

**From:** (b) (6), (b) (7)(C)  
**To:** BUN-PAIC  
**Cc:** (b) (6), (b) (7)(C)  
**Subject:** BUN (b) (7)(E) DACA Guidance Update  
**Date:** Wednesday, January 17, 2018 10:13:52 AM  
**Attachments:** BUN (b) (7)(E) [DACA Update Jan 12 2018.pdf](#)

---

Good Morning,

Attached for dissemination, review and compliance is the most recent guidance on DACA.

Thanks,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

United States Border Patrol Buffalo Sector  
201 Lang Boulevard  
Grand Island, New York 14072  
DESK (b) (6), (b) (7)(C)  
Cell: (b) (6), (b) (7)(C)  
FAX: (b) (6), (b) (7)(C)

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(b) (7)(E)



**U.S. Customs and  
Border Protection**

January 17, 2018

MEMORANDUM FOR: Patrol Agents in Charge  
Buffalo Sector (b) (6), (b) (7)(C)

FROM: (b) (6), (b) (7)(C)  
Acting Chief Patrol Agent  
Buffalo Sector

SUBJECT: Guidance on Deferred Action for Childhood Arrivals (DACA)

The purpose of this memorandum is to provide clarity regarding the most recent guidance on DACA.

Attached for reference is a memorandum entitled "*Guidance on the Acting Secretary's Rescission of the Memorandum of June 15, 2012, Establishing DACA*," dated September 6, 2017 from Acting U.S. Border Patrol Chief Carla L. Provost. Also attached for reference is a memorandum entitled "*Secretary Napolitano's Memorandum Concerning the Exercise of Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children*," dated June 15, 2012, from then Acting CBP Commissioner David V. Aguilar.

On January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017.

On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place.

Questions regarding this memorandum may be addressed to DC

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Attachments

From:  
To:

(b) (6), (b) (7)(C)

Cc:

Subject:

FW: DACA Information

Date:

Monday, September 18, 2017 12:08:42 PM

Attachments:

[DACA Rescission Guidance.pdf](#)

All,

Please see below for additional information on the DACA rescission.

Thank you,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Division Chief

United States Border Patrol Buffalo Sector

201 Lang Boulevard

Grand Island, New York 14072

Voice: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Monday, September 18, 2017 10:53 AM

To: OPS EAST SECTOR (b) (7)(E) OPS WEST SECTORS

(b) (7)(E)

Cc: (b) (6), (b) (7)(C)

Subject: DACA Information

Good morning.

On September 6, 2017 Chief Provost issued the attached guidance on the rescission of DACA. After the issuance of that memo, US CIS provided additional information and clarifying points that will be useful to the field.

- As of March 2016, CIS no longer uses (b) (7)(E) for DACA cases. Instead, CIS has been using the (b) (7)(E) Agents can access (b) (7)(E) directly (if they have requested and have been granted read-only access) or they can access (b) (7)(E) information via the (b) (7)(E)
- Additionally, USCIS has a centralized Outlook email box that can be used for transmittal of any requests for consideration of termination DACA nationally. That

email address (b) (7)(E)

Outside of the above bullet points, the guidance outlined in Chief Provost's memo remains unchanged.

Please provide this information to your respective sectors as soon as possible.

Thanks

(b) (6), (b) (7)(C)

Assistant Chief

U.S. Border Patrol

(O) (b) (6), (b) (7)(C)

(C)

(b) (6), (b) (7)(C)

From:

(b) (6), (b) (7)(C)

To:

BUN-PAIC

Cc:

(b) (6), (b) (7)(C)

Subject:

BUN (b) (7)(E) Guidance on the Acting Secretary's Rescission of the Memorandum of June 15, 2012, Establishing DACA

Date:

Friday, September 8, 2017 7:10:40 AM

Attachments:

BUN (b) (7)(E) [Guidance on Rescission from June 15, 2012 Establishing DACA.pdf](#)

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Good morning-

Please read the attached memorandum sent on behalf of Buffalo Sector Chief Patrol Agent (b) (6), (b) (7)(C) regarding Guidance on the Acting Secretary's Rescission of the Memorandum of June 15, 2012, Establishing DACA. Please ensure a training roster created, as it is required to be signed by all supervisors and agents and forwarded, by Wednesday, September 20, 2017, to Special Operations Supervisor (b) (6), (b) (7)(C). All questions or concerns pertaining to this should be directed to Division Chief (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C). Thank you.

(b) (7)(E)



**U.S. Customs and  
Border Protection**

September 7, 2017

MEMORANDUM FOR: Patrol Agents in Charge  
Buffalo Sector

FROM:

(b) (6), (b) (7)(C)

Chief Patrol Agent  
Buffalo Sector

SUBJECT: Guidance on the Acting Secretary's Rescission of the  
Memorandum of June 15, 2012, Establishing DACA

Attached for dissemination and review is the September 6, 2017 memorandum entitled  
"*Guidance on the Acting Secretary's Rescission of the Memorandum of June 15, 2012,  
Establishing DACA*" from Acting U.S. Border Patrol Chief Carla L. Provost.

Please ensure that this information is made available to all supervisors and agents and that they  
are familiar with it. A training roster, documenting receipt of the memoranda (read and sign),  
should be compiled and forwarded to Special Operations Supervisor (b) (6), (b) (7)(C) at  
Buffalo Sector Headquarters by Wednesday, September 20, 2017.

Questions regarding this memorandum may be addressed to DC (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)

Attachment

**From:** (b) (6), (b) (7)(C), (b) (7)(E)  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** BUN Response: DACA RFI  
**Date:** Thursday, August 31, 2017 2:14:58 PM  
**Attachments:** [FW Deferred Action Prosecutorial Discretion Narrative Guidance.msg](#)  
[FW DEFERRED ACTION INFO.msg](#)  
[FW Executive Order.msg](#)  
[FW Updated Processing Guidance on Deferred Action Cases .msg](#)  
[DACA Checklist.pdf](#)  
**Importance:** High

---

ALCON,

Attached is information disseminated throughout BUN regarding DACA and this RFI – This is the information provided and used throughout BUN during the time frame outlined below.

(b) (6), (b) (7)(C)

Division Chief, Buffalo Sector

Department of Homeland Security | U.S. Border Patrol

☎: (b) (6), (b) (7)(C) (Office) | ☎: (b) (6), (b) (7)(C) (Cell) | ✉: (b) (6), (b) (7)(C)

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**From:** (b) (6), (b) (7)(C)

**Sent:** Friday, August 25, 2017 9:25 AM

**To:** (b) (6), (b) (7)(C)  
[REDACTED]

**Cc:** (b) (6), (b) (7)(C)  
[REDACTED]

**Subject:** FW: DACA RFI

**Importance:** High

Sirs,

We need to forward to LEOD specialty Programs any sector wide DACA related policies, procedures, and training documents that have been in effect between June 15, 2012 and the present. In addition, any documents concerning the process for checking an individual's DACA status prior to arresting, issuing a detainer request, initiating removal proceedings, or removing an individual.

This is due to LEOD specialty programs COB August 31, 2017.

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)

**Sent:** Friday, August 25, 2017 9:14 AM

**To:** (b) (6), (b) (7)(C), (b) (7)(E)

**Cc:** (b) (7)(E)

**Subject:** FW: DACA RFI

Good morning,

Please see the FOIA request below regarding DACA. Short turnaround, responses requested by COB 08/31/17.

Respectfully,

(b) (6), (b) (7)(C), (b) (7)(E)

Desk: (b) (6), (b) (7)(C)  
Cell: (b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)

**Sent:** Friday, August 25, 2017 9:12 AM

**To:** (b) (7)(E)

**Cc:** (b) (6), (b) (7)(C)

**Subject:** DACA RFI

Good morning.

LEOD Specialty Programs has been assigned a FOIA request regarding Deferred Action for Childhood Arrivals (DACA). As such, I request that you reach out to your respective sectors and have them provide any sector wide DACA related policies, procedures, and training documents that have been in effect between June 15, 2012 and the present. In addition, any documents concerning the process for checking an individual's DACA status prior to arresting, issuing a detainer request, initiating removal proceedings, or removing an individual.

Suspense date is COB August 31, 2017.

