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MEMORANDUM

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To: International Education Program Administrators

Deferred Action for Dreamers

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On June 15, 2012 the Administration announced that it will provide a program of “deferred action” including work authorization for two year renewable periods on an individual basis if that individual:

- came to the United States under the age of sixteen;
- have continuously resided in the United States for a least five years preceding June 15, 2012 and is present in the United States on the that date;
- 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 poses a threat to national security or public safety; and
- is between the ages of 15 and 30.

The Administration has promised to have a process in place six weeks from June 15th to accept and process applications.

“Deferred Action” is a long available, but rarely granted process, by which an individual can make a request to a USCIS District Director to defer or put off any removal process as a matter of prosecutorial discretion or administrative grace. There are no regulatory criteria for this process and USCIS has long resisted putting any regulatory guidance into this use of discretion. However, this power has long been recognized by the courts as being inherent in the power to administer the immigration laws.

The Administration has made it very clear that the deferred action program for Dreamers is only an interim measure, and that a permanent resolution of the issues affecting Dreamers is up to Congress. It is rationalized as an effective and efficient use of agency resources.

The Administration has made it clear that its administrative grace will be made in 2 year renewable increments – although no reason for this 2 year limit was provided. It was also made clear that the 2 year period can be ended upon agency discretion.

It was also noted that full background checks will be required and that appropriate documentation regarding physical presence, age at entry and schooling will need to be provided (report cards, transcripts, diplomas, medical records, etc.).

Although the applicant will be required to demonstrate continuous physical presence, prior “brief and innocent absences undertaken for humanitarian purposes” will not break the presence requirement, although there has not yet been a decision whether a successful applicant will be permitted to travel.

There are also issues regarding criminal convictions.

Deferred action will also be available for those already under proceedings.

A copy of the President’s speech may be found [here](#).

A copy of the June 15, 2012 Homeland Security Memorandum may be found [here](#).

A copy of the Homeland Security Q&A may be found [here](#). Contact numbers for questions may be found throughout these materials. A useful chart containing contact numbers may be found at the end of the Q&A.

In working with the out of status community, you and your students may encounter unqualified individuals who only seek to take people’s money. Please warn your students to be careful.

Should a DREAMER rush to sign up? There are several questions out there which will need to be answered. Some will take time – others, an election. Will the next administration continue the program? What will happen at the end of the first two year period? Some answers may be known by the first week in November.

If the program is to begin in 6 weeks – the beginning of August – caution might dictate that one should wait another 2 ½ months to see who will fill the next Presidential term. Will the winner terminate the program, or just let it expire? Will prosecutorial discretion continue to be a policy concentrating enforcement away from DREAMERS? Will the next Congress pass the DREAM Act? Will ICE and USCIS continue to drag their heels regarding any positive administrative actions? We shall see, but unless the pressure for an individual to be employed is very strong – perhaps, she or he should wait a bit.

The *New York Times* on Saturday June 16, 2012 and on Monday June 18, 2012 had some interesting stories regarding the program, and the politics behind it. Click [here](#) and [here](#) to view them.

On Monday June 18, 2012 from 4-5pm, USCIS, ICE and CBP will hold a joint engagement. The announcement may be found [here](#).

Please don't hesitate to call us with any questions.

Many thanks for your comments, your suggestions and for referring your students, scholars and faculty members.

Please let me know if you have any questions, or if you would like copies of any of the materials covered.

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