
Education Not Deportation:

A Guide for Undocumented Youth in Removal Proceedings

Asian Law Caucus, Educators for Fair Consideration, DreamActivist.org and National Immigrant Youth Alliance



About Our Organizations

ASIAN LAW CAUCUS (ALC) - The mission of the Asian Law Caucus is to promote, advance, and represent the legal and civil rights of the Asian and Pacific Islander communities. Recognizing that social, economic, political and racial inequalities continue to exist in the United States, the Asian Law Caucus is committed to the pursuit of equality and justice for all sectors of our society with a specific focus directed toward addressing the needs of low-income and Asian and Pacific Islanders. Visit: asianlawcaucus.org

EDUCATORS FOR FAIR CONSIDERATION (E4FC) - The mission of Educators for Fair Consideration is to help immigrant students realize the American dream of college and citizenship. E4FC provides scholarships, legal services, mentoring, and professional internships to immigrant students who have grown up in the United States but face challenges due to financial need and immigration status. We also lead presentations at schools and organizations throughout California, train and empower students to tell their stories, and create educational materials that are used nationwide. Visit: e4fc.org

DREAMACTIVIST.ORG - DreamActivist.org is a multicultural, migrant youth-led, social media hub for the movement to pass the DREAM Act and pursue the enactment of other forms of legislation that aim to mend the broken immigration system. Visit: dreamactivist.org

NATIONAL IMMIGRANT YOUTH ALLIANCE (NIYA) - The National Immigrant Youth Alliance (NIYA) is an undocumented youth-LED network of grassroots organizations, campus-based student groups and individuals committed to achieving equality for all immigrant youth, regardless of their legal status. Visit: theniya.org

EDUCATION NOT DEPORTATION (END) - Education Not Deportation is a program under National Immigrant Youth Alliance (NIYA). It is a national campaign to prevent the deportations of young people, thereby allowing immigrant youth to continue their lives in the United States, pursue higher education and achieve their dreams. Visit: endnow.org

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Resources

Asian Law Caucus: Founded in 1972, we provide free legal advice and direct representation to immigrants, including DREAM Act students, in removal proceedings before the Immigration Court, the Board of Immigration Appeals and the Ninth Circuit Court of Appeals. In addition, ALC houses an immigrant youth group called ASPIRE: Asian Students Promoting Immigrants Rights Through Education. ASPIRE is the first undocumented Asian youth group in Northern California that provides support and leadership training to API DREAM Act students. ASPIRE is a membership driven youth group. ALC will provide legal support and campaign support to DREAM Act students in Northern California.

Educators for Fair Consideration: E4FC's Case Analysis Service provides free analysis of possible immigration remedies and forms of deportation relief to immigrant students nationwide. Students can go online and submit a comprehensive intake form, which is reviewed by our team of attorneys, legal experts, and immigrant student team members who work together to guarantee that clients receive a thorough analysis of their possible options. This confidential and anonymous service is intended for immigrant students who do not yet have legal residency or citizenship in the United States. Students should be under 35 years old and enrolled (or intending to enroll) in college. Visit: <http://e4fc.org/legalservices.html>.

DreamActivist.org: Since the summer of 2009, we have worked to stop the deportation of countless DREAM-eligible youth. Currently we are able to provide online support for your individual deportation campaign. This support includes working with you 1:1 to create an online petition, organizational sign-on letter etc. as well as providing you tips about how to gain national attention. DreamActivist.org currently maintains the largest online presence amongst both pro and even anti-immigration groups. For support, reach out to end@dreamactivist.org

National Immigrant Youth Alliance ("NIYA") via project Education not Deportation, "END": If you find yourself in any of the following states: AL, CA, GA, IL, IN, MI, NC, NY, OH, OR, PA, SC, TX, VA and WA, please contact us. We can provide direct, one-on-one support, including media support, legal support, and legislative support in addition to traditional organizing support. Visit: <http://theniya.org/>. For direct support, send an email to help@endnow.org.

Disclaimer

This guide is intended to provide general information about legal strategies that is not specific to any DREAM Act student's case. Therefore, it is not intended to constitute legal advice for everyone. We recommend that you consult an immigration attorney with expertise in removal defense to ensure that this information and your interpretation is appropriate to your particular situation.

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I. General Introduction

In January 2010, four brave undocumented students embarked on a 1,500-mile journey from Miami, FL to Washington, D.C. called “The Trail of Dreams.” Carrying with them the dreams of undocumented students nationwide, they inspired students to take action in support of immigration reform. From the East Coast to the West Coast, undocumented students came out of the shadows and demanded that their voices and stories be heard.

Students’ actions succeeded in igniting a heated national debate about immigration policy. Unfortunately, however, 2010 ended with the Senate’s failure to pass the Development, Relief and Education for Alien Minors Act (DREAM Act), proposed legalization that would have provided a path towards legalization for many undocumented students. The failure of the DREAM Act inspired us to create this guide.

This guide is intended to aid certain undocumented students and their lawyers to fight effectively throughout a removal (deportation) proceeding. We have written this guide specifically for students who have already sought all other options to avoid deportation, but we believe the information in this guide should be valuable to all undocumented students and their attorneys.

Although this process can seem daunting to many students, we want to ensure students that hope is not lost. As reference points we use previous cases where students and their attorneys have successfully maneuvered through their removal proceedings. Using these victories, this removal manual provides important instructions that can aid in this complicated process.

Throughout the manual we briefly describe the current and past struggles to change immigration policy, explain the different remedies that might be available to certain undocumented students, and include templates that students and attorneys can use to gain community and public support. While we try to include as much information as possible, this process will undoubtedly require tremendous dedication from the student and his/her attorney. In fact, being placed in a removal proceeding will likely challenge students in numerous ways. At the same time, however, we hope that students and their attorneys exhaust all possibilities and realize that hope is far from lost.

