

DHS Deferred Action Policy



The Office of the
Minnesota Attorney General
helping people afford their lives and live with dignity, safety, and respect

On January 13, 2023, the U.S. Department of Homeland Security (DHS) announced its Deferred Action Policy to protect the rights of non-U.S. citizen workers and improve workplace conditions. This policy aims to strengthen the ability of labor and employment agencies to investigate labor violations while holding abusive employers accountable. Under the policy, DHS may grant victims or witnesses to labor violations deferred action from removal and allow recipients of deferred action to obtain a temporary classification for the duration of a labor and employment agency investigation or enforcement action.

In order to be eligible, the labor violations must be under investigation by a federal, state, or local labor agency AND the agency investigating the labor violations must submit a letter to DHS supporting your eligibility for Deferred Action. DHS considers Deferred Action applications on a case-by-case basis.

The Minnesota Attorney General's Office recommends that individuals interested in Deferred Action consult with a qualified immigration attorney.

You may be a victim of labor violations if your employer, in the past or present:

- Did not pay you the wages you are owed
- Did not pay you overtime wages for work after 40 or 48 hours
- Did not provide you with breaks required by law
- Did not provide you with proper safety equipment
- Is forcing or coercing you to work, or you feel like you cannot leave your job
- Has taken your passport or other identity documents

If you are granted Deferred Action¹:

- You are temporarily protected from deportation and may temporarily remain in the United States.
- You may be eligible for work authorization if you can demonstrate an economic need to work.

Important to Know

- The DHS Deferred Action Policy does **NOT** provide a direct path to long-term immigration status, such as permanent residency or citizenship.
- Deferred Action may be rescinded by DHS at any time, such as when an agency's investigation concludes.
- U.S. Citizen and Immigration Services (USCIS) has stated that it does not intend to send worker information to U.S. Immigration and Customs Enforcement (ICE) if it denies a worker's request for Deferred Action².
- Deferred Action may be requested at the same time as other forms of immigration relief that offer greater protections, such as Continued Presence or U and T visas.

¹ Deferred action generally last for four (4) years, or until the investigation ends. Deferred Action may be eligible to be renewed.

² DHS's practice of not sending worker information from USCIS to ICE is at the discretion of the agency and could be modified if there is a change of administration at the federal level (i.e., a new President is elected).