



DHS Support of the Enforcement of Labor and Employment Laws

En español

The U.S. Department of Homeland Security plays an important role in ensuring that our nation's workplaces comply with our laws by supporting federal, state and local labor and employment agencies to accomplish their important work enforcing wage protections, workplace safety, labor rights, and other laws and standards. See the Oct. 12, 2021, [DHS Policy Statement 065-06 \(/publication/memorandum-worksite-enforcement\)](#), "Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual."

Workers are sometimes afraid to report violations of law by exploitative employers or to cooperate in employment and labor standards investigations because they fear removal or other immigration-related retaliation due to reports by an abusive employer. DHS's practice of offering discretionary protection on a case-by-case basis to victims who lack employment authorization directly increases the ability of labor and employment agencies to more fully investigate worksite violations and support them in fulfilling their mission and holding abusive employers accountable, which protects all U.S. workers. The process changes announced today will streamline the exercise of DHS's existing authority to grant such protection.

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For Labor Agencies Submitting a Statement of Interest Form

Multiple mechanisms in our immigration laws can provide employment authorization to noncitizen workers and protect them from removal, including discretionary relief such as deferred action or parole in place and other forms of relief such as [T and U nonimmigrant visas \(/https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes\)](#). There are also circumstances where a labor or employment agency may request expedited processing of a worker's pending application, petition, or request.

Labor and employment agencies can seek DHS support in an ongoing investigation or enforcement action by contacting [laborenforcement@dhs.gov \(/mailto:laborenforcement@dhs.gov\)](mailto:laborenforcement@dhs.gov), and including "a statement of interest" that addresses the following:

- Details the nature of their investigation and the need for DHS support;
- Describes the agency's enforcement interests that provide the basis for their request;
- Describes the worksite and the workers who may be helpful with the agency investigation; and
- Provides an agency point of contact who can address follow up questions from DHS.

Expedite requests from a federal, state, or local labor or employment agency must be made by a senior-level official of that agency. If the request relates to employment authorization, the request should demonstrate that the need for a person to be employment-authorized is mission-critical and goes beyond a general need to retain a particular worker or person. Examples include, but are not limited to, a noncitizen victim or witness cooperating with a federal, state, or local agency who is in need of employment authorization because the respective agency is seeking back pay or reinstatement in an enforcement action or other court proceeding.

Process for Workers Requesting Deferred Action

Deferred action is a form of prosecutorial discretion to defer removal action (deportation) against a noncitizen for a certain period of time. Although deferred action does not confer lawful status or excuse any past or future periods of unlawful presence, a noncitizen granted deferred action is considered lawfully present in the United States for certain limited purposes while the deferred action is in effect. DHS can terminate deferred action at any time, at its discretion.

Under existing regulations, a noncitizen granted deferred action may apply for and obtain employment authorization for the period of deferred action if they demonstrate "an economic necessity for employment."

Noncitizen workers who fall within the scope of a labor agency investigation can submit their requests for deferred action to USCIS through a central intake point specifically established to handle requests for deferred action related to labor agency investigative efforts. USCIS will forward to U.S. Immigration and Customs Enforcement (ICE) any requests for deferred action from noncitizens who are in removal proceedings or have a final order of removal, so ICE can consider the request for deferred action.

As with any request for deferred action, DHS will review requests based on a labor agency investigation on a case-by-case basis. DHS will review all positive and negative factors when considering whether to exercise discretion to grant deferred action.

To request labor agency-investigation-based deferred action under this centralized intake process, requestors must submit the following:

- A written request signed by the noncitizen stating the basis for the deferred action request;
- A letter or statement of interest from a labor or employment agency supporting the request;
- Evidence to establish that the worker falls within the scope identified in the labor or employment agency letter, such as W-2s, pay stubs, time cards, or other documentary evidence to demonstrate that the worker was employed during the period identified in the labor or employment agency statement
- Evidence of any additional factors supporting a favorable exercise of discretion;
- Proof of the noncitizen's identity and nationality;
- If applicable, any document used to lawfully enter the United States or other evidence relating to the noncitizen's immigration history or status;
- [Form G-325A \(https://www.uscis.gov/g-325a\)](https://www.uscis.gov/g-325a), Biographic Information (for Deferred Action);
- Form I-765, Application for Employment Authorization, with the appropriate fee or request for a fee waiver; and
- Form I-765WS, Worksheet

Submit these materials to:

USCIS
Attn: Deferred Action
10 Application Way
Montclair, CA 91763-1350

FAQs

1: What is deferred action?

Deferred action is a form of prosecutorial discretion to defer removal action (deportation) against a noncitizen for a certain period of time. Although deferred action does not confer lawful status or excuse any past or future periods of unlawful presence, a noncitizen granted deferred action is considered lawfully present in the United States for certain limited purposes, while the deferred action is in effect. If granted deferred action, a noncitizen may be eligible for employment authorization. DHS can terminate deferred action at any time, at its discretion.

