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**Deferred Action for
Childhood Arrivals:
A Program for Undocumented
Youth in the United States**

**A TESOL Policy Brief
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Deferred Action for Childhood Arrivals: A Program for Undocumented Youth in the United States

Background: Going Around the DREAM Act

U.S. immigration law creates a difficult situation for many undocumented children and young adults who have grown up in the United States. Under current law, children under 18 years of age who were not born in the United States usually have the same immigration status as their parents. If their parents are undocumented, then so are they, regardless of their age when they arrived. As a result, a child who came to the United States as an infant or a toddler might not even realize that [he or she is not a U.S. citizen](#). These children grow up in the United States, learn English, attend school, and get a job, and yet, despite the fact that they have worked hard and become successful adults, they could be deported at any time. These so-called childhood arrivals often identify as Americans, and if deported, they sometimes go to a country where they don't speak the language, a country that feels foreign to them.

In August 2001, U.S. Senators Dick Durbin (D-IL) and Orrin Hatch (R-UT) introduced legislation in the U.S. Senate to remedy this situation. Titled the [Development, Relief, and Education for Alien Minors Act](#), or the DREAM Act, the legislation would provide a pathway to permanent residency and citizenship for certain undocumented students who were brought into the United States at a young age and have lived in the United States continuously for five years prior to the enactment of the legislation, graduated from a U.S. high school, and demonstrated good moral character. Eligible applicants would receive permanent residency status after they have completed two years of military service or have attended two years at a four-year institution of higher learning. The legislation would also end a federal penalty for states that provide in-state tuition regardless of immigration status.

According to a [Migration Policy Institute analysis](#), more than 1.76 million undocumented children and young adults living in the United States would be eligible for legal status under the DREAM Act. Although the bill has gone through numerous revisions, and it has come up for a vote numerous times in the last decade (most recently in 2011) it has never passed. The bill remains in limbo.

On 15 June 2012, President Obama announced a new immigration policy that would allow temporary relief to some DREAMers, as the DREAM Act youth have become known. This temporary relief, also known as *deferred action*, postpones the deportation of certain undocumented immigrants. The policy gives the [Department of Homeland Security](#) (DHS) the authority to defer deportation proceedings against any noncitizen of the United States at any stage of the deportation process for two years.

Who Is Eligible for Deferred Action?

Undocumented immigrants who wish to apply for deferred action must

- Have come to the United States under 16 years of age
- Have continuously lived in the United States for at least five years before 15 June 2012, and have been present in the United States on 15 June 2012.
- Be in school, have graduated from high school, have obtained a general education development (GED), or be an honorably discharged veteran of the Coast Guard or U.S. Armed Forces.
- 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 as determined by the DHS.
- Pass a background check, which involves checking federal biographical and biometric information.

Applicants must provide a government issued ID, proof of presence in the United States, and school records. Applicants may be asked for other forms and documents depending on their personal circumstances. For more information regarding the required forms and documents, please visit the [U.S. Citizenship and Immigration Services \(USCIS\) website](#) and the [U.S. Immigration and Customs Enforcement \(ICE\) website](#).

What Does Deferred Action Do?

Deferred action provides undocumented immigrants who meet the eligibility criteria with protection from deportation. The protection from deportation lasts for two years, after which time individuals may apply to renew their status. In addition, undocumented immigrants who demonstrate economic need may be eligible for employment authorization, and depending on the state where they reside, may be able to apply for a driver's license. (Employment authorization is contingent upon whether deferred action is granted; both applications must be submitted simultaneously.)

Immigrants who have received protection from deportation through deferred action can, under certain circumstances, leave the United States. They must apply for permission, and they must be leaving the country for humanitarian, employment, or educational reasons.

What Does Deferred Action Not Do?

Deferred Action is not a pathway to permanent residency or citizenship. It also does not automatically qualify individuals who have received temporary residency under deferred action to pay in-state tuition. To determine eligibility for in-state tuition, individuals must check state laws where they reside and the policies of the colleges and universities that they want to attend.

How Do I Apply for Deferred Action?

It is important to note that not all applicants will be granted deferred action. Moreover, application for deferred action does have some risk. If your application is rejected, you could be deported. **Those considering applying for deferred action should seek advice from a licensed immigration attorney.**

Applications will be accepted beginning on 15 August 2012. Applications submitted before 15 August 2012 will be rejected. Applicants are expected to pay \$465, which includes fees for employment authorization and fingerprints. Some fee exemptions are available in limited circumstances, but no fee waivers are available at this time.

For more information on the application process contact USCIS at 1.800.375.5283 or visit the [USCIS website](#).

Qualified applicants will be categorized into three different groups:

1. Individuals who have no record with immigration authorities

Eligible applicants who have never had contact with U.S. immigration authorities must apply directly to the USCIS for deferred action and employment authorization.

2. Individuals already in removal or deportation proceedings

Eligible applicants already in deportation proceedings should request that ICE review their cases. ICE has not yet established that procedure. Until it does, additional information is available by contacting the [ICE Office of the Public Advocate](#) or by calling the ICE hotline at 1.800.351.4024.

3. Individuals who have received a deportation order from the immigration courts

Eligible applicants can apply for a two-year deferral of removal. Applicants who are about to be deported should immediately contact the Law Enforcement Support Center's hotline at 1.855.448.6903 (9am–5pm, Monday–Friday) or the [ICE Office of the Public Advocate](#).

Applicants who have a criminal background or who submit fraudulent information will be referred to ICE. It is very important for applicants to seek advice from a licensed immigration attorney before applying for deferred action.

Resources

The [Own the Dream Campaign](#) has additional information and resources for undocumented students, including information on finding legal assistance, and an FAQ in both English and Spanish. Details are available at [the Own the Dream website](#).

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