

## **DEFERRED ACTION/DREAM ACT STUDENTS**

On June 15, 2012, the U.S. Citizenship & Immigration Services announced a policy change/directive whereby certain DREAM Act eligible students will be able to apply for “deferred action,” leading to a grant of work authorization in two-year increments. Under this directive, individuals who demonstrate that they meet the following criteria will be eligible for an exercise of discretion, specifically deferred action, on a case-by-case basis:

1. Came to the U.S. before the age of 16;
2. Have continuously resided in the U.S. for at least five (5) years preceding the date of the directive;
3. Are currently in school, have graduated from high school, have obtained a GED, or are honorably discharged veterans of the Coast Guard or Armed Forces of the U.S.;
4. Have not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety;
5. Are not over the age of 30.

While the directive takes effect immediately, USCIS expects to begin implementation of the application process within sixty (60) days. Deferred action cases will be decided on a case-by-case basis.

Deferred action is type of prosecutorial discretion available to the President and USCIS. Congress has been unwilling to pass the DREAM Act, which would provide a pathway to lawful permanent resident status for undocumented youth brought to the U.S. by their parents who have been living in limbo. Deferred action is not amnesty; it is only a temporary two-year status; it is not permanent residency. It can be revoked with the stroke of a pen by the next president.