Legal Section

I. Introduction to the Legal Section

This section will briefly summarize current struggles to pursue federal and administrative relief for undocumented students. This includes the Development, Relief and Education for Alien Minors Act (DREAM Act) and administrative relief known as the DREAM Act Moratorium.

This section will also allow you to become familiar with removal (deportation) proceedings and some of the possible legal options that may be available to DREAM Act students who are in this situation. To fully comprehend this information, it is important that you read every portion of this section from beginning to end.

In order to make you more knowledgeable and familiar with some of the immigration processes, we have underlined immigration terms and defined them in the glossary at the end of the guide. We strongly encourage you to work with an immigration attorney on your legal case, as we expect that he/she will be best equipped to understand the legal aspects and terms described in this section.

II. Historical Account

The DREAM Act

The Development, Relief and Education for Alien Minors Act, otherwise known as the DREAM Act, is a bipartisan bill that seeks to address the situation faced by many young students who were brought to the United States, often as young infants. These students have grown up in the United States and now dream of obtaining a higher education in order to contribute to the society that has aided them in their life struggles. This bill has been presented several times but has not become law yet.

Under the current version of the DREAM Act¹, students with good moral character who came to the United States at age 15 or younger at least five years before the date of the legislation's enactment would qualify for "conditional permanent resident status" upon acceptance to college, graduation from a U.S. high school or being awarded a GED in the U.S. or serving in the armed forces. In order to be eligible, students must show good moral character at the initial application stage and the adjustment stage². A student found not to have good moral character may have his/her application denied. A list of conduct is provided by the statute in defining a lack of good moral character³. Despite many unsuccessful attempts at passage, the DREAM Act continues to enjoy the support of President Obama, former Secretary of State General Colin Powell, leadership in the House and Senate and all relevant committee chairs. A recent survey found that 70% of the American public would support the passage of the DREAM Act.

¹ Introduced by Rep. Howard Berman (D-CA) and Rep. Lincoln Diaz-Balart, (R-FL), the House of Representatives passed the DREAM Act, by 218-198, by a historic vote for H.R. 6497. The DREAM Act was added as an amendment to H.R. 5281. On December 9, 2010, the Senate decided to focus on the House version of the DREAM Act and withdrew consideration of S. 3992. On December 18, 2010, the Senate failed to gather sufficient votes to invoke cloture o the House version of the DREAM Act by 55-41. On May 11, 2012, Senators Harry Reid (D-Nev) and Dick Durbin (D-III) reintroduced the DREAM Act

² The adjustment stage occurs after the application has been accepted and the individual can obtain a lawful status

³ A list of conduct defining a lack of good moral character is found under INA § 101(f)

Is it a priority to deport DREAM Act students?

Recently, in 2011, Secretary Janet Napolitano said that DREAM Act students were "not the priority" when it came to enforcing immigration laws. However, that statement stops short of a commitment not to place DREAM Act students in removal proceedings.

In 2010, Immigration & Customs Enforcement's (ICE) director John Morton issued a memorandum called, "Civil Immigration Enforcement: Priorities for Apprehension, Detention, and Removal of Aliens⁴." Also known as the "Morton Memo," the instruction identified individuals who "pose a danger to the national security or a risk to public safety" as ICE's priority for removal from the United States.

While the "Morton Memo" never explicitly discussed DREAM Act students, Morton himself has offered the idea that with limited resources, ICE's enforcement policies should not include the deportation of DREAM Act students. John Morton was later quoted in the New York Times as stating, "In a world of limited resources, our time is better spent on someone who is here unlawfully and is committing crimes in the neighborhood... as opposed to someone who came to this country as a juvenile and spent the vast majority of their life here."⁵

While clearly ICE Director John Morton believes that ICE's resources should be better spent on individuals with criminal convictions, his memo stops short of calling for an outright moratorium of the deportation of all DREAM Act students.

Durbin and the DREAM Act Moratorium

Mobilization by DREAM Act students in the past years has created momentum and support on both sides of the House and Senate, between Democrats and Republicans, at educational institutions, amongst state and local leaders and in the general American public. Even so, Congress has failed to fix the immigration problems that currently exist. With the failure of the DREAM Act,

⁴ New ICE Memo on Detention Priorities, No Deportation Blogspot (June 30, 2010) <http://nodeportation.blogspot.com/2010/06/aila-just-posted-new-memorandum-from.html>

⁵ Julia Preston, Students Spared Amid An Increase in Deportations, New York Times Online Edition (Aug. 8, 2010) http://www.nytimes.com/2010/08/09/us/09students.html?_r=1&scp=1&sq=John%20Morton%20DREAM&st=cse

eligible students need a temporary solution, which is what the moratorium seeks to create.

A moratorium is a legally authorized postponement of certain actions. In April 2010, Assistant Senate Majority Leader Dick Durbin (D-IL) and Senator Richard Lugar (R-IN) sent a letter to Janet Napolitano, Secretary of the U.S. Department of Homeland Security (DHS), to ask for a moratorium on the deportation of all DREAM Act eligible students. Temporarily halting the deportation of DREAM Act students is an administrative fix before a law is passed that would allow students a pathway to a green card (i.e. the Dream Act).

A moratorium would not provide a pathway to a green card or any immigration benefits since it would only be a temporary fix. It would merely give a DREAM Act student the ability to stay in this country until Congress can find a solution to the problem (i.e. passing the DREAM Act). For DREAM Act students placed in removal (deportation) proceedings, a moratorium would halt their deportation immediately. Only students who are eligible under the DREAM Act would be subject to this moratorium, including: (1) students with good moral character who came into the United States when they were 15-years old or younger; (2) students who graduated from high school or received a GED; and (3) students who have been accepted into a two-year or four-year college or (4) have served in the armed forces with an honorable discharge. DREAM Act students must meet all of these requirements.

Bellow is the letter from Durbin/Lugar to Napolitano seeking a moratorium.

Does a moratorium actually exist?

