

United States Citizenship and Immigration Services



STANDARD OPERATING PROCEDURES FOR HANDLING REQUESTS FOR DEFERRED ACTION

United States Citizenship and Immigration Services
111 Massachusetts Avenue, NW, Second Floor
Washington, D.C. 20529-2030

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Introduction This Standard Operating Procedure (SOP) applies to all requests for deferred action.

I. Deferred Action

Request A request for deferred action must be made in writing and may be presented by mail or in person during an INFOPASS appointment at a USCIS field office. To support a deferred action request, the applicant must submit:

- An explanation as to why he or she is seeking deferred action including any supporting documentation (e.g., medical information, evidence of community and familial ties and equities, conditions in the applicant's country of origin, etc.),
- Any available primary or secondary proof of identity and nationality, including a birth certificate, a passport and/or Identification Card, notarized affidavit(s), school or medical records, etc.,
- A copy of any previously issued visa used by the applicant to gain admission to the United States and evidence of such admission, and
- Two passport-style photos.

An applicant who has legal representation must submit a completed G-28, Notice of Entry as Attorney or Accredited Representative.

Upon receiving original document(s) related to a deferred action request, the USCIS field office should:

- Verify address and contact information for the applicant,
- Verify spelling of applicant's name and any aliases,
- Make copies of original or certified copies of documents and note on each "original seen and returned on [date]," and
- Return all original or certified copies of documents to the applicant.

If fingerprints are expired or not previously initiated, schedule the individual for an appointment at the ASC for a 10-print capture (code 1) pursuant to 8 C.F.R. § 103.2(b)(9). No fee shall be charged for the submission of such biometrics. The field office should further explain to the applicant that he or she will be notified in writing within 30 days of a final decision on his or her deferred action request. As appropriate, the capture of biometrics may be waived pursuant to standard guidance.

Review Following receipt of the deferred action request and related documents, field office staff shall identify and seek to secure any existing A-file(s) for the applicant, or create a new A-file if one does not exist. Staff will

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complete all required security checks, as specified below, and, following all appropriate levels of review, will notify the applicant of decision of the deferred action request. Evidence of the notification shall be placed in the A-file.

A summary of the case and a related recommendation will be prepared for review by the Field Office Director, District Director, and Regional Director on the Deferred Action Form (Appendix **)

While the application is pending, USCIS should direct any general questions from applicants to the USCIS National Customer Service Center at 1-800-375-5283.

A. Obtaining and/or Creating the A-File this should not stand alone as its own Paragraph A if there is no Par. B. Possibly set it up as a separate step that would precede the Review?

Field office staff should first search the Central Index System (CIS) to identify any existing A-file related to an applicant. Where an A-file is found and appears to be within the field office, staff should use the National File Transfer System (NFTS) to secure the file. For A-files in a different File Control Office (FCO), the field office should initiate a file transfer request. Since file transfer requests generally take one week to complete, the field office should wait this amount of time before commencing action on the deferred action request. In the interim, the field office should create a Temporary file (T-file) to store the deferred action request until the A-file is received and the files may be merged. Where no A-file exists, a new file must be created for the applicant.

If after one week the requested A-file has not been received, the Field Office should notify their local records division and seek express shipment of the A-File from the other FCO. This will help ensure timely adjudication.

If multiple A-files exist pertaining to the applicant, they should all be requested and consolidated upon receipt. Where an A-file has been determined to exist related to a deferred action applicant, no decision on the request shall be made until the permanent A-file(s) has/have been obtained and reviewed. Where an A-file cannot have been officially recorded as lost, field office staff should proceed as indicated below.

Conducting Security Checks

Before forwarding a deferred action request to the District Director for review, the field office must complete and resolve the FBI fingerprint and Interagency Border Inspection System (IBIS) security checks conducted on the applicant. The field office should also determine whether the applicant

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has ever been in deportation, removal or exclusion proceedings since such proceedings may impact the outcome of the deferred action request.

**Recommendation
and Decision**

1. The Field Office Director will prepare a recommendation using the template found in Appendix A for review by the District Director and the Regional Director.
2. The Regional Director will notify the District Director and the Field Office Director of the final decision and related specific instructions. Deferred action can be authorized for an initial period not to exceed two years.
3. The Field Office Director will notify the recipient of deferred action in writing of the decision, using the appropriate template and retain a copy of such decision in the applicant's permanent A-file or, if the A-file is not available, in the T-file created to store the deferred action request
4. Retain in the A or T-file a copy of the final decision.
5. Update all USCIS electronic databases as appropriate, including CIS and ENFORCE/IDENT.

Approvals:

1. The template contained in Appendix B will be used to notify the recipient that their request for deferred action was approved.
2. Update CIS to reflect "DAS" as the Class of Admission (COA) in CIS upon approval.

