



U.S. Customs and  
Border Protection

Commissioner

JUN 15 2012

MEMORANDUM FOR: Sec Distribution

FROM: David V. Aguilar  
Acting Commissioner

SUBJECT: Secretary Napolitano's Memorandum Concerning the Exercise of  
Prosecutorial Discretion with Respect to Individuals Who Came to the  
United States as Children

Effective immediately, U.S. Customs and Border Protection (CBP) Agents and Officers are instructed to exercise prosecutorial discretion in a manner that aligns with the attached memorandum from the Secretary of Homeland Security. The memo states that, with respect to individuals who meet the below criteria, CBP Agents and Officers should immediately exercise their discretion, on an individual basis, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States. The criteria are as follows:

- came to the United States under the age of sixteen;
- has continuously resided in the United States for at least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has 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; and
- is not above the age of thirty.

If CBP personnel have questions about the exercise of prosecutorial discretion described in this memorandum, they should contact their local chief counsel.

Disclaimer

As there is no right to the favorable exercise of discretion by the agency, nothing in this memorandum should be construed to prohibit the apprehension, detention, or removal of any alien unlawfully in the United States or to limit the legal authority of DHS or any of its personnel to enforce federal immigration law. Similarly, this memorandum, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at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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Attachment