The Department of Homeland Security (DHS) never responded to Senator Durbin's call for a moratorium of the deportation of DREAM Act students. That request is considered pending by Senator Durbin's office. Currently, DREAM Act students who come into contact with Immigration and Customs Enforcement (ICE) continue to be placed in removal proceedings.

Until ICE prioritizes whom it wants to remove and recognizes that it is not in the Government's best interest to deport DREAM Act students, immigration advocates and attorneys should collectively call for a moratorium until Congress can introduce the DREAM Act or other forms of immigration reform again. At the time of writing this guide, Senator Durbin re-introduced the DREAM Act on May 11, 2011. His re-introduction of the DREAM Act this year is not expected to gain any traction.

April 21, 2010

The Honorable Janet Napolitano
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

We respectfully request that you grant deferred action to individuals who would be eligible for cancellation of removal or a stay of removal under S. 729, the DREAM Act, bipartisan immigration reform legislation that we have introduced.

As you know, the DREAM Act would provide immigration relief to a select group of students who arrived in the U.S. when they were 15 or under, have lived in the U.S. for at least five years, have good moral character, are not inadmissible or removable under a number of specified grounds, have graduated from high school or obtained a GED, and attend college or serve in the military for two years.

At a hearing of the Senate Judiciary Committee on May 6, 2009, you testified, "the Dream Act is a good piece of legislation and a good idea." We greatly appreciate your support for the DREAM Act. However, pending enactment, individuals who would be eligible for the DREAM Act are subject to removal, and such cases are currently handled on an ad hoc basis.

Though they are technically out of status, DREAM Act students should not be removed from the United States. The DREAM Act is narrowly tailored to assist only a select group of young people, many of whom came here with their parents at an age when they were too young to understand the consequences of their actions.

Deferred action for DREAM Act students would conserve limited enforcement resources. DREAM Act students are not, and should not be, an enforcement priority for DHS. As then-INS Commissioner Doris Meissner explained in a November 17, 2000 memorandum on "Exercising Prosecutorial Discretion":

Like all law enforcement agencies, the INS has finite resources, and it is not possible to investigate and prosecute all immigration violations. ... As a general matter, INS officers may decline to prosecute a legally sufficient immigration case if the Federal immigration enforcement interest that would be served by prosecution is not substantial.

The Meissner memorandum suggests developing a list of "triggers" to "identify cases at an early stage that may be suitable for the exercise of prosecutorial discretion." A number of these factors apply to DREAM Act students, including "Juveniles," "Aliens with lengthy presence in United States," and "Aliens present in the United States since childhood."

Deferred action for DREAM Act students would not apply to a large number of individuals. Based on information gathered by Senator Durbin's office over the last several years, only a small number of DREAM Act students are placed in removal proceedings. This is probably because these students are well integrated into American society and do not typically engage in behavior that makes them an enforcement priority for DHS.

The current leadership at Immigration and Customs Enforcement has been very helpful in addressing individual DREAM Act cases that have come to our attention. However, deferred action for DREAM Act students would be more efficient than the existing ad hoc system. The decision to grant deferred removal in a DREAM Act case is frequently made shortly before the removal date. This is an inefficient use of limited resources. As the Meissner memorandum states:

As a general matter, it is better to exercise favorable discretion as early in the process as possible, once the relevant facts have been determined, in order to conserve the Service's resources and in recognition of the alien's interest in avoiding unnecessary legal proceedings.

There is a recent precedent for deferred action for DREAM Act students. In June 2009, DHS granted deferred action to widows of U.S. citizens who were married for less than two years prior to their spouses' death. As you said at the time, "Smart immigration policy balances strong enforcement practices with common-sense, practical solutions to complicated issues." The situation of DREAM Act students is just such a complicated issue which requires the common-sense, practical solution of deferred action.

Thank you for your support of the DREAM Act and for considering our request that you grant deferred action to individuals who would be eligible for the DREAM Act.

Sincerely,

Senator Dick Durbin
Senator Richard Lugar

Why should we have a moratorium to halt the deportation of DREAM Act students?

Immigration and Customs Enforcement (ICE)'s priority concerning who they should or should not deport has ripple effects on the entire immigration system. ICE is deporting more people under the Obama Administration than ever before. Because ICE has a removal goal of 400,000 noncitizens a year, the Immigration Courts have experienced tremendous delays in deciding the outcome of deportation cases⁶. The worst wait times happen to be in California with pending cases waiting about 639 days on average⁷. More deportation cases means that Immigration Courts bear the effect of ICE's inability to prioritize who they want to remove from the United States. Immigration Judges are stressed when they are strapped with limited resources to complete cases. Delays result in long-term detention for detainees at the expense of taxpayers and inefficient systems. ICE should have a system that explicitly instructs its enforcement priorities for all agencies and local ICE offices tasked with issuing Notice to Appear(s)⁸.

Are there any other forms of administrative fixes besides a moratorium?

This guide focuses primarily on the US Department of Homeland Security (DHS)'s ability to exercise prosecutorial discretion by granting deferred action to students who are facing removal from the United States (prosecutorial discretion and deferred action are both described later in this section).

Other suggestions for administrative fixes have included temporary protected status and parole in place. These administrative fixes do not currently exist for DREAM Act students, but advocates are working hard to make them a reality.

⁶ Sharon Cohen, 'Massive Crisis' Snarls Immigration Courts, MSNBC. Com (April 10, 2011) http://today.msnbc.msn.com/id/42521399/ns/us_news-crime_and_courts/

⁷ Immigration Court Outcomes Tool: Completed Cases and Completion Time in Immigration Courts, Transactional Records Access Clearinghouse, Immigration Project (Sep. 27, 2010) (http://trac.syr.edu/phptools/immigration/court_backlog/)

⁸ A Notice to Appear is a document that is issued to individuals to begin deportation against a person.