Thanks

(b) (6), (b) (7)(C)

Assistant Chief

U.S. Border Patrol

(b) (6), (b) (7)(C)

(C)

(b) (6), (b) (7)(C)



## Deferred Action for Childhood Arrivals (DACA) Checklist

Subject name: \_\_\_\_\_

Date: \_\_\_\_\_

A#: \_\_\_\_\_

	Yes	No
1. Did the individual come to the United States before s/he turned 16		
2. Has s/he resided continuously in the United States since January 1, 2010?		
3. Does s/he appear to meet the DACA educational requirements (must check at least one "yes" below):		
Has he/she graduated from high school, obtained a general education development (GED) certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States?		
Is he/she currently in elementary, junior high or middle school, or secondary school?		
Is he/she currently enrolled in an education, literacy or career training program (including vocational training)?		
Is he/she currently enrolled in an educational program assisting the alien to obtain a High school diploma or GED?		
4. Does the individual otherwise fall outside DHS's enforcement priorities?		
<b>Priority 1:</b> <div style="background-color: black; color: white; font-size: 48px; text-align: center; padding: 20px;">(b) (7)(E)</div>		
<b>Priority 2:</b> <div style="background-color: black; color: white; font-size: 48px; text-align: center; padding: 20px;">(b) (7)(E)</div>		
<b>Priority 3:</b> <div style="background-color: black; color: white; font-size: 24px; text-align: center; padding: 10px;">(b) (7)(E)</div>		

(b) (7)(E)

If the answers to 1 – 4 are "yes," the individual should be processed for Release, and referred to USCIS to seek deferred action.

Agent name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

ACPA Approval (name): \_\_\_\_\_ Date: \_\_\_\_\_

(b) (7)(E)



U.S. Customs and  
Border Protection

December 26, 2017

MEMORANDUM FOR: Patrol Agents in Charge (b) (6), (b) (7)(C)  
Rio Grande Valley Sector (b) (6), (b) (7)(C)

FROM: Manuel Padilla, Jr.  
Chief Patrol Agent (b) (6), (b) (7)(C)  
Rio Grande Valley Sector

SUBJECT: DACA Re-Encounters

In accordance with Acting Chief Carla L. Provost memorandum entitled, "Guidance on the Acting Secretary's Rescission of the Memorandum of June 15, 2012 establishing DACA," all Deferred Action for Childhood Arrivals (DACA) subjects encountered will be temporarily detained for DACA verification. Once DACA is substantiated and if no derogatory information is discovered, the subject will be processed and released accordingly.

In an effort to streamline and expedite the processing of all DACA subjects that are re-encountered, Rio Grande Valley Sector personnel will follow the guidance below:

- Creation of a new (b) (7)(E) each time the subject is encountered;
- Enrollment in (b) (7)(E)
- Verification of criminal history through system checks;
- Confirmation of DACA through (b) (7)(E) and
  - If DACA is confirmed and no derogatory information exists, subject is released.
- Temporary file not required to document encounter.

Documenting all DACA re-encounters will ensure DACA eligibility remains valid and no new derogatory criminal history exists since the last encounter.

Patrol Agents in Charge will ensure that uniformed personnel are informed of this update. Compliance memorandums must be submitted through official channels via (b) (7)(E) by linking responses to this request no later than January 4, 2018. Staff may direct questions related to this matter to Acting Assistant Chief Patrol Agent (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)

(b) (7)(E)



**U.S. Customs and  
Border Protection**

January 04, 2018

MEMORANDUM FOR: Manuel Padilla, Jr. (b) (6), (b) (7)(C)  
Chief Patrol Agent  
Rio Grande Valley Sector (b) (6), (b) (7)(C)  
FROM: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
Patrol Agent in Charge (b) (6), (b) (7)(C)  
Harlingen Border Patrol Station

SUBJECT: DACA Re-Encounter

All Supervisory personnel and agents currently assigned to the Harlingen Border Patrol Station have been briefed regarding the memorandum from Chief Patrol Agent Manuel Padilla, Jr. titled, "DACA Re-Encounter."

A signature sheet will be kept on file to indicate awareness of the guidance.

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, August 31, 2017 5:30 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: DEFERRED ACTION INFO  
**Attachments:** Instructions to the field regarding deferred action cases.docx; Form I-385camp card.pdf; Notice to Alien regarding Deferred Action-English.pdf; Notice to Alien regarding Deferred Action-Spanish.pdf; FW: Updated Processing Guidance on Deferred Action Cases

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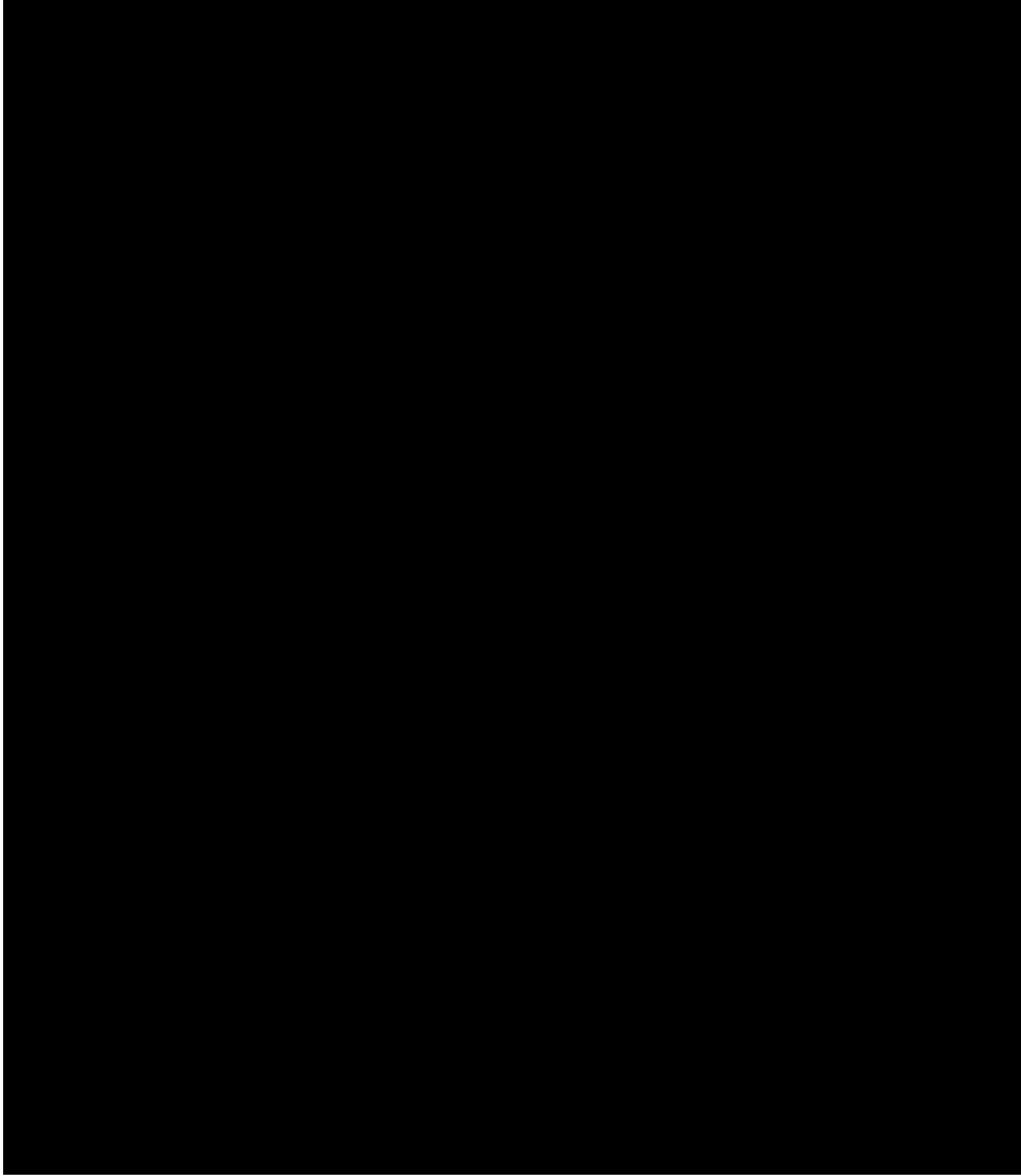
**From:** (b) (6), (b) (7)(C)  
**Sent:** Tuesday, November 26, 2013 4:33 PM  
**To:** (b) (6), (b) (7)(C)  
**Cc:** (b) (6), (b) (7)(C)  
**Subject:** DEFERRED ACTION INFO

In case you don't have this information

(b) (6), (b) (7)(C)  
Deputy Patrol Agent in Charge  
Oswego Border Patrol Station  
(b) (6), (b) (7)(C) Office  
(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)





## CBP Guidance for Field – U.S. Border Patrol

### Encounter Individual

- Determine alienage and legal status to remain/reside in the United States
- Conduct records, biographical, biometric checks etc...
- (b) (5), (b) (7)(E)

### (b) (7)(E) Processing Guidelines for Deferred Action eligible cases

- Create A-File
- Process subject through Full VR pathway
  - (b) (7)(E)
- Complete a (b) (7)(E) (including criteria necessary to establish prima facie eligibility)
  - (b) (7)(E) (b) (7)(E)
- **Complete Form I-385 Alien Booking Record (Camp Card)**
- Must have 2<sup>nd</sup> level supervisor approval

### (b) (7)(E) Biometrics Search/Enroll (14 yrs. of age to 79 yrs. of age)

- Completed A-File (I-213, I-385, (b) (7)(E) and any additional documentation supporting claim) will be turned over to USCIS
- **Provide Form I-385, and Notice to Alien Regarding Deferred Action and USCIS Hotline number (800) 375-5283 to alien upon release**

### If an alien is in removal proceedings

- Run records checks and verify claim of pending removal proceedings
- No processing action necessary
- Provide USCIS Hotline number (800) 375-5283 upon release

### If an alien has a Final Order of Removal ordered (e.g., Bag and Baggage)

- Processes through Full VR pathway
- (b) (7)(E)
- Contact local ICE office to remand custody of individual to ICE.<sup>1</sup>

For Southbound Operations at POE's, all enforcement actions will still fall within OFO guidelines.

