

Administrative Relief Fast Facts

MARCH 2014

- More than 1,100 immigrants are **separated from their families and communities** each day through deportations.
- The Obama administration has both the **legal authority** and the **moral responsibility** to prevent tomorrow’s citizens from suffering the consequences of political inaction on Capitol Hill. It can act without congressional assistance by providing what’s known in the legal community as “**administrative relief**.”
- “Administrative relief” is based on prosecutorial discretion (the power to make decisions about an immigrant’s ability to remain in the U.S.) and includes various forms of **temporary relief from deportation** and **work authorization**.
- The U.S. Department of Homeland Security (DHS) can **expand its prosecutorial discretion guidelines**. Currently, DHS can postpone, suspend or stop deportation proceedings, release a person from detention, or lower the priority of a case that does not serve enforcement interests. DHS also can grant work authorization and should expand the eligible categories to include people whose removal cases have been administratively closed.

RELIEF	DESCRIPTION	LEGAL AUTHORITY	WHO IS ELIGIBLE
Deferred action	U.S. Dept. of Homeland Security (DHS) authorizes a non-U.S. citizen to temporarily stay in the U.S. The person may apply for a work permit during the temporary status . Deferred action is decided on a case-by-case basis.	The executive branch’s longstanding prosecutorial discretion power was publicly revealed during the immigration case of John Lennon . ¹ DHS also has legislative authority to execute immigration laws, and deferred action is referenced in the Immigration & Nationality Act.	This is up to DHS, but generally, a person must demonstrate positive factors. A salient example is the granting of deferred action through the Deferred Action for Childhood Arrivals (DACA) program. ²
Deferred enforced departure (DED)	Similar to deferred action, but usually used for people from countries that are experiencing conditions such as a natural disaster or armed conflict. People covered by DED are not subject to removal from the U.S. for a designated period of time and may obtain a work permit .	The legal authority for DED is derived from the executive branch’s general powers to conduct foreign relations and enforce immigration laws. ³	DED has been limited to nationals from certain countries, such as Liberians , ⁴ Chinese nationals in 1990, Salvadorans, Persian Gulf evacuees, and Haitian parolees or applicants for asylum before Dec. 31, 1995. ⁵

LOS ANGELES (Headquarters)
 3435 Wilshire Blvd., Suite 2850
 Los Angeles, CA 90010
 213 639-3900
 213 639-3911 fax



WASHINGTON, DC
 1121 14th Street, NW, Suite 200
 Washington, DC 20005
 202 216-0261
 202 216-0266 fax

RELIEF	DESCRIPTION	LEGAL AUTHORITY	WHO IS ELIGIBLE
Temporary protected status (TPS)	Countries are designated for TPS when conditions in those countries temporarily prevent their nationals from returning safely (such as a natural disaster, armed conflict, or “extraordinary and temporary condition”), or if a country cannot handle the return of its nationals. Currently, there are eight TPS countries (El Salvador, Haiti, Honduras, Nicaragua, Somalia, Sudan, South Sudan, and Syria), but DHS can expand the list. Work permit is available.	Included in the Immigration & Nationality Act since 1990.	Nationals from the designated countries who meet the criteria specified in the country’s TPS designation. Haitians were granted TPS in 2010 as a result of an earthquake that killed 220,000 people. ⁶ President Obama should do the same for Filipinos, as a result of the devastating impact of Typhoon Haiyan in 2013.
Parole	DHS grants temporary parole —without formally determining whether to admit a person into the U.S. — on a case-by-case basis for urgent humanitarian purposes or significant public benefit. “Parole in place” is for people already physically in the U.S. Work permit is available.	Included in the Immigration & Nationality Act.	Granted on an individual basis. In 2010 the Obama administration began a policy of granting parole to spouses, parents, and children of military members . ⁷
Administrative closure	Temporarily stops removal proceedings by closing a person’s case and removing it from the court’s hearings calendar; does not permanently end the removal process. Person is <i>not</i> eligible for work permit. DHS could make much greater use of this process. ⁸	The legal authority for administrative closure is inherent in the court’s power to control its own docket and is supported by case law . ⁹	People who are in removal proceedings. DHS could expand its use, for example, for persons who have U.S. citizen children or who take care of a person with disabilities.
Stay of deportation	Blocks U.S. Immigration and Customs Enforcement (ICE) from deporting someone, even if the person is subject to a deportation order. The application for a stay of deportation considers humanitarian and foreign policy concerns and other factors. The person is <i>not</i> eligible for a work permit.	Included in the Immigration & Nationality Act.	People who are under an order of removal order. For example, the deportation of Steve Li , a college student, was halted after a public campaign highlighted his lack of ties to his birth country of Peru. ¹⁰
Order of supervision	In cases in which people with final removal orders cannot be deported to their home countries, ICE can issue an order of supervision to release them from detention. Work permit is available.	Included in the Immigration & Nationality Act.	People who are under removal orders. For example, under an order of supervision ICE releases from detention people who are from Laos because Laos does not accept deportees. The only alternative for such people would be indefinite detention.

URLs for Links Included in the Table

¹ <http://tinyurl.com/p9outfo>.

² <http://www.migrationpolicy.org/research/deferred-action-childhood-arrivals-one-year-mark-profile-currently-eligible-youth-and?pdf=cirbrief-dacaatoneyear.pdf>.

³ <http://www.whitehouse.gov/the-press-office/presidential-memorandum-regarding-deferred-enforced-departure-liberians>.

⁴ <http://www.uscis.gov/humanitarian/temporary-protected-status-deferred-enforced-departure/ded-granted-country-liberia/ded-granted-country-liberia>.

⁵ http://www.uscis.gov/sites/default/files/files/pressrelease/DED_110101.pdf.

⁶ <http://www.uscis.gov/humanitarian/temporary-protected-status-deferred-enforced-departure/tps-designated-country-haiti>.

⁷ http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2013/2013-1115_Parole_in_Place_Memo_.pdf.

⁸ <http://www.ilw.com/immigrationdaily/news/2012,0430-prosecutorialdiscretion.pdf>.

⁹ http://www.nationalimmigrationproject.org/legalresources/practice_advisories/cd_pa_ABC%20-%2020%20Years%20Later%20-%20amended.pdf.

¹⁰ <http://www.sfgate.com/education/article/Steve-Shing-Ma-Li-freed-as-Feinstein-interven-3165628.php>.