Temporary protected status (TPS), also known as Extended Voluntary Departure, is available only to citizens from El Salvador, Haiti, Honduras, Nicaragua, Somalia and Sudan. It allows the Attorney General to temporarily suspend the deportation of citizens from these countries because of armed conflict, environmental disaster or other crises⁹. Parole in place allows a person to be paroled into the United States for humanitarian reasons, otherwise known as humanitarian parole. Unlike deferred action, a grant of parole does provide lawful immigration status.

At the time of the writing of this guide, temporary protected status and parole in place is not currently available for DREAM Act students.

⁹ You must meet all of the eligibility requirements for TPS registration for a specific country and not trigger any grounds of inadmissibility

III. What is a removal proceeding?

A removal proceeding is also known as a deportation hearing. A removal proceeding is a hearing presented before an Immigration Judge to determine whether someone should be deported from the United States. In order for a student to be placed in a removal proceeding, Immigration and Customs Enforcement (ICE) has to present a document called the “Notice to Appear.” This document is typically given to the student and a copy is filed with the Immigration Court. The Notice to Appear (NTA) is to notify you of the immigration charges and the reasons why ICE believes that an Order of Removal (Deportation order) should be entered in your case.

What happens after you are placed in removal proceedings?

After being served with the Notice to Appear, you will be scheduled for a court date. Sometimes, your first court date is listed on the Notice to Appear. More often, the court will mail you a separate notice, informing you of the time and date of your hearing. You can also check your court date by calling the immigration court’s automated hotline at 1-800-898-7180, and entering your alien registration number or “A-number” which is a 8 or 9 digit number starting with an “A”.

If you miss your hearing, the immigration judge may order you deported in your absence. So, it is critical that you keep your address up to date with the court. You can update your address by mailing Form EOIR-33 to the court. You must also mail a copy of the form to the Department of Homeland Security. A copy of the form should be attached to your Notice to Appear.

What is going to happen at your court hearings?

There are two types of hearings in immigration court: master calendar hearings and individual hearings. Your first hearing is a master calendar hearing. At master hearing dates, the immigration judge typically deals with scheduling court dates, takes pleadings, and handles administrative matters. At individual hearings, the immigration judge listens to testimony and makes decisions on applications for relief. Your first court

hearing will be a master hearing. Typically, there are twenty to thirty cases set for a master hearing for a morning or afternoon, so these hearings only last a few minutes. For most cases, a decision is not reached at the first master hearing and a new date is scheduled to begin your individual hearings.

Do you need a lawyer for a removal proceeding?

You should most definitely have an attorney to represent you in Court. Immigration Court is a civil proceeding, which means that you have a right to an attorney, but not one paid for by the government. Immigration Court is an adversarial proceeding where the Office of Chief Counsel (ICE attorney) represents the government. This means that throughout the proceeding, you have a chance to argue against your deportation. Given the complexities of immigration law, you are at a disadvantage if you do not have an attorney to represent your legal interests.

What if you do not have an attorney at your first court hearing?

You still must appear in court. You should not answer any questions, particularly questions about your foreign birth or how you entered the United States. If you need more time to hire an attorney or talk to attorneys about your options, you can ask the immigration judge for a continuance. To make your request stronger, you should document your efforts to obtain an attorney before the hearing. Keep track of the names and dates when you talked to attorneys. If you want to give any documents to the judge, you must also make a copy to give to the Immigration and Customs Enforcement (ICE) attorney. An immigration judge will grant you a continuance to give you time to find an attorney the first time you make this request.

Where can you find an attorney?

You can find a list of legal service providers through the Immigration Court at <http://www.justice.gov/eoir/probono/states.htm>. However, individuals and organizations on this list may only handle certain types of cases (i.e. asylum only) or require a fee for their legal services. You can also contact the American Immigration Lawyers Association at <http://www.aialawyer.com/>.¹⁰

¹⁰ As of the writing of this guide, the American Immigration Lawyers Association and the National Immigration Project are in the process of trying to establish pro bono help for DREAM Act students in removal proceedings.

IV. Do you have a way to avoid a removal order?

It depends on your situation so it varies from person to person. You should consult an immigration attorney, specifically a removal defense attorney. A removal defense attorney is an immigration attorney who specializes in representing people in deportation hearings before an Immigration Judge, the Board of Immigration Appeals (BIA), and sometimes the Circuit Court of Appeals. There are very limited options once you are placed in removal proceedings. General legal options for DREAM Act students in a removal hearing include, but are not limited to:

- (a) Adjustment of Status,
- (b) Cancellation of Removal for Non Lawful Permanent Residents,
- (c) Political Asylum,
- (d) Withholding of Removal,
- (e) U.N. Convention Against Torture,
- (f) Cancellation of Removal for Abused Immigrant Women and Children,
- (g) U Nonimmigrant Visas,
- (h) Temporary Protected Status
- (i) Motions to Suppress Evidence of Alienage;
- (j) Derivative or Acquisition of U.S. Citizenship Claims;
- (k) Motions to Terminate Based on How a Person was Placed in Removal Proceedings

If you are eligible for one or more of the forms of immigration relief listed above, then the law has provided an opportunity for you to fight your removal case. This list is not exhaustive of all forms of immigration relief available to a person in removal proceedings. However, this guide is intended for DREAM Act students who may not be eligible for any relief or who were denied any of these reliefs.

What if you don't qualify for any of the above forms of immigration relief?

If you do not qualify for any of the above forms of immigration relief, you should request that the Office of Chief Counsel (ICE attorney) dismiss the proceedings and ask that they exercise "prosecutorial discretion" by canceling the Notice to Appear (NTA).

How do I choose between one of the forms of relief above and prosecutorial discretion/deferred action?

You should not have to choose between one of the forms of relief and prosecutorial discretion/deferred action. If you are eligible to pursue any of the above forms of immigration relief, ie. Cancellation of removal or Motion to Suppress, you should do so with the advice of an immigration attorney. If you are granted one of the above forms of immigration relief, you may be able to pursue lawful permanent resident status at a later date. However, not all forms of immigration relief listed above leads to lawful permanent resident status. You must consult an immigration attorney. For example, if you believe that ICE violated your constitutional rights when they arrested you, you might want to think about a Motion to Suppress evidence of alienage. If evidence of alienage is suppressed, an Immigration Judge must terminate removal proceedings. Terminating proceedings only puts you back in a position of where you were before you were arrested by ICE which is an undocumented DREAM Act student. Bringing a motion to suppress claim is extremely complex, and you should only do so at the advice of an immigration attorney.

