Fact Sheet: Deferred Action for Immigrants In Labor Disputes

Why is this a new policy?

This policy was created in order to increase willingness of all workers including immigrants to report workplace labor violations. Immigrant workers organized to demand protections that will enable immigrants to assert their rights in the workplace. Workers can be protected from employer retaliation (i.e., revenge) and ICE enforcement while they are involved in labor disputes.

How do I know if I’m involved in a labor violation or dispute? Here are some examples:

- You are paid below minimum wage.
- You are not provided with meal/rest breaks.
- Your employer refuses to pay workers comp after you get hurt on the job.
- Your employer threatens or fires you for supporting the union.
- Your employer discriminates against you based on your race, color, national origin, sex, pregnancy, religion, age (over 40), medical condition, disability, immigration status, sexual orientation, or gender identity.
- Your employer harasses you (verbally or physically) or makes unwanted sexual advances.
- You work over 40 hours in a workweek but do not receive overtime pay.
- You are a new parent who is fired or threatened for requesting 12 weeks off to care for your newborn.
- Your employer retaliated against you or threatened you for complaining or talking with coworkers about workplace health/safety—for example, by cutting your hours.
- Your employer threatened to call ICE and report you.
- You witnessed a coworker experiencing any of the above.
- A labor or employment agency has already investigated your workplace.

What is a labor agency?

 Agencies that oversee enforcement of labor and employment laws are administered at the federal, state, and local levels. Federal agencies include the U.S. Department (DOL), the National Labor Relations Board (NLRB), and the Equal Employment Opportunity Commission (EEOC). State and local agencies include state Attorneys General and municipal agencies.

What is deferred action?

Deferred action provides temporary protection from immigration enforcement—i.e., deportation/removal. In addition, a person granted deferred action is considered to have lawful permission to be present in the U.S. during the grant of deferred action. Individuals with deferred action can apply for employment authorization.

Although deferred action is only a temporary form of immigration relief, individuals could potentially qualify for long-term immigration relief (i.e., lawful permanent residency) based on the labor violation. For example, the U or T visas may be available for survivors of certain crimes or labor or sex trafficking. Immigrants may consult with a qualified immigration attorney or DOJ accredited representative to explore these options.
What is the process for applying? As a brief overview, the applicant will:

1. Consult with a qualified attorney/s (more info section below: Who should I talk to).

2. Identify an existing labor or employment agency complaint against your employer, or file a new complaint if a labor violation exists.
   Note: most complaints have time limits—do not wait!

3. Obtain a written "Statement of Interest/Letter of Support" from a labor or employment agency.

   The USCIS filing fee is $410, but a fee waiver may be available.

5. If approved, the grants of deferred action and employment authorization will last for two years and could be renewed if you are still eligible.

How long is the application process?

Labor agency: the wait time to receive the Letter/Statement has ranged from a few days to several months. A requestor may contact the Department of Labor (DOL) after 30 days to follow up.

USCIS: the average case processing time for this application package is not yet known because this is such a new policy. An applicant should receive a biometrics (fingerprint/background check) appointment within weeks after filing.

What about parole in place as part of this new policy?

The new policy includes an additional potential immigration option for individuals involved in labor disputes called "parole in place." Parole in place allows people who came to the United States without permission from an immigration officer to stay for a certain period of time. Like deferred action, parole in place allows someone to apply for an employment authorization document. Additionally, parole in place could help certain immigrants with US citizen relatives become eligible for family-based adjustment of status. For more information, consult with a qualified immigration attorney or DOJ accredited representative.

Who should I talk to about my case?

For UC students and family members, contact your UC campus immigration attorney. There are also free immigration legal services to CSU students and CCC students. For the non-student community, here is a helpful legal directory.

Because most immigration attorneys are not experts in labor law, you may also need to consult with an employment/labor attorney:

Southern California
- San Diego County, Employee Rights Center: 619-521-1372. Languages: Spanish.

Northern California
- Legal Aid at Work: 866-864-8208. Languages: Spanish, some Asian languages.

Other resources: NILC: Workers' Rights

This resource is informational and is not intended to constitute legal advice.

We strongly encourage all immigrants, especially those with complex immigration situations (removal/deportation order, immigration court proceedings, etc.) or criminal issues, to consult with a qualified immigration attorney or DOJ accredited representative in order to assess your best immigration options and any risk associated with filing an application.