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Immigration Enforcement

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Immigration Action

How to Seek Prosecutorial Discretion from ICE

On November 20, 2014, the Secretary of Homeland Security announced new immigration enforcement priorities and guidance on the exercise of prosecutorial discretion entitled *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants Memorandum*. All DHS agencies, including U.S. Immigration and Customs Enforcement (ICE), will apply these priorities when deciding which aliens to arrest, detain, and remove from the United States. ICE has long used prosecutorial discretion in performing its immigration enforcement mission, and is updating its procedures and training to implement the new priorities.

The Secretary also issued a memorandum entitled *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Whose Parents are U.S. Citizens or Permanent Residents*, which, through the exercise of prosecutorial discretion, allows individuals who meet the eligibility criteria to apply, on a case-by-case basis, for DACA and deferred action. U.S. Citizenship and Immigration Services (USCIS) will adjudicate all of these cases. If you have questions about deferred action or other services and benefits offered by USCIS, you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at www.uscis.gov for more information.

Information is provided below about how to seek prosecutorial discretion, including for individuals eligible for DACA and deferred action, from ICE under the new priorities.

For individuals in ICE custody

- In order to enhance its ability to detain and remove aliens who pose a national security or public safety threat, ICE Enforcement and Removal Operations (ERO) will be proactively reviewing the cases of individuals in its custody.
- If you would like to discuss your priority status or wish ICE to exercise prosecutorial discretion in your case, including if you believe you are eligible for DACA or deferred action, you should follow the detainee-staff communication procedures for your facility. These procedures are outlined in the orientation handbook you were provided when you were booked into ICE custody.
- You may also call the ICE ERO Detention Reporting and Information Line, toll-free, at 1-888-351-4024 to make your request.

For individuals in proceedings before the Executive Office for Immigration Review

- If your administrative proceedings are pending before an immigration judge or the Board of Immigration Appeals but you believe that you do not fall within the DHS enforcement priorities, including if you believe you are eligible for DACA or deferred action, ICE may agree to administratively close your case upon request.
- You may submit your request to the ICE Office of the Principal Legal Advisor (OPLA). You (or, if you are represented, your legal representative) should submit your request for prosecutorial discretion to the mailbox of the OPLA field office that is handling your case. A link to the OPLA field office mailboxes is available [here](#).

- Your request should include your full name, alien registration number (A-number), and the status of your case. You may also include the reasons you believe you do not fall within the DHS enforcement priorities, including if you believe you are eligible for DACA or deferred action.
- OPLA will consider your request promptly and provide a response to the e-mail address from which the incoming message was sent.

For individuals with removal orders who are scheduled for removal and are not in ICE custody

- ICE will review the cases of individuals scheduled for removal. However, if you have been scheduled for removal and believe that you merit prosecutorial discretion, including if you believe you are eligible for DACA or deferred action, you should promptly contact the ERO officer responsible for your case to discuss the matter.
- You may also call the ICE ERO Detention Reporting and Information Line, toll-free, at 1-888-351-4024. You may also contact your local OPLA office, or you may call the USCIS National Customer Service Center toll-free at 1-800-375-5283 or visit the website at www.uscis.gov for more information.

Reconsideration of ICE prosecutorial discretion decisions

- There is no formal reconsideration process, nor is there a right to the exercise of prosecutorial discretion.
- However, you may contact the supervisor of the DHS employee who made the decision in your case if you would like a further explanation of the decision. You may also contact OPLA to request review of the decision in your case.