Denials:

1. The template contained in Appendix C will be used to notify the recipient that their request for deferred action was Denied.
2. When there is reason to believe the applicant poses a threat to national security or public safety, the field office shall refer the case through FDNS to ICE for review and possible issuance of an NTA.

Data Collection TBD

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APPENDIX A

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(Cont'd on reverse)

NONPRIORITY STATUS:

RECOMMENDED

APPROVED / DENIED

District Director (Signature and Date)

Regional Director (Signature and Date)

DEFERRED ACTION CASE SUMMARY

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CRIMINAL IMMORAL OR SUBVERSIVE ACTIVITIES OR AFFILIATIONS IN U.S.

(Include recent conduct)

1. CRIMINAL RECORD

OFFENSE

DATE & PLACE

DISPOSITION

(Include periods of Imprisonment)

2. SUBVERSIVE ACTIVITIES OR AFFILIATIONS

OTHER FACTORS

INSTRUCTIONS

Preparation: In duplicate

Date and Manner of last entry: Include place if known, e.g., 1-31-58 El Paso as USC or 2-15-98 without inspection near El Paso.

Ever lawfully admitted for permanent residence: date, port, and class of admission.

Present Immigration Status: Include dates of OSC, W/A, O/D, and give briefly relevant Immigration history.

Grounds of deportability: All grounds whether or not lodged as charges, together with specifications e.g. Convicted of two crimes involving moral turpitude – bigamy (1938) Perjury (1950)

Physical and Mental Condition: Set forth any pertinent information in full. If no treatment required, so state. If mental case show dates of hospitalization. Include information on both subject and dependents.

Family Situation:

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1. Location of spouse, etc.: Country only if not U.S. If U.S. and living with subject, indicate LWS, not living with subject, give city and state. Indicate status of those in U.S. as USC, PRA, NI, ILLEG. After spouse in () the date of marriage.
 2. Effect of Expulsion: Explain fully economic and other pertinent effects on members of family.
- Criminal, Immoral or subversive Activities:
1. Arrest record should be set out whether convicted or not.
 2. Nature, extent and periods of subversive activities or affiliations should be fully covered.
- Other factors to be considered: Items which should be considered both for and against recommendation. Include type of employment and earnings.

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Appendix B:
Approval Template

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U.S. Citizenship
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the District Director, District XX
Street Address
City, ST Zip



U.S. Citizenship
and Immigration
Services

[Date]

[Subject File #]

[Name]
[Address]

Re: A number

Dear [Name]:

This is to advise you that effective [date] you have been granted deferred action for a period of (fill in time, not to exceed two years). The action will expire on [date two years after effective DA date].

Deferred action is an exercise of prosecutorial discretion by U.S. Citizenship and Immigration Services (USCIS) not to pursue the removal of an individual from the United States for a specific period. A grant of deferred action by USCIS does not confer or alter any immigration status. It does not affect any period of prior unlawful presence. A grant of deferred action does not convey or imply any waivers of inadmissibility that may exist, regardless of whether or not that inadmissibility is known to DHS at the time of the request for deferred action. Likewise, deferred action cannot be used to establish eligibility for any immigration benefit that requires maintenance of lawful status. Periods of time in deferred action do, however, qualify as periods of stay authorized by the Secretary for purposes of section 212(a)(9)(B) and (C) of the Immigration and Nationality Act.

As a person granted deferred action, you are eligible to apply for employment authorization if you can establish an economic necessity for employment. If you wish to apply, please submit Form I-765, Application for Employment Authorization. The form and filing instructions can be

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founds at: www.uscis.gov. A copy of this letter and the required fee must accompany the I-765 at the time of application.

You may request continuation of deferred action by submitting a written request to your local USCIS office. To avoid accruing any unlawful presence we recommend that you submit your request ninety days prior to the expiration of any current deferred action. The request should include current evidence of compelling circumstances.

You are required to notify USCIS if you change your address. Form AR-11, Alien's Change of Address Card, is used for the purpose of reporting a new address. That form may be found on the website mentioned above. There is no fee associated with this form.

This grant of deferred action will be terminated if you depart the United States.

Sincerely,

XXXX
District Director

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Appendix C:

Denial Template

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U.S. Citizenship
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Services

DATE

NAME
STREET
CITY, STATE ZIP

Re: Name; A#

Dear NAME:

Thank you for your request for deferred action; we understand the concern that prompted you to make this request. We have carefully considered the facts of your case and we unfortunately are not able to extend deferred action to you at this time. This decision may not be appealed.

Deferred action is a discretionary tool that USCIS can utilize in limited urgent or extraordinary circumstances. [if applicable also include: USCIS will forward your approved I-130 petition to the National Visa Center for consular processing. or If your pending I-130 petition is approved, USCIS will forward it to the National Visa Center for consular processing.]

If you require additional assistance, forms or filing instructions, we invite you to visit our website at www.uscis.gov or contact USCIS National Customer Service Center at 1-800-375-5283.

Sincerely,

NAME
District/Field Office

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DRAFT

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