What is Prosecutorial Discretion?

The term prosecutorial discretion is simply a term used in immigration enforcement. "Prosecutorial discretion" is the authority of an agency charged with enforcing a law to decide whether to enforce, or not to enforce, the law against someone. Immigration and Customs Enforcement (ICE) has the authority to exercise prosecutorial discretion all at stages of enforcement starting from the arrest to the issuance of a Notice to Appear to the execution of the actual removal order. For the purpose of this manual, we are limited to discussing prosecutorial discretion when a DREAM Act student has a final Order of Removal or are in Removal Proceedings with no other legal options.

What does Immigration and Customs Enforcement (ICE) consider in exercising Prosecutorial Discretion?

ICE considers the following factors¹¹:

- » **Immigration status** – green card holders merit a favorable exercise of discretion;
- » **Length of residence in the United States** – the longer you lived in the U.S, the better;
- » **Criminal history** – ICE will factor in the severity of the criminal conduct including evidence of rehabilitation;
- » **Humanitarian concerns** – these factors include medical conditions affecting the DREAM Act student or his family member, the fact that the DREAM Act student entered the U.S. at a very young age, whether the DREAM Act student has any family ties in the home country, extreme youth or advanced age, and home country conditions;
- » **Immigration history** – these factors will include whether a DREAM Act student may have reentered the U.S. after a recent removal order, failed to appear at an immigration court hearing, and the seriousness of the immigration violation;
- » **Likelihood of Removing the Person** – for example, some home countries are not willing to repatriate all of their nationals;
- » **Whether the Person is Likely To Become Eligible for Immigration Relief** – ICE will consider whether there is a legal avenue for a person to adjust their immigration status at a later date, i.e. an immigrant visa will be available at a later date and that person can adjust while they're living in the United States;
- » **Likelihood of Achieving Enforcement Goal by Other Means** – ICE will consider other options of departing the U.S. other than a removal order such as: voluntary return, withdrawal of an application for admission or voluntary departure;
- » **Cooperation with Law Enforcement Authorities** – any law enforcement authority including the U.S. Department of Labor and National Labor Relations Board;
- » **Military Service** – military service in the United States with honorable discharge;
- » **Effect of the exercise of prosecutorial discretion on**

¹¹ These factors are outlined in the “Meissner Memo” which relates to all requests under prosecutorial discretion. See Doris Meissner, Commissioner, “Exercising Prosecutorial Discretion” (November 17, 2000)

the individual's future admissibility¹²;

- » **Community Support** – letters of support from community members, i.e., congressional representative, expressing an opinion concerning or opposing removal may be considered. There is also a question of whether publicity or media advocacy will assist a request for a deferred action (defined later in this section) and that is to be determined on a case by case basis;
- » **Resources Available to ICE** – whether ICE has the resources to carry out the enforcement action in this case.

Not all of the factors will be applicable to each case, and in any particular case, one factor may deserve more weight than it might in another case. There may be other factors, not on the list above, that are appropriate to consider. The decision should be based on the totality of the circumstances, not on any one factor considered in isolation.

Can Immigration and Customs Enforcement (ICE) exercise prosecutorial discretion before you're placed in Removal Proceedings?

Yes, you can ask ICE to exercise prosecutorial discretion and not issue a Notice to Appear. Once a Notice To Appear has been served on the DREAM Act student and filed with the Immigration Court, the Court has jurisdiction over removing that person. However, the difficulty is being able to intervene in the enforcement process when ICE conducts an arrest and before the ICE officer files the Notice to Appear with the Immigration Court. Often times, attorneys and advocates are notified after a person has been arrested and a Notice To Appear

¹² Under INA § 212 certain individuals are not eligible to receive visas to be admitted to the United States, for example, individuals with criminal convictions or health related grounds

has already been served on them and filed with the Immigration Court.

Is Prosecutorial Discretion available after the Notice to Appear has been filed?

Yes, an Immigration and Customs Enforcement (ICE) attorney may file to dismiss the hearing (with the Immigration Court) even after the initiation of removal proceedings.¹³ However, they cannot cancel the Notice To Appear, because under the regulations, they don't have the authority to issue a Notice To Appear.¹⁴ An ICE attorney may file a motion to dismiss in the following circumstances:

- (a.) The person is not deportable or inadmissible;¹⁵
- (b.) The person is deceased;¹⁶
- (c.) The person is no longer in the United States;¹⁷
- (d.) The Notice to Appear was carelessly issued;¹⁸
- (e.) Circumstances in the case have changed that it is no longer in the Government's interest to continue removal proceedings;¹⁹

Once proceedings have been initiated, only an Immigration Judge can terminate proceedings.²⁰ Procedurally, the respondent's (student's) lawyer would have to file a motion to dismiss and request for time to discuss prosecutorial discretion with the Office of Chief Counsel (ICE attorney).

In cases involving DREAM Act students, termination would likely fall under 8 C.F.R. § 239.2(a)(7) based on an argument that circumstances have changed where it is no longer in the Government's interest to continue to deport someone. The respondent's (student's) lawyer can point to the October 24, 2005 Memorandum from ICE Principal Legal Advisor²¹ William J. Howard stating "[that] there may be ample justification to move the Court to terminate the case and to thereafter cancel the [Notice to Appear] as improvidently issued or due to a change in circumstances such that continuation is no longer in the government interest. In a footnote, the

¹³ 8 C.F.R. § 239.2(c)

¹⁴ 8 C.F.R. § 239.1

¹⁵ 8 C.F.R. § 239.2(a)(2)

¹⁶ 8 C.F.R. § 239.2(a)(3)

¹⁷ 8 C.F.R. § 239.2(a)(4)

¹⁸ 8 C.F.R. § 239.2(a)(6)

¹⁹ 8 C.F.R. § 239.2(a)(7)

²⁰ Matter of G-N-C, 22 I&N Dec. 281 (BIA 1998)

²¹ The Office of the Principal Legal Advisor is the largest legal program that advises and represents the U.S. Department of Homeland Security.

memo also states, "We must be sensitive, particularly given our need to prioritize our national security and criminal alien cases, to whether prosecuting a particular case has little law enforcement value to the cost and time required."

