

DHS Announces Process Enhancements for Supporting Labor Enforcement Investigations

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En español

Changes Strengthen Efforts to Hold Unscrupulous Employers Accountable

WASHINGTON – The U.S. Department of Homeland Security (DHS) has announced that noncitizen workers who are victims of, or witnesses to, the violation of labor rights, can now access a streamlined and expedited deferred action request process. Deferred action protects noncitizen workers from threats of immigration-related retaliation from the exploitive employers. Effective immediately, this process will improve DHS’s longstanding practice of using its discretionary authority to consider labor and employment agency-related requests for deferred action on a case-by-case basis. Workers will be able to visit [DHS.gov \(/enforcement-labor-and-employment-laws\)](https://www.dhs.gov/enforcement-labor-and-employment-laws) for additional information in English and Spanish and to submit requests. These improvements advance the Biden-Harris Administration’s commitment to empowering workers and improving workplace conditions by enabling all workers, including noncitizens, to assert their legal rights.

“Unscrupulous employers who prey on the vulnerability of noncitizen workers harm all workers and disadvantage businesses who play by the rules,” **said Secretary of Homeland Security Alejandro N. Mayorkas**. “We will hold these predatory actors accountable by encouraging all workers to assert their rights, report violations they have suffered or observed, and cooperate in labor standards investigations. Through these efforts, and with our labor agency partners, we will effectively protect the American labor market, the conditions of the American worksite, and the dignity of the workers who power our economy.”

Workers are often 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 by an abusive employer. Agencies tasked with enforcing labor and employment laws depend on the cooperation of these workers in their investigations. Refraining from reporting violations due to a fear of immigration-based retaliation creates unfair labor market conditions and perpetuates

the commission of unlawful and inhumane acts by employers, including nonpayment of wages, the imposition of unsafe working conditions, and chilling workers' ability to organize and collectively bargain to improve such conditions. DHS's practice of offering discretionary protection on a case-by-case basis to noncitizen victims facilitates the ability of labor and employment agencies to more fully investigate worksite violations, supporting the agencies in fulfilling their mission and holding abusive employers accountable. By streamlining this process and helping to improve workplace conditions for all workers, today's announcement is one of many ways in which DHS is taking action to fulfill its commitment to U.S. workers, pursuant to the [White House Task Force on Worker Organizing and Empowerment](https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/07/white-house-task-force-on-worker-organizing-and-empowerment-report/) (<https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/07/white-house-task-force-on-worker-organizing-and-empowerment-report/>).

In addition to providing new guidance to labor agencies regarding processes to seek deferred action for certain workers, DHS will also provide for a single intake point for deferred action requests from noncitizen workers that are supported by labor enforcement agencies. The centralized intake process will allow DHS to efficiently review these time-sensitive requests, provide additional security to eligible workers on a case-by-case basis, and more robustly support the mission of labor agencies. These process enhancements are consistent with Secretary Mayorkas' [October 2021 memorandum](#) ([/publication/memorandum-worksite-enforcement](#)), which directed DHS offices and agencies to ensure that DHS fulfills its critical role supporting the important work of labor agencies to enforce wage protections, workplace safety, labor rights, and other laws and standards.

DHS has long considered requests for deferred action submitted by noncitizen workers who fall within the scope of a labor agency investigation and/or enforcement action. Noncitizens will now be able to submit such requests to U.S. Citizenship and Immigration Services (USCIS) through a central intake point established specifically to support labor agency investigative and enforcement efforts. For deferred action requests from noncitizens who are in removal proceedings or have a final order of removal, upon reviewing the submission for completeness, USCIS will forward such requests to U.S. Immigration and Customs Enforcement (ICE) to make a final determination on a case-by-case basis. USCIS will consider all other deferred action requests on a case-by-case basis. USCIS will also consider all related employment authorization applications, including those related to deferred action requests decided by ICE. Given the often time-sensitive labor agency enforcement interests, efficient processing of deferred action and related applications for employment authorization will reduce potential risks to workers and retaliation by their employers under investigation.

In addition to satisfying individual criteria to facilitate case-by-case determinations, requests for deferred action submitted through this centralized process must include a letter (a Statement of Interest) from a federal, state, or local labor agency asking DHS to consider exercising its discretion on behalf of workers employed by companies identified by the agency as having labor disputes related to laws that fall under its jurisdiction. In addition to other elements, as detailed in DHS's [Frequently Asked Questions \(FAQs\)](#) ([/enforcement-labor-and-employment-laws](#)), the letter from the labor agency should include:

- The enforcement or jurisdictional interest of the labor agency and how it relates to the mission of the labor agency;
- The workers covered by the Statement of Interest;
- Why DHS's consideration of prosecutorial discretion with respect to these specific workers supports the labor agency's interest.

Consistent with existing practice, discretionary grants of deferred action under this process will typically last for a period of two years, subject to termination at any time. Individuals granted deferred action may be eligible for employment authorization under existing regulations, which require that they demonstrate an economic necessity for employment. They may also be eligible for subsequent grants of deferred action if a labor agency has a continuing investigative or enforcement interest in the matter identified in their original letter supporting DHS use of prosecutorial discretion.

For more information on USCIS and its programs, please visit [uscis.gov \(http://www.uscis.gov/\)](http://www.uscis.gov/) or follow us on [Twitter \(http://twitter.com/uscis\)](http://twitter.com/uscis), [Instagram \(https://www.instagram.com/uscis\)](https://www.instagram.com/uscis), [YouTube \(http://www.youtube.com/user/uscis\)](http://www.youtube.com/user/uscis), [Facebook \(https://www.facebook.com/uscis/\)](https://www.facebook.com/uscis/), and [LinkedIn \(https://www.linkedin.com/company/uscis\)](https://www.linkedin.com/company/uscis).

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