




**U.S. Immigration
and Customs
Enforcement**

MEMORANDUM FOR: All Employees

FROM: John Morton
Director 

SUBJECT: Secretary Napolitano's Memorandum Concerning the Exercise of Prosecutorial Discretion for Certain Removable Individuals Who Entered the United States as a Child

DATE: June 15, 2012

Today the Secretary of Homeland Security issued the attached memorandum concerning the exercise of prosecutorial discretion for certain removable individuals who entered the United States as a child. Effective immediately, ICE agents and officers are instructed to exercise prosecutorial discretion in a manner that aligns with the Secretary's memorandum. The memorandum states that, with respect to individuals who meet the criteria outlined below, ICE agents and officers should immediately exercise their discretion, on an individual basis, in order to prevent these low priority individuals from being placed into removal proceedings or removed from the United States.

An individual is covered by the Secretary's memorandum if the individual—

- came to the United States under the age of sixteen;
- is not above the age of thirty;
- has continuously resided in the United States for at least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, or multiple misdemeanor offenses; and
- does not otherwise pose a threat to national security or public safety.

ICE has also been directed to apply the Secretary's policy, on a case by case basis, to individuals whose cases are pending before the Executive Office for Immigration Review and can demonstrate that they meet the above noted criteria. To better facilitate this process, ICE has been further directed to implement a process within sixty days that allows individuals whose

cases are pending before the Executive Office for Immigration Review to request a review of their cases through the ICE Public Advocate.

Additional guidance on the Secretary's memorandum will be issued as soon as possible. In the meantime, if ICE personnel have questions about the exercise of prosecutorial discretion described in the Secretary's memorandum, they should contact their supervisor or local chief counsel's office.

Disclaimer

As there is no right to the favorable exercise of discretion by the agency, nothing in this memorandum should be construed to prohibit the apprehension, detention, or removal of any alien unlawfully in the United States or to limit the legal authority of DHS or any of its personnel to enforce federal immigration law. Similarly, this memorandum, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.