This statement from the Principal Legal Advisor is commensurate with the 2010 Morton Memo on ICE directives indicating that ICE will continue to prioritize deporting individuals who are threats to public safety and national security. DREAM Act students are not threats to our national security or public safety. It would constitute "bad policy" to deport young people who were brought into the United States by their parents as a minor. It would not be in the government's interest to continue removal proceedings against young people who have obtained high school degrees and are currently enrolled in higher education or have plans to enroll in a two or four-year college or have served in the armed forces.

How will the Immigration Courts respond to termination requests involving DREAM Act students?

There is no current policy set forth by the Executive Office for Immigration Review (EOIR) directing Immigration Judges to terminate removal proceedings involving DREAM Act students. However, it would be in the immigration court's interest to dismiss these removal cases provided that the Office of Chief Counsel (ICE attorney) agrees to terminate proceedings

In 2010, the number of immigration cases reached an all-time high of 267,752 by December 2010 and the average time these pending cases were waiting was 467 days²². The severe backlog of cases in Immigration Court means that it is taking Judges longer to complete cases. With Immigration and Customs Enforcement (ICE)'s removal capacity at 400,000 noncitizens a year, the Courts will continue to experience a delay in adjudicating removal cases. Executive Office for Immigration Review (EOIR) has responded to the backlogs with a hiring initiative in 2010 by placing 28 new Immigration Judges on the bench²³.

²² Growing Backlog of Pending Cases in Immigration Court, Transactional Records Access Clearinghouse (2011) <http://trac.syr.edu/immigration/reports/246/>

²³ Executive Office for Immigration Review Immigration Judge Hiring Initiative, Executive Office for Immigration Review, Department of Justice (March 11, 2010) http://www.justice.gov/eoir/press/2010/EOIR_IJHiring_FactSheet.pdf

Given the severe court backlogs, it is “good policy” to determine whether deporting DREAM Act students serves the best interests of the Government at this time.

What Legal Strategies are available after you have been ordered removed?

With DREAM Act students at the forefront of the DREAM Act movement and students “coming out” risking their deportation to encourage the passage of the DREAM Act, we have seen more and more discussion around “deferred action” and “private bills.” This manual is intended to clarify what a deferred action and a private bill is and when s/he should consider it as a legal option.

Deferred Action: What is deferred action?

Deferred Action is a discretionary decision by Immigration and Customs Enforcement (ICE) not to arrest or deport a person for immigration purposes. It is one type of prosecutorial discretion. Only ICE has the authority to grant deferred action. Even if you receive deferred action, it is not for an indefinite period of time. Under current practice, ICE will not grant deferred action in a DREAM Act case until a student receives a final order of removal (order of deportation). Though nothing in previous memos²⁴ providing guidance on deferred action require that a removal order be taken before deferred action is granted. Therefore, deferred action should be granted at any stage of a removal proceeding. In DREAM Activist.org’s experience, there have been cases in the past year where deferred action has been granted prior to a final order.

What does Immigration and Customs Enforcement (ICE) consider in granting deferred action?

The factors for consideration in a deferred action application are the same as the above factors in determining “prosecutorial discretion.” See Section on **“What Does Immigration and Customs Enforcement (ICE) consider in exercising Prosecutorial Discretion?”**

²⁴ See Doris Meissner, Commissioner, “Exercising Prosecutorial Discretion” (November 17, 2000)

Do you obtain any benefits with deferred action like a green card?

Deferred action does not provide a DREAM Act student with immigration status in the United States. It only confers a “limbo” status and in the meantime, a DREAM Act student can apply for an Employment Authorization Document (EAD) aka “work permit” if s/he can establish an economic necessity for employment²⁵. Immigration and Customs Enforcement (ICE) does not issue Employment Authorization Documents. These are issued by a separate agency within the U.S. Department of Homeland Security, Citizenship and Immigration Services (CIS). Without a grant of deferred action, a DREAM Act student with a removal order will not be eligible for an EAD²⁶. In other words, you won’t be able to apply for a work permit unless ICE gives you deferred action.

How often has Immigration and Customs Enforcement (ICE) granted deferred action?

According to the Spanish-language newspaper, La Opinion, deferred action was granted to 542 individuals in the past year²⁷. In 2008, the Bush Administration issued 1,029 grants of deferred action compared to the current administration. The Obama Administration has granted deferred action in only 780 cases (2009) and 542 cases (2010) which is a lower number than previous years. These statistics do not represent a breakdown of deferred action by issue, age or ethnicity.

What is the downside to asking for deferred action if Immigration and Customs Enforcement (ICE) will only consider it after an order of removal is taken?

While many DREAM Act students may desire a work permit, it should not be the sole reason to put yourself in removal proceedings. Requesting deferred action, which can only be done once removal proceedings have been initiated, should only be a strategy of last resort for a DREAM Act student when s/he does not have any other options left. For example, if s/he is eligible

²⁵ 8 C.F.R. § 274a.12(c)(14)

²⁶ INA § 241(a)(7).

²⁷ La Opinion does not cite to a source for their data on deferred action grants.

