

THE OBAMA ADMINISTRATION'S NEW IMMIGRATION POLICY: WHO'S ELIGIBLE?

Immigration Alert
June 28, 2012

Practices & Industries

Immigration

On June 15, 2012 the Secretary of the Department of Homeland Security, Janet Napolitano, and President Obama announced a new immigration program for individuals who came to the United States as children and who are now either in removal proceedings or who are subject to removal proceedings based on their lack of proper immigration status and their violations of provisions of the Immigration and Nationality Act. According to the memorandum issued by Secretary Napolitano, Immigration and Customs Enforcement agents and officers have been instructed to exercise prosecutorial discretion on a case-by-case basis for individuals who meet the following criteria as of June 15, 2012:

- Came to the United States under the age of 16
- Were under 31 years of age
- Are currently in school, have graduated from high school, have obtained a general educational development certificate (GED), or are honorably discharged veterans of the Coast Guard or Armed Forces of the United States
- Have not been convicted of a felony offense, a significant misdemeanor, or multiple misdemeanor offense
- Do not otherwise pose a threat to national security or public safety

In a conference call held June 18, the directors of United States Citizenship and Immigration Services (USCIS) and Immigration and Customs Enforcement (ICE), and the officer in charge of Customs and Border Protection (CBP) provided further information about the implementation and administration of the new deferred action program as follows:

- Currently, there is no opportunity to apply for this benefit. USCIS will, within 60 days of June 15, 2012, publish information about how to apply on its website.
- A background check will be required of all applicants.
- Those granted prosecutorial discretion will be eligible to apply for employment authorization documents from USCIS for two years.
- Individuals who meet the criteria and who are presently in removal proceedings will have their cases administratively closed.

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- When a CBP officer encounters an individual who may meet the terms of this program, that individual will be detained while a background check is completed. If the background check clears, and the individual is found eligible for the program, he or she will be released and instructed to apply to USCIS for prosecutorial discretion.

As further information becomes available, this client alert will be updated.