For further inquiries contact local counsel through proper chain of command.

Media Inquiries: All media inquiries should be directed to the Customs and Border Protection Office of Public Affairs.

---

<sup>1</sup> CBP does not possess the authority to re-open or review a case that has been issued a Final Order of Removal by an Immigration Judge. This process must be initiated by ICE.

(b) (6), (b) (7)(C)

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, August 31, 2017 5:30 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: Deferred Action / Prosecutorial Discretion Narrative Guidance  
**Importance:** High

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, June 29, 2012 12:49 PM  
**To:** (b) (6), (b) (7)(C)

**Subject:** Deferred Action / Prosecutorial Discretion Narrative Guidance  
**Importance:** High

Alcon;

Although Buffalo Sector has yet to encounter anyone amenable to relief under the Deferred Action prosecutorial discretion requirements for certain aliens brought into the United States as children, we have been following cases at other Sectors in order to strive for nationwide consistency in the application and consideration.

As such, the following narrative guidelines are provided. These are similar to what have been put in place at Sectors currently encountering amenable aliens.

- Do not interview/question potential DA/PD subjects with “leading” questions. Ascertain their qualifications through the interview/questioning process.
- Do not use canned or boilerplate narratives. Create a full narrative that clearly delineates the who, what, where, when and why of the case.

When preparing and reviewing the narrative, we need to ensure the following has been ascertained/identified:

- Manner of arrest. (This has been of particular interest.) How and why was the alien encountered? If by OA, name of agency, reason for their encounter and reason they called Border Patrol.
- Did they come to the United States under the age of sixteen; Explain at what age and why.

- Has the alien continuously resided in the United States for a least five years preceding June 15, 2012?
- Was the alien present in the United States on June 15, 2012;
- Is the alien 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; Dates, names, addresses of institutions. Date of diploma, etc.
- Has the alien been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety?
- Is the alien above the age of thirty?

The narrative for the DA/PD cases is being pulled from (b) (7)(E) to make a report for the Commissioner each day.

PAICs, confirm with ACPA (b) (6), (b) (7)(C) when these guidelines are received and implemented.

(b) (6), (b) (7)(C)

Deputy Chief Patrol Agent  
U.S. Border Patrol Buffalo Sector



# Department of Homeland Security's Immigration Enforcement Priorities



U.S. Customs and  
Border Protection

AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000001

## ■ Secretary Johnson 2014 Guidance



- On November 20, 2014, Homeland Security Secretary Jeh Johnson issued a memorandum entitled “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants.”
- This memorandum generally underscores that DHS immigration enforcement authorities should be focused on threats to national security, public safety, and border security.
- The memorandum also reaffirms the authority of DHS personnel to exercise prosecutorial discretion on a case-by-case basis in the enforcement of immigration laws.



# Secretary Johnson 2014 Guidance

Specifically, the Secretary's memorandum sets forth three clear priorities for DHS's enforcement of U.S. immigration law:

- **Priority #1:** Aliens who pose a threat to national security, border security, or public safety
- **Priority #2:** Misdemeanants and new immigration violators
- **Priority #3:** Other immigration violations



# Priority One

- The following aliens represent the highest priority to which enforcement resources should be directed:
- Priority 1(a): Aliens engaged in or suspected of terrorism or espionage, or who otherwise pose a danger to national security;
- Priority 1(b): Aliens apprehended at the border or ports of entry while attempting to unlawfully enter the United States;



# Priority One (cont'd)

- Priority 1(c): Aliens convicted of an offense for which an element was active participation in a criminal street gang, as defined in 18 U.S.C. § 521(a), or aliens not younger than 16 years of age who intentionally participated in an organized criminal gang to further the illegal activity of the gang;
- Priority 1(d): Aliens convicted of an offense classified as a felony in the convicting jurisdiction, other than a state or local offense for which an essential element was the alien's immigration status; and



# Priority One (cont'd)

- Priority 1(e): Aliens convicted of an “aggravated felony,” as that term is defined in section 101(a)(43) of the Immigration and Nationality Act, at the time of the conviction.



# Key points to keep in mind...

The removal of aliens in this category must be prioritized unless:

- They qualify for asylum or another form of relief under our immigration laws, or
- In the judgment of the ICE Field Office Director, CBP Sector Chief or CBP Director of Field Operations, there are **compelling and exceptional factors** that clearly indicate the alien is not a threat to national security, border security or public safety, and should not therefore be an enforcement priority.



# Priority Two

The second highest immigration enforcement priority is comprised of the following categories:

- Priority 2(a): Aliens convicted of **three or more misdemeanor offenses** (other than minor traffic offenses or local or state offenses for which an essential element was the alien's immigration status) **provided that the offenses arise out of three separate incidents;**





## Priority Two (cont'd)

- Priority 2(b): Aliens convicted of a **significant misdemeanor**, which means:
  - An offense of domestic violence\*, sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence; or
  - If not an offense listed above, one for which the individual was sentenced to time in custody of 90 days or more (the sentence must involve time to be served in custody and does not include a suspended sentence);

\*Careful consideration should be given to whether the convicted alien was also the victim of domestic violence; if so, this should be a mitigating factor.



## Priority Two (cont'd)

- Priority 2(c): Aliens apprehended anywhere in the United States after unlawfully entering or re-entering the United States and who cannot establish to the satisfaction of an immigration officer that they have been physically present in the United States continuously since **January 1, 2014**; and
- Priority 2(d): Aliens who, in the judgment of an ICE Field Office Director, USCIS District Director, or USCIS Service Center Director, have significantly abused the visa or visa waiver programs.



# Key points to keep in mind...

These aliens should be removed unless:

- They qualify for asylum or another form of relief under our immigration laws, or
- In the judgment of the ICE Field Office Director, CBP Sector Chief or CBP Director of Field Operations, USCIS District Director, there are **factors** indicating that the individual is not a threat to national security, border security or public safety, and should not therefore be an enforcement priority.



# Priority Three

The third and lowest priority for apprehension and removal include aliens who have been issued a final order of removal on or after January 1, 2014.



U.S. Customs and  
Border Protection

AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000012

## Priority Three (cont'd)

The term “final order” refers to situations:

- When appeal has been dismissed by the Board of Immigration Appeals;
- When appeal has been waived by the alien;
- When the time allotted to file an appeal has expired and no appeal has been filed;



## Priority Three (cont'd)

- In cases certified to the Board or Attorney General, upon the entry of their decision ordering removal;
- At the time an in absentia removal order is entered; or
- When voluntary departure has expired\*.

\* Aliens granted voluntary departure by an immigration judge or the Board before January 1, 2014, but whose voluntary departure period expired on or after that date without them having departed, should be evaluated a case-by-case basis to determine whether their removal would serve an important federal interest.



# Key points to keep in mind...

These aliens should generally be removed unless:

- They qualify for asylum or another form of relief under our immigration laws, or
- In the judgment of an **immigration officer**, the individual is not a threat to the integrity of the immigration system or there are **factors** suggesting the individual should not be an enforcement priority.



# Prosecutorial Discretion

Secretary Johnson's memorandum makes clear that, notwithstanding these priorities:

- Nothing in the memorandum should be construed to prohibit or discourage the apprehension, detention, or removal of aliens unlawfully in the United States who are not identified as priorities, and
- DHS personnel are required to exercise “prosecutorial discretion” based on individual circumstances.





# Factors to Consider

Secretary Johnson's memorandum provides a list of factors that should be considered in exercising discretion, including:

- Extenuating circumstances involving the offense of conviction;
- Extended length of time since the offense conviction;
- Length of time in the United States;
- Military service;
- Family or community ties in the United States;
- Status as a victim, witness, or plaintiff in civil or criminal proceedings; and
- Compelling humanitarian factors, such as poor health, age, pregnancy, a young child, or a seriously ill relative.



## Factors to Consider (cont'd)

These factors listed are not exhaustive and no single factor is necessarily determinative.

CBP officers and agents should always consider prosecutorial discretion on a case-by-case basis.

The decision should always be based on the totality of the circumstances.



# Processing Procedures under Secretary's 2014 Guidance

- Upon encountering individual(s), CBP will determine alienage and legal status to enter/remain/reside in the United States. For those individuals where there is a question about their lawful status, CBP will process the individual further to determine appropriate disposition.
- CBP will process to include complete record checks derived from biometric, biographic and other data.
- For individuals who are a priority, CBP will continue to process those individuals under current processes and procedures.