Dara Lind, *La Opinion*: Obama Has Granted a Record Low Number of Deferred Action to Immigrants, America’s Voice Online Blog (April 28, 2011) http://americasvoiceonline.org/blog/entry/la_opinion_obama_has_granted_a_record_low_number_of_deferred_actions/

for immigration relief in the form of political asylum²⁸ or cancellation of removal for non-lawful permanent residents²⁹, s/he should exhaust those forms of relief first after speaking with an immigration attorney who specializes in removal defense. Deferred action should be pursued when a DREAM Act student has no immigration relief left and is facing an order of removal by an Immigration Judge. In some jurisdictions, ICE may only consider a deferred action request when there is an order of removal.

Accepting an order of removal has serious consequences if ICE denies deferred action. The consequences include immediate removal within 90 days of a Judge signing an order of removal; receiving a “bag and baggage” letter ordering a DREAM Act student to report to ICE; and upon removal, a 10-year ban from returning to the United States which would force a DREAM Act student to be separated from his family in the United States.

Do you need an attorney to represent you in a deferred action request?

Yes, you should have an attorney represent you in a deferred action request. Aside from drafting the request and compiling the evidence in support, an attorney is going to play an important role in getting the application considered by the local Immigration and Customs Enforcement (ICE) office. Unlike the Immigration Court, ICE has been known to not respond to a request for deferred action. They may think that you’re trying to delay your removal or in some cases, trying to flee. An attorney can help to facilitate communications with the appropriate ICE officer or Field Office Director (FOD) in your jurisdiction and minimally, make sure that they take a look at the application and consider the favorable exercise of discretion. If possible, it is important to hire a removal defense attorney who already has a relationship with ICE officers. If your attorney does not practice removal defense, then make sure that your attorney

²⁸ INA § 208(a)(1) authorizes a person who is physically present in the United States or who arrives in the United States to apply for asylum. S/he must show that s/he has been persecuted or has a well-founded fear of persecution on account of race, religion, nationality, membership in a social group or political opinion. INA § 101(a)(42)

²⁹ INA § 240A(b)(1) states that the Attorney General may cancel the removal and adjust the status of a non-lawful permanent resident if s/he (a) has been physically present in the U.S. for a period not less than 10 years; (b) s/he has been a person of good moral character for 10 years; (c) s/he has not been convicted of an offense under INA § 212(a), 237(a)(2) or 237(a)(3); (d) and s/he proves that removal would result in exceptional and extremely unusual hardship to his or her U.S.C or LPR spouse, parent or child

gets in touch with the local chapter of the American Immigration and Lawyers Association, specifically, their ICE liaison attorney. www.aila.org.

Is there a form that you can use for deferred action?

No, there is no form specific to deferred action requests. Be sure to make your request in a letter articulating the strengths and weaknesses of your case. You must include evidence in support of your request to bolster your claim that you are deserving of a favorable grant of prosecutorial discretion. The evidence must address all of the factors listed under **“What does Immigration and Customs (ICE) consider in exercising Prosecutorial Discretion?”** Each DREAM Act student’s case will be different, but this guide includes samples of deferred action requests.

Where should you file the deferred action request?

You should file the deferred action application with your local Immigration and Customs Enforcement (ICE) office with the attention to the Field Office Director (FOD). However, in order to get it to the right person, you should call the local ICE office and find out which ICE officer is in charge of the DREAM Act student’s case. Call the ICE officer and inform him/her that you would like to file an application for deferred action. The ICE officer should instruct you as to the best way to file the application.

What happens after you file the deferred action request?

If you are granted deferred action, Immigration and Customs Enforcement (ICE) must inform you and your attorney in writing stating the decision and its consequences. However, if you do not receive a favorable exercise of discretion, ICE is not required to give notice to the DREAM Act student or his/her attorney. Often times, ICE will not respond to you, and in some jurisdictions, they may not necessarily confirm receipt of a request for deferred action. In the meantime, the DREAM Act student could be deported from the United States.

What if you receive a “bag and baggage letter” from Immigration and Customs Enforcement (ICE) during the pendency of the deferred action?

A “bag and baggage letter” is a letter issued by ICE once ICE has determined that no further administrative relief is available to a person subject to removal.³⁰ The letter directs that person to report to ICE at a specific time and location for removal. Typically, a “bag and baggage” letter is sent within 90 days of the issuance of an order of removal. If you live in a jurisdiction where ICE will only consider a deferred action request once you have been ordered removed by an immigration judge, you have 90 days or less for ICE to review the application and adjudicate a deferred action request. If you receive a “bag and baggage letter” before ICE issues a decision on the deferred action, you may have to file an application for stay of removal with ICE on Form I-24631. A stay of removal, if granted, allows you to stay your deportation until ICE issues a decision on the deferred action request.

What happens if Immigration and Customs Enforcement (ICE) grants my deferred action request?

If ICE grants deferred action, it simply means that removal is temporarily stayed. ICE’s notification should inform you when the deferred action expires. Upon its expiration date, you must file a request to renew the deferred action grant with ICE. It is important to understand that a grant of deferred action does not provide legal status in the United States. It does not change or reverse the order of removal. There is always a possibility that ICE will enforce the deportation order at a future date, particularly, if the deferred action expires.

What if Immigration and Customs Enforcement (ICE) denies the deferred action request or simply does not respond to it?

If ICE does not respond to the deferred action application, it is possible that ICE does not intend to grant the request. Under the “Meissner memo”, the guidelines state that an ICE officer is not required

to even consider a person’s request for the exercise of prosecutorial discretion. You may want to consider reaching out to your local Senator or Congressional Representative and ask him/her to contact ICE to adjudicate the application or reconsider the denial.

Is deferred action the only option if you have a removal order?

Obtaining a grant of deferred action is extremely difficult. It is often reserved for the most compelling of immigration cases. Thus, you should not rely on any one single strategy alone. A private immigration bill is another option to consider if you are a DREAM Act student facing removal from the United States.

What is a private immigration bill?

A private immigration bill is legislation introduced by a Senator or a Congressional Representative for an individual who is deserving of some form of relief after they have exhausted all administrative and judicial remedies.

