considered, you must show at the time of the request for renewal that you have obtained a high school diploma or its recognized equivalent or that you have passed a GED or other equivalent State-authorized exam.

If you are currently enrolled in an education, literacy, or career training program (including vocational training) that is designed to lead to placement in postsecondary education, job training, or employment, and your case is deferred by USCIS, in order to have your request for an extension considered, you must show at the time of the request for renewal that you are enrolled in postsecondary education, that you have obtained the employment for which you were trained, or that you have made substantial, measurable progress toward completing the program.

Specific details on the renewal process will be made available at a later date.

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Does deferred action provide me with a path to permanent residence status or citizenship?
No. Deferred action is a form of prosecutorial discretion that does not confer lawful permanent resident status or a path to citizenship. Only the Congress, acting through its legislative authority, can confer these rights.

How can I get more information about deferred action for childhood arrivals?
Please visit the USCIS Web site at www.uscis.gov/I-821D for complete filing instructions and www.uscis.gov/childhoodarrivals for additional information on the process and for frequently asked questions.

Do I accrue unlawful presence if I have a pending request for consideration of deferred action for childhood arrivals?
Yes, 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, 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.

Note: If you would like additional information or clarification on unlawful presence, please call the USCIS National Customer Service Center at 1-800-375-5283.

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If my case is deferred, am I in lawful status for the period of deferral?
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 time DHS defers action in your case you remain subject to all legal restrictions and prohibitions on individuals in unlawful status.

Note: If you would like additional information or clarification on lawful status, please call the USCIS National Customer Service Center at 1-800-375-5283.

What is the Unauthorized Practice of Immigration Law (UPIL)?
The unauthorized practice of immigration law occurs when those who are not attorneys or accredited representatives:

- Provide legal assistance to applicants or petitioners in immigration matters;
- Charge more than a nominal fee; or
- Hold themselves out to be qualified in legal matters.

The unauthorized practice of immigration law endangers the integrity of our immigration system and victimizes members of the immigrant community. In June 2011 in collaboration with our Federal Partners, U.S. Citizenship and Immigration Services (USCIS) launched an initiative to combat this exploitative practice by:

- Promoting public understanding of the best ways to find bona fide legal advice and avoid scams;
- Building capacity for legitimate assistance and services; and
- Supporting enforcement action against those who engage in the unauthorized practice of immigration law.

How is UPIL relevant to deferred action for childhood arrivals?
USCIS recognizes that the young immigrant population affected is at a heightened degree of vulnerability to misinformation and misrepresentations while seeking guidance with the deferred action request process. USCIS is currently engaging, and will continue to engage, with stakeholders to emphasize our ongoing commitment to combating fraud, scams, abuse, and unauthorized practice of immigration law as it pertains to deferred action.

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How can I avoid becoming a victim of fraud, scams, and UPIL?
Make sure you seek information about deferred action from official sources and that you seek legal assistance and advice only from attorneys or authorized legal service providers.

Official sources of information about Deferred Action:

- www.dhs.gov
- www.uscis.gov
- www.ice.gov
- www.cbp.gov
- USCIS National Customer Service Center hotline at 1-800-375-5283. (Available in English and Spanish.)

Resources to help you find authorized legal advice:

- www.uscis.gov/avoidscams
- www.justice.gov/eoir/legalrepresentation.htm

Where to go get information on reporting immigration services fraud, scam or UPIL

- www.uscis.gov/avoidscams
- www.ftc.gov

Someone told me if I pay them a fee, they can expedite my deferred action for childhood arrivals request, is this true?
No. There is no expedited processing for deferred action. 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 requests for 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. Form I-821D, Consideration for Deferred Action for Childhood Arrivals, will be available on August 15.

What steps will USCIS and ICE take if I engage in fraud through the new process?
If you knowingly make a misrepresentation, or knowingly fail to disclose facts, in an effort to have your case deferred or obtain work authorization through this new process, you 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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Will I be considered to be in unlawful status if I had an application for asylum or cancellation of removal pending before either USCIS or the Executive Office for Immigration Review (EOIR) on June 15, 2012?
Yes. If you had an application for asylum or cancellation of removal, or similar relief, pending before either USCIS or EOIR as of June 15, 2012, but had no lawful status, you may request consideration of deferred action for childhood arrivals.