# Processing Procedures

- In the likely less-frequent instances where CBP encounters an individual who may not fall within one of the Removal Priorities, CBP will process the individual as follows:
- Field process the subject with basic identifying information, (e.g. name, DOB, nationality,)
- Transport to the nearest DHS facility with processing and biometric enrollment capabilities
- Enroll subject's biographic and biometric into (b)(7)(E) or the (b)(7)(E) processing system and the (b)(7)(E) fingerprint system



# Processing Procedures

- Run record checks which include wants and warrants, immigration history and criminal records
- If, following such processing, the alien is clearly determined to be **outside** the Secretary's civil immigration enforcement priorities:
- Obtain 1<sup>st</sup> and 2<sup>nd</sup> level supervisory approval, concurrence from Sector Staff Officer and OCC if extenuating circumstances exist
- (b) (7)(E)



# Supporting Documentation

- It is important to ensure that copies of all documentation utilized to determine whether the alien is not a priority be included in the completed file. Examples of supporting documentation that should be included are:
  - Immigration History
  - Criminal History
  - Biometric Data
  - Biographical Data



# Hypothetical Scenarios

The following are practical scenarios designed to assist CBP personnel with making decisions in line with enforcement priorities and discretionary factors.

They are composites of cases that may be encountered by CBP, but any resemblance to the cases of real persons is entirely coincidental.

There will not necessarily be a single “right” way of addressing each scenario, and you are encouraged to discuss the scenarios with your colleagues, attorneys, and supervisors to deepen your understanding of the Secretary’s memoranda.



# Scenario 1

On September 1, 2013, John Doe is granted voluntary departure by an Immigration Judge. On January 1, 2014, John Doe's voluntary departure period expired, without him ever departing the United States. His voluntary departure converts to a final order of removal. Does John Doe fall within enforcement priority number 3 (aliens issued a final order of removal on or after January 1, 2014)?





# Scenario 1

- Under 8 C.F.R. § 1241.1, an immigration judge's (IJ) or Board of Immigration Appeals' (BIA) alternate removal order becomes final "upon overstay of the voluntary departure period." As such, because Doe's voluntary departure period expired and the final removal order took effect on or after January 1, 2014, he could arguably fall within Priority 3, as an alien "who has been issued a final order of removal on or after January 1, 2014."
- These cases should be fairly rare and arise only for those in which IJ- or BIA-ordered voluntary departure periods crossed the 2013-2014 calendar year. As such, these situations should be evaluated on a case-by-case basis to determine whether removal would serve an important federal interest.



## Scenario 2

John Doe is convicted of driving under the influence (DUI) in a state that does not regard DUI offenses as misdemeanors or felonies and is sentenced to 8 days in the county jail. Does the conviction render Doe a Priority 2(b) alien (“significant misdemeanor” based on “an offense . . . of driving under the influence”)?



## Scenario 2

- Given the variation in state legal systems, the determination whether an offense is a misdemeanor should be made based on two considerations:
  1. Whether the violation must be proven beyond a reasonable doubt; and
  2. Whether, consistent with the federal definition of misdemeanors, the maximum term of imprisonment is over five days (18 U.S.C. § 3559(a)).
- Assuming that the responsible state authorities determined beyond a reasonable doubt that Doe had driven under the influence, he falls within Priority 2(b).



## Scenario 3

John Doe was ordered removed and removed prior to January 1, 2014. He then illegally reentered prior to January 1, 2014, but had his prior order of removal reinstated after January 1, 2014 but before the Secretary's November 20 memoranda were issued. Is Doe a priority alien?



## Scenario 3

- Doe does not fall within Priority 2(c), because he illegally reentered before January 1, 2014. The issue in this scenario is whether he would nevertheless fall within Priority 3, because DHS reinstated his prior order after January 1, 2014.
- Had Doe been re-encountered by DHS after Secretary Johnson's priorities took effect, his illegal reentry alone would not place him within Priority 3. Thus, his case is one of a limited group of aliens who fall within a period of transition to the new priorities.
- Individuals who fall within this narrow category will be evaluated on a case-by-case basis to determine whether their removal would serve an important federal interest.



## Scenario 4

John Doe entered the United States on an H-1B nonimmigrant visa. It was later determined that this visa had been procured by fraud, in that the underlying I-129, *Petition for a Nonimmigrant Worker*, filed on his behalf contained materially false information and the supporting evidence accompanying the petition consisted of fabricated documents. Through further investigation, CBP learned that Doe's I-129 was one of many submitted by an organized smuggling/fraud ring and that Doe had paid \$10,000 for this petition to be filed on his behalf.

Is Doe a Priority 2(d) alien (“aliens who, in the judgment of an ICE Field Office Director, USCIS District Director, or USCIS Service Center Director, have significantly abused the visa or visa waiver programs”)?



## Scenario 4

- The Field Office Director (or his or her delegate) should consider the totality of the circumstances in determining whether an alien has significantly abused the visa or visa waiver programs.
- While “significant abuse” is not defined in the immigration laws or the Secretary’s memoranda, it should be interpreted to include intentional violations of the immigrations laws that distinguish the alien as a priority because of the noteworthy or substantial nature of the violations or their frequency.
- In this case, Doe has intentionally engaged in a sophisticated illegal visa fraud scheme while committing acts that constitute federal felonies.
- Thus, while he does not fall under Priority 1(d), which requires a felony conviction, the Field Office Director could certainly find, in his or her judgment, that Doe has significantly abused the visa program and is therefore a Priority 2(d) alien.



## Scenario 5

In 2000, John Doe illegally entered the United States at the southwest border. He is convicted of misdemeanor embezzlement and receives a 360-day sentence, with 300 days being suspended. John Doe served only 60 days in jail. Doe is inadmissible under 212(a)(2)(A)(I) of the INA – crime involving moral turpitude. Under this charge, John Doe would be subject to mandatory detention pursuant to section 236(c) of the INA should CBP choose to pursue his removal. Should CBP issue a notice to appear?





## Scenario 5

- Doe's conviction would not appear to qualify as a significant misdemeanor under Priority 2(b), given that it is not among the categories of offenses listed and the bulk of his sentence was ordered suspended (i.e., he was not ordered to time in custody of 90 days or more).
- Thus, he could be both subject to mandatory detention but not constitute an enforcement priority.
- The decision whether to place Doe in proceedings would turn on whether his removal would serve an important federal interest, in the judgment of the Field Office Director.
- Field Office Directors will look carefully at the facts and circumstances of an alien's case, and whether an individual could be subject to mandatory detention is one of many factors they should consider in making his or her assessment in any individual case.



## Scenario 6

John Doe entered the United States illegally in 2009. He does not have any lawful status. He is now 25 years old and in state custody on a pending criminal street gang participation charge. When CBP contacts the police department about the case, it advises the CBP officer/agent that Doe is a known gang member, with gang affiliations and documented gang tattoos on his body. Does he fall within Priority 1(c) relating to gang members?



## Scenario 6

- Priority 1(c) requires either a conviction or that the individual be at least 16 years old and have “intentionally participated in an organized criminal gang to further the illegal activity of the gang.”
- If convicted, Doe would clearly be a priority if the statute of conviction meets the federal “criminal street gang” standard at 18 U.S.C. § 521(a). CBP personnel should consult their Office of Chief Counsel for questions about this legal standard.
- Even without a conviction, Doe may nevertheless fall within Priority 1(c), because the pending criminal charge suggests that he has intentionally participated in an organized criminal gang to further its illegal activities. CBP personnel considering enforcement action should look closely at the available documentary evidence in such cases, including the criminal complaint, criminal arrest warrant, and police report.



## Scenario 9

John Doe has unlawfully resided in the United States since 1999. He filed an asylum application with USCIS. In the asylum application and its supporting documents, Doe admits to being a high-ranking member of a repressive government during a 1980s civil war in his native country. Open source documents and Department of State Country Reports indicate that this government was involved in severe human rights violations during that time. Is Doe an enforcement priority?



# Scenario 9

- Priority 1(a) includes “aliens ... who otherwise pose a danger to national security.”
- The evidence indicates that Doe may have been involved in human rights violations in his native country, and the U.S. government has dubbed the prevention of grave human rights abuses to be a core national security interest.
- CBP personnel should be guided by the human rights-related provisions of the Immigration and Nationality Act (including sections 208(b)(2)(A)(i), 212(a)(2)(G), 212(a)(3)(E), and 212(a)(3)(G)) when determining whether an alien falls within Priority 1(a).
- In this case, Doe is likely to be an enforcement priority.