2. Has DHS already granted deferred action to noncitizens who are participating in labor agency investigations?

Yes. DHS grants deferred action to noncitizen workers on a case-by-case basis at its discretion.

3. How does the centralized deferred action process work?

A noncitizen requesting labor agency investigation-based deferred action submits a written request for deferred action by submitting:

- A request for deferred action signed by the noncitizen which describes the basis for their request for deferred action;
- A copy of the letter issued by the labor or employment agency detailing the nature of the investigation or prosecution and the need for DHS support;
- Evidence to establish that the worker falls within the category of workers identified in the labor or employment agency's letter, such as W-2s, pay stubs, time cards, or other documentary evidence to demonstrate that the worker was employed during the period in the labor or employment agency statement;
- Evidence of any additional factors supporting a favorable exercise of discretion;
- Proof of the noncitizen's identity and nationality;
- If applicable, any document used to lawfully enter the U.S. or other evidence relating to the noncitizen's immigration history or status;

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- [Form G-325A \(https://www.uscis.gov/g-325a\)](https://www.uscis.gov/g-325a), Biographic Information (for Deferred Action);
- Form I-765, Application for Employment Authorization, with the applicable, non-refundable fee; and, Application for Employment Authorization, with the applicable, non-refundable fee; and
- Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, if applicable.

The noncitizen will submit this request to a central intake point at USCIS specifically established to support labor agency investigative and enforcement efforts. USCIS will refer to U.S. Immigration and Customs Enforcement (ICE) any deferred action requests that fall within ICE's authority, including requests submitted by noncitizens who are in removal proceedings or have a final order of removal.

As with any request for deferred action, DHS will review requests by workers based on a labor agency investigation on a case-by-case basis. DHS will review all positive and negative factors present in the requestor's case when considering whether to exercise discretion to grant deferred action.

A worker who is participating in or otherwise involved in a labor agency investigation may request deferred action for a period of up to two years.

4. Can a noncitizen worker who would otherwise fit within the scope of a labor-related request for prosecutorial discretion described in this FAQ but who does not want to submit a Form I-765, Application for Employment Authorization, request deferred action?

Yes. A noncitizen worker who falls within the scope of a labor agency investigation but who does not want to submit a Form I-765, Application for Employment Authorization, may request deferred action by submitting their request to the appropriate field office in accordance with the general instructions for requesting deferred action.

5. May a noncitizen granted deferred action be eligible for employment authorization?

Individuals granted deferred action may be eligible for employment authorization under category 8 C.F.R. 274a.12(c)(14), under existing regulations that require them to demonstrate an economic necessity for employment. Noncitizens submitting a deferred action request through this centralized process must concurrently submit their Form I-765, Application for Employment Authorization, with the appropriate fee. If we grant deferred action, we will adjudicate the Form I-765. Note that if we do not grant deferred action, we will not refund or return the Form I-765 fee. If the requestor does not want to file Form I-765, they can send their request using the standard procedure (sending it to the USCIS field office).

6. What agency will be reviewing requests for deferred action from noncitizen workers?

Requests for deferred action made by noncitizen workers who are participating in or otherwise necessary to a labor agency investigation may be submitted to USCIS through the central intake point specifically established to support labor agency investigative efforts for deferred action requests. USCIS will review the request, as well as the worker's immigration history, to determine which office within DHS has authority over the request. Upon reviewing the submission for completeness, USCIS will only forward to U.S. Immigration and Customs Enforcement (ICE) requests for deferred action that are submitted by noncitizens who are in removal proceedings or have a final order of removal. USCIS and ICE, as appropriate, will consider and make a case-by-case determination of the deferred action request and USCIS will consider all related Forms I-765, if submitted.

7. If deferred action is granted through this process, when does it end?

If deferred action is approved, it may be granted for a period of up to two years, subject to termination at any time. The recipient may also be eligible to make subsequent requests for deferred action, which will be adjudicated on a case-by-case basis when a labor agency provides a basis for such a request as it relates to the labor agency's ongoing investigative or enforcement interests.

8. What other immigration benefits can a noncitizen worker pursue if they are not granted deferred action?

A noncitizen worker who is the victim of a crime or subject to exploitation by an unscrupulous employer and cooperating in a labor agency investigation may be eligible for other forms of immigration relief beyond deferred action, including eligibility for a [T or U nonimmigrant visa \(https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes\)](https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes) or parole in place.

9. How can a labor agency find out more about this process?

Labor agency representatives can contact laborenforcement@dhs.gov (<http://laborenforcement@dhs.gov>) to learn more about this process.

Topics

[IMMIGRATION AND CUSTOMS ENFORCEMENT \(/TOPICS/IMMIGRATION-AND-CUSTOMS-ENFORCEMENT\)](#)

Keywords

[ENFORCEMENT \(/KEYWORDS/ENFORCEMENT\)](#) [IMMIGRATION \(/KEYWORDS/IMMIGRATION\)](#)

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