Can I request consideration of deferred action for childhood arrivals from USCIS if I am in immigration detention under the custody of ICE?
No. If you are currently in immigration detention, you may not request consideration of deferred action for childhood arrivals from USCIS. If you think you may meet the guidelines of this process, you should identify yourself to your detention officer or contact the ICE Office of Public Advocate so that ICE may review your case. The ICE Office of the Public Advocate can be reached through the Office's hotline at 1-888-351-4024 (staffed 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

If I am about to be removed by ICE and believe that I meet the guidelines for consideration of deferred action for childhood arrivals, what steps should I take to seek review of your case before removal?
If you believe you can demonstrate that you meet the guidelines and are about to be removed, you should immediately contact either the Law Enforcement Support Center's hotline at 1-855-448-6903 (staffed 24 hours a day, 7 days a week) or the ICE Office of the Public Advocate through the Office's hotline at 1-888-351-4024 (staffed 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

If individuals meet the guidelines for consideration of deferred action for childhood arrivals and are encountered by Customs and Border Protection (CBP) or ICE, will they be placed into removal proceedings?
This policy is intended to allow CBP and ICE to focus on priority cases. Pursuant to the direction of the Secretary of Homeland Security, if an individual meets the guidelines of this process, CBP or ICE should exercise their discretion on a case-by-case basis to prevent qualifying individuals from being apprehended, placed into removal proceedings, or removed. If individuals believe that, in light of this policy, they should not have been placed into removal proceedings, contact either the Law Enforcement Support Center's hotline at 1-855-448-6903 (staffed 24 hours a day, 7 days a week) or the ICE Office of the Public Advocate through the Office's hotline at 1-888-351-4024 (staffed 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

If I accepted an offer of administrative closure under the case-by-case review process or my case was terminated as part of the case-by-case review process, can I be considered for deferred action under this process?
Yes. If you can demonstrate that you meet the guidelines, you will be able to request consideration of deferred action for childhood arrivals even if you have accepted an offer of administrative closure or termination under the case-by-case review process. If you are in removal proceedings and have already been identified as meeting the guidelines and warranting discretion as part of ICE's case-by-case review, ICE already has offered you deferred action for a period of two years, subject to renewal.

If I declined an offer of administrative closure under the case-by-case review process, can I be considered for deferred action under this process?
Yes. If you can demonstrate that you meet the guidelines, you will be able to request consideration of deferred action for childhood arrivals from USCIS even if you declined an offer of administrative closure under the case-by-case review process.

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If my case was reviewed as part of the case-by-case review process but I was not offered administrative closure, can I be considered for deferred action under this process?
Yes. If you can demonstrate that you meet the guidelines, you will be able to request consideration of deferred action for childhood arrivals from USCIS even if you were not offered administrative closure following review of you case as part of the case-by-case review process.

How will ICE and USCIS handle cases involving individuals who do not satisfy the guidelines of this process but believe they may warrant an exercise of prosecutorial discretion under the June 2011 Prosecutorial Discretion Memoranda?
If USCIS determines that you do not satisfy the guidelines or otherwise determines you do not warrant an exercise of prosecutorial discretion, then it will decline to defer action in your case. If you are currently in removal proceedings, have a final order, or have a voluntary departure order, you may then request ICE consider whether to exercise prosecutorial discretion under the ICE June 2011 Prosecutorial Discretion Memoranda through any of the established channels at ICE, including through a request to the ICE Office of the Public Advocate or to the local Field Office Director. USCIS will not consider requests for review under the ICE June 2011 Prosecutorial Discretion Memoranda.

What should I do if I meet the guidelines of this process and have been issued an ICE detainer following an arrest by a state or local law enforcement officer?
If you meet the guidelines and have been served a detainer, you should immediately contact either the Law Enforcement Support Center's hotline at 1-855-448-6903 (staffed 24 hours a day, 7 days a week) or the ICE Office of the Public Advocate either through the Office's hotline at 1-888-351-4024 (staffed 9am – 5pm, Monday – Friday) or by e-mail at EROPublicAdvocate@ice.dhs.gov.

If my case is referred to ICE for immigration enforcement purposes or if I receive an NTA, will information related to my family members and guardians also be referred to ICE for immigration enforcement purposes?
If your case is referred to ICE for purposes of immigration enforcement or you receive an NTA, information related to your family members or guardians that is contained in your request will not be referred to ICE for purposes of immigration enforcement against family members or guardians. However, that information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of the deferred action for childhood arrivals request, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense.

This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

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