# U.S. Customs and Border Protection

# Department of Homeland Security

Implementing the President's Border Security and  
Immigration Enforcement Improvements Policies

and

Enforcement of the Immigration Laws to Serve the  
National Interest



U.S. Customs and  
Border Protection

AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000039

# DHS Guidance

- On February 17, 2017, the Secretary of the Department of Homeland Security (DHS) issued the memoranda titled *“Implementing the President’s Border Security and Immigration Enforcement Improvements Policies”* and *“Enforcement of the Immigration Laws to Serve the National Interest.”*
- These new policies outline the implementation of the Executive Order 13767, entitled “Border Security and Immigration Enforcement Improvements,” and Executive Order 13768, entitled “Enhancing Public Safety in the Interior of the United States,” issued by the President on January 25, 2017.





# DHS Guidance cont'd

- In fulfilling the President's Border Security and Improvement Policies, immediately, the U.S. Border Patrol will, effective immediately, begin implementing new policies to both stem the flow of illegal immigration and facilitate the detection, apprehension, and removal of aliens unlawfully present in the United States.
- With the exception of the June 15, 2012 memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children," and the November 20, 2014 memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and With Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents," all existing conflicting directives, memoranda, or field guidance regarding the enforcement of our immigration laws and priorities for removal are hereby immediately rescinded; including, but not limited to, the November 20, 2014, memoranda entitled "Policies for the Apprehension, Detention and Removal of Undocumented Immigrants," and "Secure Communities."



U.S. Customs and  
Border Protection

AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000041

# Priorities for Removal

USBP will take enforcement action against all illegal aliens encountered in the course of their duties who illegally enter, attempt to enter, or who do not have lawful status to be, or remain in, the United States. This includes the referral for criminal prosecution of any alien as appropriate as well as the initiation of removal proceedings against any alien who is subject to removal under any provision of the INA.

- As the referenced 2012 and 2014 DACA and DAPA memoranda remain in effect, along with applicable court orders, the DHS and CBP posture with respect to DACA and DAPA is not affected by issuance of the Secretary's memoranda of February 20, 2017.

USBP should take particular care to prioritize the removal of aliens who:

- have been convicted of any criminal offense;
- have been charged with any criminal offense that has not been resolved;



U.S. Customs and  
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AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000042

# Priorities for Removal cont'd

- have committed acts which constitute a chargeable criminal offense;
- have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency;
- have abused any program related to receipt of public benefits;
- are subject to a final order of removal but have not complied with their legal obligation to depart the United States; or
- in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.



# Priorities for Removal cont'd

Aliens listed on the previous slides do not necessarily have to be placed in removal proceedings based on a criminal ground of inadmissibility or removability. Instead, USBP should prioritize individuals within the above priorities for removal proceedings within the lawfully available removable grounds. This may include those PWA. Sectors are encouraged to coordinate with ERO as needed.

The enforcement priority should be in accordance with the Border Patrol Consequence Delivery System in the following order of preference:

- (1) Expedited Removal (ER), if applicable,
- (2) Notice to Appear
- (3) Voluntary Return



U.S. Customs and  
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AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000044

# Plans to Implement Provisions of Section 235(b)(2)(C) of the INA to Return Aliens to Contiguous Countries

As set forth in INA 235(b)(2)(C), aliens arriving from Mexico or Canada that are processed via Notice to Appear may be returned to that country pending a hearing before an immigration judge.

(b)(7)(E)



U.S. Customs and  
Border Protection

AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000045

# Aliens In Custody

USBP will detain all aliens placed in removal proceedings until such time as the alien is transferred to another federal, state or local entity. Aliens who have been placed in expedited removal, including family units, may not be released or paroled from USBP's custody except where:

- The release is part of USBP's overall effort to removing or permitting the alien to depart from the United States.
- USBP determines the alien is a U.S. citizen, LPR, returning refugee, or asylee.
- USBP determines that the alien has received an order granting relief or protection from removal.



# Aliens In Custody cont'd

- Where, in consultation with local Associate/Assistant Chief Counsel as may be appropriate, the release is determined to be required by statute, judicial order, or settlement.
- Parole is approved by the Sector Chief on a case by case basis, with the written concurrence of the Deputy Director of ICE and the Deputy Commissioner of CBP.
- Parole is necessary to address an emergent situation, such as (b)(7)(E) [REDACTED] the Sector Chief may permit parole, with notice to the Deputy Director of ICE or Deputy Commissioner of CBP as soon as practicable.



# Parole/OR Authority Pursuant to Section 212(d)(5) and 236 of the INA

Requests for parole or other release should be submitted sparingly, and only in individual cases. Examples include:

- The release serves the best interests of the United States because of demonstrated urgent humanitarian reasons or significant public benefit.
- (b)(7)(E) [REDACTED]





# Parole/OR Authority Pursuant to Section 212(d)(5) and 236 of the INA cont'd

All processing options must be explored prior to issuing a NTA/OR. Release from CBP custody on an alien's own recognizance (OR) may only occur where approved by the Chief Patrol Agent.

- Each time an alien is released OR, there must be clearly articulable circumstances to justify the release and those circumstances must be noted in the narrative section of the I-213.
- Prior to releasing any alien OR, every alternative must be explored and clearly articulated in the narrative section of the I-213.
- (b)(7)(E) then the Chief Patrol Agent will coordinate with Headquarters Border Patrol to reach an appropriate resolution prior to releasing the alien.



# Expanding Expedited Removal Pursuant to Section 235(b)(1)(A)(iii)(I) of the INA

- The Secretary's memorandum contemplates the expansion of Expedited Removal on terms to be specified.
- This expansion may not be implemented until such time as a Federal Register notice is issued and further guidance is provided.

Training will provided to field staff once Headquarters Staff receives further guidance and instruction from DHS.



U.S. Customs and  
Border Protection

AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000050

# Immigration Detainer Guidance

- USBP should continue working with other Federal, State and Local law enforcement agencies with regard to Immigration Detainers.
- USBP will continue to utilize existing detainer forms until such forms are replaced and disseminated to the field.



# Where do I locate the forms?

- (b)(7)(E)
- Print Forms Section

(b)(7)(E)



U.S. Customs and  
Border Protection

AILA Doc. No. 21011545. (Posted 1/15/21)

CBP000052

# UAC Processing and Treatment

- Agents will continue to follow the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) and the *Flores* Settlement Agreement, including all implementing policies and procedures, to ensure that all children, including unaccompanied alien children, are provided special protections to ensure that they are properly processed and receive the appropriate care and placement when they are encountered by USBP.
- Agents must complete Form 93 for all unaccompanied alien children.
- Mexican and Canadian unaccompanied alien children may be permitted to withdraw their application for admission and return to Mexico or Canada after proper coordination with the Mexican or Canadian Consulate has been completed.



# UAC Processing and Treatment cont'd

- Unaccompanied alien children who are permitted to withdraw may be repatriated at the nearest port of entry to Mexican/Canadian Consulate officials at a time designated by the consulate official.



From:

To:

Cc:

Subject:

FW: DACA Information

Date:

Monday, September 18, 2017 10:47:33 AM

Attachments:

[DACA Rescission Guidance.pdf](#)

(b) (6), (b) (7)(C)

Please send this out to all the stations.

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Monday, September 18, 2017 10:04:55 AM

To: DRT STAFF TASKING; (b) (6), (b) (7)(C)

Cc: OPS EAST SECTOR

Subject: FW: DACA Information

Good morning,

Please see the additional DACA information below.

Respectfully,

(b) (6), (b) (7)(C)

Desk: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

---

From: (b) (6), (b) (7)(C)

Sent: Monday, September 18, 2017 10:53 AM

To: OPS EAST SECTOR (b) (7)(E) OPS WEST SECTORS

(b) (7)(E)

Cc: (b) (6), (b) (7)(C)

Subject: DACA Information

Good morning.

On September 6, 2017 Chief Provost issued the attached guidance on the rescission of DACA. After the issuance of that memo, US CIS provided additional information and clarifying points that will be useful to the field.

- As of March 2016, CIS no longer uses (b) (7)(E) for DACA cases. Instead, CIS has been using the (b) (7)(E) Agents can access (b) (7)(E) directly (if they have requested and have been granted read-only access) or they can access (b) (7)(E) information via the (b) (7)(E)

- Additionally, USCIS has a centralized Outlook email box that can be used for transmittal of any requests for consideration of termination DACA nationally. That email address (b) (7)(E)

Outside of the above bullet points, the guidance outlined in Chief Provost's memo remains unchanged.

Please provide this information to your respective sectors as soon as possible.

Thanks

(b) (6), (b) (7)(C)

Assistant Chief

U.S. Border Patrol

(O) (b) (6), (b) (7)(C)

(C)

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, August 31, 2017 5:29 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: Executive Order  
**Attachments:** Expansion of Deferred Action for Childhood Arrivals.docx

**From:** (b) (6), (b) (7)(C)  
**Sent:** Tuesday, November 25, 2014 2:01 PM

**To:** (b) (6), (b) (7)(C)

**Cc:** (b) (6), (b) (7)(C)

**Subject:** FW: Executive Order

Gentlemen,

Please see below/attachment concerning who to contact if you receive any questions regarding the DACA expansion and DAPA.

