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## **DEFERRED ACTION FOR CHILDHOOD ARRIVALS**

On Tuesday, August 14, 2012, U.S. Citizenship & Immigration Services (CIS) published the new Form I-821D, Consideration of Deferred Action for Childhood Arrivals, as well as updated guidance for Deferred Action for Young People. Under the Administration's plan the DHS will defer removal (deportation) proceedings against undocumented young people who meet certain requirements. Applicants must file both the new Form I-821D and an Application for Employment Authorization. The CIS will begin accepting applications as early as August 15, 2012.

### Eligibility Criteria

To be eligible for consideration, undocumented students and young adults must:

1. Have come to the United States under the age of sixteen;
2. Have continuously resided in the United States since June 15, 2007;
3. Have entered without inspection before June 15, 2012, or have had lawful immigration status that expired as of June 15, 2012;
4. Have been physically present in the United States on June 15, 2012;
5. Be physically present in the United States at the time of application for deferred action;
6. Be currently in school, have graduated from high school, have obtained a general education development certificate, or be honorably discharged veterans of the Coast Guard or Armed Forces of the United States;
7. Not have been convicted of a felony offense, a significant misdemeanor offense, three or more other misdemeanor offenses, or otherwise pose a threat to national security or public safety;
8. Have been under age 31 on June 15, 2012.

Generally, unless the individual is already in removal proceedings or subject to a final order of removal or voluntary departure, he or she must be at least 15 years old to apply for deferred action.

### Benefits

Applicants will apply for employment authorization concurrently with their applications for deferred action. The I-765 Worksheet requires the applicant to demonstrate economic necessity in order for employment authorization to be granted. Applications for Advance Parole (travel authorization) may not be filed until after the CIS has granted the deferred action status. Travel

authorization will be limited to humanitarian and emergency or urgent business travel needs following receipt of an Advance Parole travel document. Deferred action may be granted for a period of two years, which may be renewed upon continued qualification and continuation of the deferred action policy. Family benefits are not available. Each applicant must qualify individually.

### Application Procedure

Qualifying applicants must file the Form I-821D and an Application for Employment Authorization with the CIS in order to be granted deferred action. The government filing fees will total \$465. A biometrics appointment will be scheduled for the applicant to attend at a CIS Application Support Center to supply digital fingerprints and photographs. The CIS will run a background check on all applicants. An application must be filed with documentation that the applicant meets the requirements set forth for deferred action grants. There is no appellate procedure in the event that an application is denied.

The adjudication time frame is unpredictable due to the unknown total number of applicants who will be filing beginning on August 15<sup>th</sup>. The impact of large numbers of applicants on CIS resources may also impact time frames for other applications, particularly those that require biometrics appointments at the CIS Application Support Centers.

For additional information regarding potential eligibility under the deferred action program, and for assistance in preparing an application for deferred action benefits with all necessary supporting documentation, contact your FosterQuan immigration attorney. Additional updates will be made available via our firm's website at [www.fosterquan.com](http://www.fosterquan.com), and via future Immigration Update© bulletins as new details and application forms are made available.