

## Executive Action to Keep Families Together

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By Michael Freestone



On June 18<sup>th</sup>, 2024, the White House has announced a new aimed to provide relief to potentially over half a million immigrants without status as well as children by providing a direct path to legal permanent residence. In addition, the Executive Action will aim to ease the working visa process for Deferred Action for Childhood Arrivals (DACA) recipients and US college graduates who have earned a degree in the United States.

The Executive Action lays out the following framework for spouses of U.S. citizens and children to keep their families together. There is a ten-year residence requirement followed by a three-year designated period to apply for legal permanent residency. This temporary period will also allow for work authorization for qualified applicants. We still don't know exactly how this will be implemented, but it will likely take the form of an immigrant visa petition or temporary status petition, which then provides the three-year window to file an I-485 adjustment of status application. Many questions remain including the required evidence, filing fees, processing times as well as the current backlogs for immigrant visa processing. However, this Executive Action represents a major election-year step to improve the nation's immigration system at a time when the southern border is subject to intense scrutiny. The exact text of the legal pathway is below:

- To be eligible, noncitizens must – as of June 17, 2024 – have resided in the United States for 10 or more years and be legally married to a U.S. citizen, while satisfying all applicable legal requirements. On average, those who are eligible for this process have resided in the U.S. for 23 years.
- Those who are approved after the Department of Homeland Security (DHS)'s case-by-case assessment of their application will be afforded a three-year period to apply for permanent residency. They will be allowed to remain with their families in the United States and be eligible for work authorization for up to three years. This will apply to all married couples who are eligible.
- This action will protect approximately half a million spouses of U.S. citizens and approximately 50,000 noncitizen children under the age of 21 whose parent is married to a U.S. citizen.

The DACA and US College Graduates provision to ease visa requirements are light on details – which is understandable given the nature of Executive Actions – but it is a significant step to recognize the White House's commitment to DACA as well as college graduates. We can only speculate what form the regulatory improvements will take; there could be special processing time frames for potential regulatory changes to the H1B visa category. The text of the Executive Action is as follows:

- President Obama and then-Vice President Biden established the DACA policy to allow young people who were brought here as children to come out of the shadows and contribute to our country in significant ways. Twelve years later, DACA recipients who started as high school and college students are now building successful careers and establishing families of their own.

- Today's announcement will allow individuals, including DACA recipients and other Dreamers, who have earned a degree at an accredited U.S. institution of higher education in the United States, and who have received an offer of employment from a U.S. employer in a field related to their degree, to more quickly receive work visas.
- Recognizing that it is in our national interest to ensure that individuals who are educated in the U.S. are able to use their skills and education to benefit our country, the Administration is taking action to facilitate the employment visa process for those who have graduated from college and have a high-skilled job offer, including DACA recipients and other Dreamers.

It is an exciting time for immigrants who have lived in this country for some time. It is also potentially a huge benefit to the younger generation who are now graduating from college and trying to build their American Dream. As the White House states in the Executive Action: "Immigrants who have been in the United States for decades, paying taxes and contributing to their communities, are part of the social fabric of our country."

How is an Executive Action different to an Executive Order?

Executive Actions are executive branch instructions to implement policies, rules, regulations under existing laws. As opposed to Executive Orders which are legally binding directives to the executive branch that are legally enforceable.