### **Expansion of Deferred Action for Childhood Arrivals (DACA)**

**On November 20, 2014, the President of the United States outlined the requirements, set forth below, for expansion of Deferred Action for Childhood Arrivals (DACA)**

If you believe that you are eligible for DACA, you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at [www.uscis.gov](http://www.uscis.gov) for more information.

### **DEFERRED ACTION FOR PARENTAL ACCOUNTABILITY**

**On November 20, 2014, the President of the United States outlined the requirements, set forth below, for Deferred Action for Parental Accountability (DAPA)**

If you believe that you are eligible for DAPA, you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at [www.uscis.gov](http://www.uscis.gov) for more information.

Thank you,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Acting Division Chief  
United States Border Patrol Buffalo Sector  
201 Lang Boulevard  
Grand Island, New York 14072

Voice: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Tuesday, November 25, 2014 1:21 PM

To: (b) (6), (b) (7)(C)

Cc:

Subject: FW: Executive Order

(b) (6), (b) (7)(C)

For the field in case they don't already have this information. I don't see the "below" that this refers to, but here are some CIS phone numbers. Queries regarding DACA expansion and "DAPA" should be referred to USCIS.

(b) (6), (b) (7)(C)

Deputy Chief Patrol Agent  
U.S. Border Patrol Buffalo Sector



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From: (b) (6), (b) (7)(C)

Sent: Tuesday, November 25, 2014 12:58 PM

To: BP Field Deputies; BP Field Chiefs

Cc: (b) (6), (b) (7)(C)

Subject: Executive Order

Chiefs,

The attached (and below) is USCIS information for your awareness and guidance should your sector or stations receive any questions regarding eligibility for the President's Executive Order.

This situation is very fluid and we will continue to provide information as appropriate when we receive it.

Thanks for your patience!

## Expansion of Deferred Action for Childhood Arrivals (DACA)

**On November 20, 2014, the President of the United States outlined the requirements, set forth below, for expansion of Deferred Action for Childhood Arrivals (DACA)**

If you believe that you are eligible for DACA, you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at [www.uscis.gov](http://www.uscis.gov) for more information.

### **DEFERRED ACTION FOR PARENTAL ACCOUNTABILITY**

**On November 20, 2014, the President of the United States outlined the requirements, set forth below, for Deferred Action for Parental Accountability (DAPA)**

If you believe that you are eligible for DAPA, you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at [www.uscis.gov](http://www.uscis.gov) for more information.

(b) (6), (b) (7)(C)

Acting Deputy Division Chief  
U.S. Border Patrol  
Operations Division-Operational Programs

(b) (6), (b) (7)(C)

C

~~*WARNING: This document is designated FOR OFFICIAL USE ONLY (FOUO) and may contain information that is LAW ENFORCEMENT SENSITIVE, confidential and/or legally privileged information. It contains information that may be exempt from public release under the Freedom of Information Act (5USC552). This document is to be controlled, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information, and is not to be released to the public or personnel who do not have a valid "need-to-know" without prior approval from the originator. This document is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act.*~~

~~*If you received this correspondence in error, please contact the originator and destroy all copies.*~~

### **Expansion of Deferred Action for Childhood Arrivals (DACA)**

**On November 20, 2014, the President of the United States outlined the requirements, set forth below, for expansion of Deferred Action for Childhood Arrivals (DACA)**

If you believe that you are eligible for DACA, you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at [www.uscis.gov](http://www.uscis.gov) for more information.

### **DEFERRED ACTION FOR PARENTAL ACCOUNTABILITY**

**On November 20, 2014, the President of the United States outlined the requirements, set forth below, for Deferred Action for Parental Accountability (DAPA)**

If you believe that you are eligible for DAPA, you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at [www.uscis.gov](http://www.uscis.gov) for more information.



**U.S. Customs and  
Border Protection**

Commissioner

**JUN 15 2012**

**MEMORANDUM FOR:** See Distribution (b) (6), (b) (7)(C)

**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.

**Distribution:**

Deputy Commissioner  
Chief of Staff  
Deputy Chief of Staff  
Chief, Office of Border Patrol  
Assistant Commissioner, Office of Field Operations  
Assistant Commissioner, Office of Air and Marine  
Chief Counsel, Office of Chief Counsel  
Assistant Commissioner, Office of Public Affairs  
Assistant Commissioner, Office of Congressional Affairs  
Executive Director, Office of Diversity and Civil Rights  
Executive Director, Office of Policy and Planning  
Director, State, Local and Tribal Governments  
Commander (b) (6), (b) (7)(C) Arizona Joint Field Command  
Commander (b) (6), (b) (7)(C) South Texas Campaign  
All Sector Chiefs, Office of Border Patrol  
All Directors of Field Operations, Office of Field Operations  
All Directors of Air and Marine Operations, Office of Air and Marine  
All Associate Chief Counsels, Office of Chief Counsel  
All Public Affairs Officers, Office of Public Affairs  
NGO Liaison

**Attachment**

(b) (7)(E)



**U.S. Customs and  
Border Protection**

DEC 10 2014

MEMORANDUM FOR: All Chief Patrol Agents  
All Division Chiefs  
(b)(6) (b)(7)(c)

FROM: Michael J. Fisher  
Chief  
U.S. Border Patrol

SUBJECT: Exercising Prosecutorial Discretion with Respect to Individuals  
Who Came to the United States as Children and with Respect to  
Certain Individuals Who Are the Parents of U.S. Citizens or  
Permanent Residents

Please see the attached Department of Homeland Security (DHS) memorandum, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents*. This November 20, 2014 memorandum reflects new policies for the use of deferred action. It supplements and amends DHS's June 15, 2012 guidance, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children*.

The attached memorandum expands certain parameters of deferred action. It issues guidance for the case-by-case use of deferred action for those adults who (b) (7)(E)

(b) (7)(E)  
(b) (7)(E) in accordance with DHS's November 20, 2014 memorandum, *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants*, which is also attached.

Staff may direct questions to Chief of Staff (b)(6) (b)(7)(c) at (b)(6) (b)(7)(c)

Attachments





**U.S. Customs and  
Border Protection**

September 6, 2017

MEMORANDUM FOR: All Chief Patrol Agents  
All Directorate Chiefs (b) (6), (b) (7)(C)

FROM: Carla L. Provost  
Acting Chief (b) (6), (b) (7)(C)  
U.S. Border Patrol

SUBJECT: Guidance on the Acting Secretary's Rescission of the  
Memorandum of June 15, 2012, Establishing DACA

On September 5, 2017, the Acting Secretary of Homeland Security issued a memorandum rescinding the June 15, 2012, memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who came to the United States as Children," which established a program known as the Deferred Action for Childhood Arrivals (DACA). The Attorney General sent the Department a letter on September 4, 2017, explaining that although such an "open-ended circumvention of immigration laws [by DACA] was an unconstitutional exercise of authority," the Department should still "consider an orderly and efficient wind-down process [of the program]."

As part of that orderly wind-down process, USCIS will no longer accept new DACA applications after September 5, 2017. Documents from current beneficiaries that have been accepted as of September 5, 2017, and from current beneficiaries whose benefits will expire between September 5, 2017, and March 5, 2018, that have been accepted as of October 5, 2017, will be processed. USCIS will reject all requests to renew DACA and associated applications for employment authorizations filed after October 5, 2017.

Agents are reminded that, consistent with existing guidance, all individuals who are encountered by U.S. Border Patrol and are believed to have entered illegally or are out of status at the time of the encounter must be appropriately processed, including all appropriate system checks. Although individuals may have been given deferred action under the DACA program, agents are reminded that deferred action is not, and even under DACA was not, lawful immigration status. Thus, agents must determine for any individual, consistent with the guidance set forth below, whether removal proceedings are appropriate.

When an individual who claims to have DACA is encountered, an agent must first process the individual through (b) (7)(E). An individual who has a pending application (that is, it has been accepted by USCIS for processing) for DACA or DACA renewal should be processed as if they have deferred action under DACA, absent derogatory information. If the individual claims to have DACA but does not have documentation of DACA physically available at the time of



processing, the agent should either run (b) (7)(E) or, if the agent does not have access to (b) (7)(E) the agent should contact USCIS directly. If an agent determines that the individual does have deferred action through DACA, and that there is no derogatory information indicating other processing is appropriate, the individual should be permitted to depart the Border Patrol facility upon approval by the Chief Patrol Agent or his or her designee. If an agent determines that an individual does not have deferred action (through DACA or otherwise), the individual should be processed according to normal procedures.

(b) (7)(E)

Individuals who may previously have been eligible for DACA but who, as of September 6, 2017, do not have a DACA application accepted for processing by the Department, should be processed according to normal procedures.

