

# It's not exactly Dream Act. The provisions are cornerstone of what Dream Act was - David Nachman, Esq.

By Vikas Girdhar

*David Nachman, of Nachman, Phulwani & Zimovcak (NPZ) Law Group, P.C., provided exclusive insight to the new immigration policy, speaking to SATimes.*



## EXCLUSIVE

When ICE promulgated that memorandum, CBP (Customs and Border Protection) and CIS (Citizenship and Immigration Services), which are the other two agencies within the Department of Homeland Security, were turning their backs and saying 'this is a nice thing but we don't really know what ICE is talking about'. That was the position that they took. So what happened was that with this passing of the buck as in any bureaucratic organization, you had a lot of people who were just throwing up their hands and saying 'look, I'm not going to do anything because it's the safest thing to do'."

### What it means now

"What just happened on June 15 is that the President made an announcement about the new provisions. It was an administrative initiative. This is very important. A lot of people think it's an executive directorate but it's an administrative action by the Department of Homeland Security. The anti-immigration people are saying it's unconstitutional or he's acting without Congress—that's a load of baloney. Fact is, the administrative agency under the administrative arm, which is that part of the government, is taking an initiative. They're passing a policy where if you have an individual who entered the United States prior to the age of 16, was in the country for at least five years continuously (and that's defined), gone to school or served in the military and is under 30 years old as of the date of the memorandum passing which was June 15, that they are allowed to obtain deferred action. There are two ways to obtain it: 1) If they are in removal proceedings—the government is opening removal proceedings for them. Any cases that have been administratively closed, they are going to be reopening them and issuing deferred action to these kids. 2) They're in the process of

### Historical perspective

"About a year ago, John Morton, who is in charge of the Immigration and Customs Enforcement (ICE) Division of the Department of Homeland Security, passed through what was called the Prosecutorial Discretion Memorandum. It listed out some of the initiatives that ICE was hoping to take. One of those initiatives was specifically with regard to individuals who were, what we call 'Dreamers' or kids who were brought to the United States when they were young, who knew no other country other than the US, who have gone to school and who don't have criminal records. What the memorandum did is it gave the government the ability to exercise what is called 'prosecutorial discretion' and to close their cases and not remove them from the United States, depending on what part of the process they were in, immigration-wise. Let's say, if they were in a removal proceeding, the trial attorney was given discretion to be able to close the case. If they were not in a removal proceeding, the legal counsel could, if they wanted to, try to make out an affirmative action for application based upon prosecutorial discretion.

"It was wonderful that they promulgated this policy but the downside was that not all of the agencies of the Department of Homeland Security were on the same page a year ago.



*The DREAM Act (acronym for Development, Relief, and Education for Alien Minors) has been gaining support in recent years.*

formalizing a policy and a procedure for making an affirmative application to these kids who are in the US. So what they'll be able to do is apply directly to the Citizenship and Immigration Service and they'll be able to obtain employment authorization documents and that will be good for two years which will allow them to get social security and driver's license and also to be able to apply for tuition benefits and all kinds of wonderful benefits that students should have.

"There is no policy currently in place and we are warning the public to be very careful because there are people out there that are not licensed to practice law that are preying on these people. There are a tremendous amount of people in the Indian community, the South Asian community, the Hispanic community—every community you can possibly imagine, has these people that encounter those that don't speak the language and selling them the bill of goods. There is no policy in place. So what we're doing is we are taking names and numbers and once there's a policy out there—a formal procedure that's been implemented, we're going to be notifying everyone as soon as we can, hopefully through the reach of media and other

non-governmental, community and religious organizations to get the word out there and to try to get as many people as possible swept under this new law. It's estimated, I believe, there are 400,000 to 500,000 people in the US who will be able to benefit from this new rule. I personally believe that the application process is going to mimic the deferred action process that presently exists, which is basically a written letter to the district director's office requesting deferred action for humanitarian purposes, which have to be clearly outlined and accompanied by an application for

employment authorization document, which is done on a form I-765. Right now, there is not enough information out there for us to be able to do anything except for the people who are currently in removal proceedings who do qualify for these provisions because we can make a motion to reopen those cases and to have the affirmative action granted to them."

### Future outlook

"We are very hopeful that something more formal will be coming down. For us right now, it's just a matter of getting the word out. For a very long time, since 1996, the alleged cornerstone to comprehensive immigration reform (CIR) has been the discussion of Dream Act. Politically, Marco Rubio, who is allegedly going to be Mitt Romney's running-mate, is working on his own Dream Act bill in Florida. Obama beat him to the punch by making this announcement. I believe that President Obama is sending a subtle message to the masses that if and when he is re-elected in the second term, he is going to push through comprehensive immigration reform—and for us, that's a wonderful message to get."

*For more information, visit the 'Dream Provisions Page' of the firm's website [www.visaserve.com](http://www.visaserve.com).*

## Talented young illegal immigrants can stay in US: Obama

**Washington:** In an election-year move hailed by South Asian, Latino and other immigrant organizations, President Barack Obama announced that his administration will stop deporting talented young illegal immigrants if they pose no criminal or security threat.

The changes caused by his executive order will make immi-

gration policy "more fair, more efficient and more just," he said in a White House address last Friday to praise from Latino leaders but outrage from opposition Republicans. "This is not amnesty. This is not immunity. This is not a path to citizenship. It's not a permanent fix," Obama said answering his critics. "This is a temporary stopgap measure."

## Asians, more than Latinos, are largest group of new arrivals in U.S.

31% for Hispanics, according to a report released Tuesday by the Pew Research Center.

That's a significant change from a decade ago, when 19% of immigrants were Asians and 59% were Hispanics.

Far fewer Asian Americans enter the US States illegally than do Hispanics. The Pew survey looked at recent arrivals of people with both legal and unauthorized status, as well as those arriving with work, student or other temporary visas.

Pew's exhaustive new report on Asian-Americans found important differences between Asian-Americans and other population groups in America. It also shed

light on the diversity among Asian-Americans, who sometimes cringe at the broadness of the category that covers every country of origin from Afghanistan to South Korea.

The Pew survey showed that across the board, Asian-Americans are more satisfied than any other Americans with their lives, finances and direction of the country.

They also place more value on traditional marriage, family and parenthood and usually possess a strong work ethic.

Nearly seven in 10 respondents said people could get ahead if they are willing to work hard. And 93% of Asian-Americans

describe people of their origin as "very hard-working," whereas only 57% said the same about Americans as a whole.

Asian-Americans also attain college degrees (61%) at about double the rate of recent non-Asian immigrants (30%), Pew found.

Indian-Americans lead other groups in terms of income and education.

Seven in 10 Indian-American adults ages 25 and older have a college degree, compared with about half of Americans of Korean, Chinese, Filipino and Japanese ancestry, and about a quarter of Vietnamese-Americans.



*In 2010, 36% of new immigrants were Asians compared to 31% for Hispanics.*

**Washington:** The immigration debate often centers on stemming the flow of people entering the United States illegally and what to do about securing borders to the south. But here's a fact that

goes without much attention: Asians have now taken over Latinos as the largest group of new arrivals every year.

In 2010, 36% of new immigrants were Asians compared to