



Minnesota
STATE COLLEGES
& UNIVERSITIES

DEFERRED ACTION FOR UNDOCUMENTED STUDENTS FREQUENTLY ASKED QUESTIONS

Overview

The following questions and answers provide general information about the recent change in U.S. Department of Homeland Security policy regarding undocumented immigrants under the age of 31, known as “Deferred Action.” Please note that this information is not intended as legal advice; individuals with questions about Deferred Action are encouraged to seek appropriate assistance, as noted below.

1. What is Deferred Action?

Deferred Action refers to “deferred action for childhood arrivals process,” a discretionary benefit which represents a policy change by the U. S. Department of Homeland Security. Using its prosecutorial discretion, the U. S. Department of Homeland Security has announced it will not initiate removal proceedings for certain individuals who arrived in the U.S. as children and do not hold legal immigration status.

2. How will Deferred Action affect MnSCU students?

System students who have no legal immigration status may be eligible for Deferred Action status from the U. S. Department of Homeland Security. It is the responsibility of any individual interested in Deferred Action to obtain the necessary information and apply to U. S. Citizenship and Immigration Services for Deferred Action status.

3. Does the “Deferred Action” process change federal law regarding undocumented students in higher education?

No. While Deferred Action potentially will benefit a number of system students, it has no impact on current federal law governing higher education. However, campus officials should anticipate requests for documentation of enrollment or other information by students or former students who choose to apply for Deferred Action, and may wish to direct interested students to appropriate resources for information on the process (see links below).

4. Who is Eligible for Deferred Action?

An individual must apply in order to receive Deferred Action status. The status may be granted for a period of two years subject to renewal, and may result in eligibility for employment authorization.

In order to be considered for Deferred Action status, an individual must:

- Have come to the U.S. before reaching their 16th birthday;
- Currently be under the age of 31;
- Have continuously resided in the U.S. since June 15, 2007;
- Be in school, have graduated or completed high school or received a GED, or have been honorably discharged from the U.S. armed services; and
- Not have been convicted of crimes (including a felony, significant misdemeanor, or three or more other misdemeanors) or pose a threat to national security or public safety.

Deferred Action is not a “lawful status” under immigration law and is not a basis for eligibility for permanent residency or citizenship. Deferred Action authorizes an individual to seek employment and provides some assurance of being able to stay in the United States for two years, subject to renewal.

There is no expedited process to receive Deferred Action.

According to federal sources, students who are approved for Deferred Action are not eligible for employment until their Employment Authorization Document is received.

5. What Impact Does Deferred Action Have on MnSCU?

Deferred Action has no direct impact on current MnSCU policies. There is no prohibition on enrolling undocumented students at system colleges and universities.

6. Are undocumented students eligible for financial aid if they have received Deferred Action?

No. Under federal law, undocumented students are not eligible for federal financial aid or for in-state tuition unless authorized by a state law passed after 1996. Because Minnesota has not passed such a law, the federal prohibition on financial aid and in-state tuition for undocumented students remains in effect. This has not been changed by the Deferred Action process.

Many MnSCU institutions have only one consolidated tuition rate (rather than resident and nonresident rates); the consolidated rate applies to all students, including undocumented students. Students who are undocumented cannot be granted resident tuition rates, even if they receive Deferred Action status.

7. What is the Role of Campus Personnel regarding Deferred Action?

College and university personnel are encouraged to provide students with information about resources regarding Deferred Action. However, campus personnel should not attempt to

advise individual students about whether they are eligible for Deferred Action. Rather, campus personnel should refer students to accurate sources of information about eligibility and application procedures; information resources regarded as reliable are listed below. Students may be reminded of the importance of providing truthful information in their applications, as immigration publications have emphasized that fraud will be prosecuted to the fullest extent of the law.

School officials may be asked for copies of documents to establish enrollment or other information needed to apply for Deferred Action; the established campus procedures for handling such requests apply.

8. Where can individuals get more information about applying for Deferred Action?

TELEPHONE

Individuals can call United States Citizenship and Immigration Services at 1-800-375-5283 with questions or to request more information on the Deferred Action for Childhood Arrivals process.

ON-LINE

The following web sites are recommended sources:

www.uscis.gov/childhoodarrivals - U.S. Citizenship and Immigration Services

www.ilcm.org – Immigrant Law Center of Minnesota

www.aila.org – American Immigration Lawyers Association

9. What if Students Have More Questions?

Students who have questions about whether their criminal history or other background would preclude their eligibility should use the above resources or seek assistance from licensed Minnesota immigration attorneys or reputable legal or non-profit organizations.

10. Colleges and Universities.

College and university administrators with additional questions should contact the Office of General Counsel.