The rescission of DACA does not alter in any way the normal processing requirements for those who are encountered without lawful basis to enter or remain in the United States. For instance,

(b) (7)(E)

(b) (7)(E) Similarly, agents must still comply with the requirements of the Trafficking Victims Protection Reauthorization Act (TVPPRA), *Flores*, and all other legal and policy requirements in place.

This Guidance is not intended to, and does not, create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does it create any right of review in an administrative, judicial, or any other proceeding.

**From:** (b) (6), (b) (7)(C)  
**To:** [REDACTED]  
**Subject:** RE: Important DACA Guidance  
**Date:** Friday, January 12, 2018 3:41:16 PM

---

Chief,

(b) (5)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 4:28 PM  
**To:** [REDACTED] (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance

I just spoke with counsel for some clarification. I will probably be putting out additional guidance

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 4:00 PM  
**To:** [REDACTED] (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance

(b) (7)(E) speaking with counsel locally

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 2:53 PM  
**To:** [REDACTED] (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance

(b) (6), (b) (7)(C)

“With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place”

(b) (5)

What say you?

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)

**Sent:** Friday, January 12, 2018 2:39 PM

**To:** BP Field Chiefs (b) (7)(E) BP Field Deputies

(b) (7)(E)

**Cc:** PROVOST, CARLA (USBP) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) USBP

HQ Adjutants (b) (7)(E) USBP LEOD Associate Chiefs

(b) (7)(E)

**Subject:** Important DACA Guidance

Chiefs, Deputies,

As you may be aware, on January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017. On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place. That guidance is attached to this email for your reference. If you have any questions about specific encounters and the Court order, please reach out to your local Associate or Assistant Chief Counsel office.

V/r,

(b) (6), (b) (7)(C)

(a)Chief LEOD

O: (b) (6), (b) (7)(C)

C: (b) (6), (b) (7)(C)

**From:** (b) (6), (b) (7)(C)  
**To:**  
**Subject:** RE: Important DACA Guidance  
**Date:** Friday, January 12, 2018 2:51:52 PM

---

They did. DOJ mandate by COB. Issues?

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 3:51 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: Important DACA Guidance

Did OCC send this over?

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 3:39 PM  
**To:** BP Field Chiefs (b) (7)(E) BP Field Deputies  
(b) (7)(E)  
**Cc:** PROVOST, CARLA (USBP) (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) USBP  
HQ Adjutants (b) (7)(E) USBP LEOD Associate Chiefs  
(b) (7)(E)  
**Subject:** Important DACA Guidance

Chiefs, Deputies,

As you may be aware, on January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017. On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place. That guidance is attached to this email for you reference. If you have any questions about specific encounters and the Court order, please reach out to your local Associate or Assistant Chief Counsel office.

V/r,  
(b) (6), (b) (7)(C)

(a)Chief LEOD

O: (b) (6), (b) (7)(C)  
C: [REDACTED]

From: (b) (6), (b) (7)(C)  
To: (b) (6), (b) (7)(C)  
Cc: (b) (6), (b) (7)(C)  
Subject: RE: Important DACA Guidance  
Date: Friday, January 12, 2018 2:48:07 PM

---

10-4 Chief.

(b) (6), (b) (7)(C)  
(A) Deputy Chief Patrol Agent  
Havre Sector  
Office (b) (6), (b) (7)(C)  
Cell (b) (6), (b) (7)(C)

Sent from iPhone

---

From: (b) (6), (b) (7)(C)  
Sent: Friday, January 12, 2018 3:38:57 PM  
To: BP Field Chiefs; BP Field Deputies  
Cc: PROVOST, CARLA (USBP); (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(OCC); USBP HQ Adjutants; USBP LEOD Associate Chiefs  
Subject: Important DACA Guidance

Chiefs, Deputies,

As you may be aware, on January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017. On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place. That guidance is attached to this email for your reference. If you have any questions about specific encounters and the Court order, please reach out to your local Associate or Assistant Chief Counsel office.

V/r.  
(b) (6), (b) (7)(C)

(a) Chief LEOD  
O: (b) (6), (b) (7)(C)  
C: (b) (6), (b) (7)(C)

**From:** (b) (6), (b) (7)(C)  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance  
**Date:** Friday, January 12, 2018 4:09:36 PM

---

You as well

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 5:08 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance

Well we wanted to make sure you knew just in case he decided he wanted to run to the media. Turns out he is a false claim and CIS has nothing on him reapplying for the extension. Breathe easier. Have a good, long weekend brother.

(b) (6), (b) (7)(C)  
Deputy Chief Patrol Agent  
Detroit Sector  
Office: (b) (6), (b) (7)(C)  
Cell: (b) (6), (b) (7)(C)

Sent from iPhone

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 5:04:49 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance

No, but thank you for telling on yourselves.

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 4:56 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance

Did we cause you a slight heart attack today? Hope you are holding up. Everything has been taken care of with our DACA-like app.

(b) (6), (b) (7)(C)  
Deputy Chief Patrol Agent  
Detroit Sector  
Office: (b) (6), (b) (7)(C)  
Cell: (b) (6), (b) (7)(C)

Sent from iPhone

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**From:** (b) (6), (b) (7)(C)

**Sent:** Friday, January 12, 2018 3:38:57 PM

**To:** BP Field Chiefs; BP Field Deputies

**Cc:** PROVOST, CARLA (USBP); (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(OCC); USBP HQ Adjutants; USBP LEOD Associate Chiefs

**Subject:** Important DACA Guidance

Chiefs, Deputies,

As you may be aware, on January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017. On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place. That guidance is attached to this email for your reference. If you have any questions about specific encounters and the Court order, please reach out to your local Associate or Assistant Chief Counsel office.

V/r,

(b) (6), (b) (7)(C)

(a)Chief LEOD

O: (b) (6), (b) (7)(C)

C: [REDACTED]



**From:** (b) (6), (b) (7)(C)  
**To:**  
**Subject:** FW: Important DACA Guidance  
**Date:** Friday, January 12, 2018 2:55:52 PM

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**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 3:53 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Important DACA Guidance

(b) (6), (b) (7)(C)

“With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place”

(b) (5)

What say you?

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 2:39 PM  
**To:** BP Field Chiefs (b) (7)(E) BP Field Deputies  
(b) (7)(E)  
**Cc:** PROVOST, CARLA (USBP) (b) (6), (b) (7)(C)

**Subject:** Important DACA Guidance

Chiefs, Deputies,

As you may be aware, on January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017. On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are

encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place. That guidance is attached to this email for you reference. If you have any questions about specific encounters and the Court order, please reach out to your local Associate or Assistant Chief Counsel office.

V/r,

(b) (6), (b) (7)(C)

(a)Chief LEOD

O: (b) (6), (b) (7)(C)

C:

**From:** (b) (6), (b) (7)(C)  
**To:** [REDACTED]  
**Subject:** RE: Important DACA Guidance  
**Date:** Friday, January 12, 2018 3:53:03 PM

---

10-4, Chief. See you next week.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Chief Patrol Agent  
Spokane Sector  
U.S. Border Patrol

(b) (6), (b) (7)(C) direct  
cell

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)

**Sent:** Friday, January 12, 2018 12:39 PM

**To:** BP Field Chiefs (b) (7)(E) BP Field Deputies

(b) (7)(E)

**Cc:** PROVOST, CARLA (USBP) (b) (6), (b) (7)(C)

HQ Adjutants (b) (7)(E) USBP LEOD Associate Chiefs

(b) (7)(E)

**Subject:** Important DACA Guidance

Chiefs, Deputies,

As you may be aware, on January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017. On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place. That guidance is attached to this email for you reference. If you have any questions about specific encounters and the Court order, please reach out to your local Associate or Assistant Chief Counsel office.

V/r,  
(b) (6), (b) (7)(C)

(a) Chief LEOD

O: (b) (6), (b) (7)(C)

C: [REDACTED]

**From:** (b) (6), (b) (7)(C)  
**To:**  
**Subject:** FW: Important DACA Guidance  
**Date:** Friday, January 12, 2018 2:51:18 PM  
**Attachments:** [9.6.17 DACA Guidance - BP.pdf](#)  
[Aguilar Guidance on DACA 2012.pdf](#)

---

Did OCC send this over?

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**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, January 12, 2018 3:39 PM  
**To:** BP Field Chiefs (b) (7)(E) BP Field Deputies  
(b) (7)(E)  
**Cc:** PROVOST, CARLA (USBP) (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) USBP  
HQ Adjutants (b) (7)(E) USBP LEOD Associate Chiefs  
(b) (7)(E)  
**Subject:** Important DACA Guidance

Chiefs, Deputies,

As you may be aware, on January 9, 2018, a federal district court judge issued a preliminary injunction ordering DHS to maintain the DACA policy on a nationwide basis on the same terms and conditions as were in effect before the DACA rescission on September 5, 2017. On September 6, 2017, guidance was issued to all Chief Patrol Agents and Directorate Chiefs explaining the DACA rescission and reminding agents to process DACA individuals who are encountered by U.S. Border Patrol in a manner that is consistent with existing guidance. That guidance memo also instructed agents on how to process individuals who claim to have DACA, individuals who have a pending DACA application, individuals who do not have deferred action, DACA individuals with derogatory information, and individuals who appeared eligible for DACA but had no pending DACA application. With the exceptions of paragraphs one and two of that guidance, the remaining guidance remains in place. That guidance is attached to this email for you reference. If you have any questions about specific encounters and the Court order, please reach out to your local Associate or Assistant Chief Counsel office.

V/r,

(b) (6), (b) (7)(C)

(a) Chief LEOD

O: (b) (6), (b) (7)(C)

C: (b) (6), (b) (7)(C)



**U.S. Customs and  
Border Protection**

September 6, 2017

MEMORANDUM FOR: All Chief Patrol Agents  
All Directorate Chiefs (b) (6), (b) (7)(C)

FROM: Carla L. Provost  
Acting Chief (b) (6), (b) (7)(C)  
U.S. Border Patrol

SUBJECT: Guidance on the Acting Secretary's Rescission of the  
Memorandum of June 15, 2012, Establishing DACA

On September 5, 2017, the Acting Secretary of Homeland Security issued a memorandum rescinding the June 15, 2012, memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who came to the United States as Children," which established a program known as the Deferred Action for Childhood Arrivals (DACA). The Attorney General sent the Department a letter on September 4, 2017, explaining that although such an "open-ended circumvention of immigration laws [by DACA] was an unconstitutional exercise of authority," the Department should still "consider an orderly and efficient wind-down process [of the program]."

As part of that orderly wind-down process, USCIS will no longer accept new DACA applications after September 5, 2017. Documents from current beneficiaries that have been accepted as of September 5, 2017, and from current beneficiaries whose benefits will expire between September 5, 2017, and March 5, 2018, that have been accepted as of October 5, 2017, will be processed. USCIS will reject all requests to renew DACA and associated applications for employment authorizations filed after October 5, 2017.

Agents are reminded that, consistent with existing guidance, all individuals who are encountered by U.S. Border Patrol and are believed to have entered illegally or are out of status at the time of the encounter must be appropriately processed, including all appropriate system checks. Although individuals may have been given deferred action under the DACA program, agents are reminded that deferred action is not, and even under DACA was not, lawful immigration status. Thus, agents must determine for any individual, consistent with the guidance set forth below, whether removal proceedings are appropriate.

When an individual who claims to have DACA is encountered, an agent must first process the individual through (b) (7)(E). An individual who has a pending application (that is, it has been accepted by USCIS for processing) for DACA or DACA renewal should be processed as if they have deferred action under DACA, absent derogatory information. If the individual claims to have DACA but does not have documentation of DACA physically available at the time of

processing, the agent should either run (b) (7)(E) or, if the agent does not have access to (b) (7)(E) the agent should contact USCIS directly. If an agent determines that the individual does have deferred action through DACA, and that there is no derogatory information indicating other processing is appropriate, the individual should be permitted to depart the Border Patrol facility upon approval by the Chief Patrol Agent or his or her designee. If an agent determines that an individual does not have deferred action (through DACA or otherwise), the individual should be processed according to normal procedures.

(b) (7)(E)

Individuals who may previously have been eligible for DACA but who, as of September 6, 2017, do not have a DACA application accepted for processing by the Department, should be processed according to normal procedures.

The rescission of DACA does not alter in any way the normal processing requirements for those who are encountered without lawful basis to enter or remain in the United States. For instance,

(b) (7)(E)

(b) (7)(E) Similarly, agents must still comply with the requirements of the Trafficking Victims Protection Reauthorization Act (TVPPRA), *Flores*, and all other legal and policy requirements in place.

This Guidance is not intended to, and does not, create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does it create any right of review in an administrative, judicial, or any other proceeding.

**From:**  
**To:**

(b) (6), (b) (7)(C)

**Subject:** TeleCon Concerning DACA Guidance

---

All,

Please call in via the number below for a short telecon concerning the new DACA guidance.

Thanks,

(b) (6), (b) (7)(C)

(b) (7)(E)

Participant code: (b) (7)(E)



(b) (6), (b) (7)(C)

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, August 31, 2017 5:29 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: Updated Processing Guidance on Deferred Action Cases  
**Attachments:** Doc 4.docx; Doc 1.camp card.pdf; Doc 2.pdf; Doc 3.pdf  
**Importance:** High

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Tuesday, July 17, 2012 7:30 AM  
**To:** OSWEGO BORDER PATROL STATION (b) (7)(E)  
**Subject:** FW: Updated Processing Guidance on Deferred Action Cases  
**Importance:** High

ALCON,

Please add these documents to your processing folders. You will need them when we get a deferred action case. There is an instruction sheet, a notice to the alien in English and Spanish, and a sample I-385 camp card.

(b) (6), (b) (7)(C)

Assistant Patrol Agent in Charge

Oswego Border Patrol Station

(b) (6), (b) (7)(C) Office

(b) (6), (b) (7)(C)

**WARNING:** This document is LAW ENFORCEMENT SENSITIVE and is designated FOR OFFICIAL USE ONLY (FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). This document is to be controlled, handled, transmitted, distributed, and disposed of in accordance with Department of Homeland Security policy relating to FOUO information, and is not to be released to the public or personnel who do not have a valid "need to know" without prior approval from the sender.

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Tuesday, July 17, 2012 6:33 AM  
**To:** (b) (6), (b) (7)(C)

**Subject:** FW: Updated Processing Guidance on Deferred Action Cases  
**Importance:** High

Alcon:

Self explanatory.

PAICs – advise ACPA (b) (6), (b) (7)(C) of receipt, understanding, and implementation.

**From:** (b) (6), (b) (7)(C)

**Sent:** Monday, July 16, 2012 6:51 PM

**To:** BP Field Deputies; BP Field Chiefs

**Cc:** (b) (6), (b) (7)(C)

**Subject:** Updated Processing Guidance on Deferred Action Cases

**Chiefs,**

We have been approved to implement some changes to the processing of Deferred Action cases.....Effective immediately

In addition to the processing procedures currently in place in regards to possible deferred action cases:

- Complete form I-385 Alien Booking Record (camp card)
- Include approved verbiage in line #24 of sample I-385 attached
- Provide Form I-385 and Notice to Alien Regarding Deferred Action (English or Spanish version as appropriated) and USCIS Hotline number to alien upon release

The following documents are attached for your use:

Updated processing guidance (Document 4)

Sample camp card with approved verbiage in line #24 (Document 1)

English version "Notice to Alien Regarding Deferred Action" (Document 2)

Spanish version "Notice to Alien Regarding Deferred Action" (Document 3)

Any questions, please refer them to Assistant Chief (b) (6), (b) (7)(C) desk (b) (6), (b) (7)(C) or cell (b) (6), (b) (7)(C)

Thank you,

(b) (6), (b) (7)(C)

Deputy Chief, Operations Division

U.S. Border Patrol

Washington, D.C.

ofc: (b) (6), (b) (7)(C)

cell: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

**From:** (b) (6), (b) (7)(C)  
**Sent:** Tuesday, July 17, 2012 5:33 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW: Updated Processing Guidance on Deferred Action Cases  
**Attachments:** Doc 4.docx; Doc 1.camp card.pdf; Doc 2.pdf; Doc 3.pdf  
**Importance:** High

Alcon:

Self explanatory.

PAICs – advise ACPA (b) (6), (b) (7)(C) of receipt, understanding, and implementation.

(b) (6), (b) (7)(C)

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Monday, July 16, 2012 6:51 PM  
**To:** BP Field Deputies; BP Field Chiefs  
**Cc:** (b) (6), (b) (7)(C), (b) (7)(E) MITIELLO, RONALD D; (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
**Subject:** Updated Processing Guidance on Deferred Action Cases

**Chiefs,**

We have been approved to implement some changes to the processing of Deferred Action cases.....Effective immediately

In addition to the processing procedures currently in place in regards to possible deferred action cases:

- Complete form I-385 Alien Booking Record (camp card)
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The following documents are attached for your use:

Updated processing guidance (Document 4)  
Sample camp card with approved verbiage in line #24 (Document 1)  
English version "Notice to Alien Regarding Deferred Action" (Document 2)  
Spanish version "Notice to Alien Regarding Deferred Action" (Document 3)

Any questions, please refer them to Assistant Chief (b) (6), (b) (7)(C) desk (b) (6), (b) (7)(C) or cell (b) (6), (b) (7)(C)

Thank you,

(b) (6), (b) (7)(C)

Deputy Chief, Operations Division  
U.S. Border Patrol  
Washington, D.C.  
ofc: (b) (6), (b) (7)(C)  
cell: [REDACTED]