Any member of Congress can introduce private legislation for a specific individual if there are compelling equities in a case. This should be done only when there are no other legal options left and the DREAM Act student is facing immediate removal from the United States. A private immigration bill can confer lawful permanent resident status or provide for citizenship. However, bills conferring any status are extremely rare in recent years. Still, introducing legislation alone without passage would cause Immigration and Customs Enforcement (ICE) to stay someone’s removal, and perhaps, release them from immigration custody. It is very difficult to convince a Representative or Congressperson to introduce a private immigration bill, especially without strong public support.

In general, very few private immigration bills are actually passed in Congress. If a bill does not pass and ICE has not deported that person, the bill can be reintroduced in the first session of the next Congress.

In order to determine which member of Congress you should approach, you should identify the Senator or Representative that represents the district you live in. You can locate the appropriate Member of Congress at **www.congress.org**. In addition, you should also research whether that Member of Congress has ever passed private bills in the past. If your member of Congress has a

³⁰ Singh v. Gonzales, 494 F.3d 1170 (9th Cir. 2007)

³¹ You can find the form at <http://www.ice.gov/doclib/news/library/forms/pdf/i246.pdf>

policy of introducing private bills, you have a good chance of making some strong arguments particularly if there are compelling reasons in your case. Then, you should make the request in a formal written notice to your Member of Congress and follow up to confirm receipt with the staff person who deals with constituent services.

Campaigning Strategies Section

I. Introduction to the Campaigning Portion

The previous section of this manual focused on the legal strategies for youth facing removal proceedings. It outlined some possible legal courses of action to defend against one's removal from the United States. This section will focus on the other aspect of a campaign to help prevent your deportation.

We call this section the 'public campaign' because it requires you, in addition to the legal options, to enlist the help of the public to speed up or just simply get a favorable result in your case. Public support is almost always needed in order to increase your chances of getting deferred action or to encourage your local Senator or Congressperson to take the steps necessary to introduce a private bill.

While going public is not required we have found that it almost always results in faster resolution to the case. We understand going public may be an extremely difficult thing to consider for you and your family, however, we urge you to consider the benefits and reach out for support through the process. You are not alone.

This section was built off of previous Dream Act student cases in seeking a successful deferred action.

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If you are not ready to “go public” with your case, these are some helpful steps for you to make your case more compelling. However, once a friend posts something on Facebook, there’s no telling where it will go. In this stage, you should be clear about your boundaries with the people you are seeking support from.

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Gathering Letters of Support

Background for Sample Client, Jane Doe:

Jane Doe is a 20 year old student at UC Berkeley who immigrated to the United States from South Korea when she was only 5 years old. She is currently studying Ethnic Studies and wants to be a teacher after she graduates. She and her family overstayed their tourist visa. Last year, there was a routine check point in Jane's neighborhood. She was sitting in the passenger's seat and one of her friends was driving. Everyone was asked for their identification. She was quickly questioned about her legal status when she couldn't provide an ID, arrested and transferred to ICE custody. She has exhausted all legal options; the only relief for her is for DHS to grant a deferred action or for Senator Feinstein or Boxer to intervene with a private bill.

Sample Letter of Support Template

Dear Honorable _____ (name of Senator),

Hi, my name is _____, and I am writing to urge you to intervene in the deportation of 20-years old South Korean immigrant student, Jane Doe, by intervening* in her deportation.

Jane Doe is a 20 year old student at UC Berkeley who immigrated to the United States from South Korea when she was only 5 years old. She is currently studying Ethnic Studies and wants to be a teacher after she graduates, so she can become a contributing member of American society and assist the low income, underserved communities in the Bay area. She and her family overstayed their tourist visa. Last year, there was a routine check point in Jane's neighborhood. She was sitting in the passenger's seat and her friends were driving. Everyone was asked for their identification. She was quickly questioned about her immigration status, arrested and transferred to ICE custody. She has been detained for over 40 days now, and could be deported any day now.

America is Jane's home. Jane wants nothing more than to serve her community here in the United States, so please help Jane stay here in Berkeley with her family, friends and community. We urge you to please intervene* in the deportation of Jane Doe.

We thank you for your support, and we hope we can count on your effort to stop this tragedy from happening.

Sincerely³²

³² *Letters of Supports can be hand-written or emailed directly to Senators offices. This is another way to reach them aside from a generic postcard. It is helpful for these letters of supports to be personalized from the author i.e. ("I've known Jane since middle school...").Copies of these emails or handwritten letters can also be attached to the deferred action packet that the attorney is filing.

Talking To Your Teachers

The following was based on a first-year university student who was placed in removal proceedings. His former high school's involvement was key in helping the student gain community support for the student's case. In this section, we include the e-mail that was sent to all of the high school's faculty and alumni asking them to support the student; the letter sent to ICE asking them to use prosecutorial discretion; and a Q&A section where we went back to ask educators for their suggestions on how other schools can become involved.

Sample Email Asking for Faculty/Alumni Support

Hi everyone,

Many of you have already heard that [STUDENT] was detained by immigration authorities over the Thanksgiving weekend in New York and is facing deportation to Mexico. We're very grateful to [TEACHER'S HUSBAND], whose law firm has offered to represent [STUDENT] pro bono. The immigration specialist with whom they're working has asked us to collect as many letters of support as possible, so we'd like to ask you to send the attached template to friends and family who would be willing to sign a letter on [STUDENT'S] behalf. There are two versions of the same template: one goes to the Office of the Chief Counsel for Immigration and Customs Enforcement, the other goes to the U.S. Department of Homeland Security. People can simply print out the letters, sign and print their names, and send them to [SCHOOL] so that we can forward them together. It's our understanding that these identical letters will essentially serve as a petition.

We'd also like to ask everyone at [SCHOOL] to either sign the templates or, still better, to tailor them to reflect your own experience as a member of the [SCHOOL] staff or with [STUDENT] personally. You can leave the signed letters in my box and we'll forward these as well.

Finally, we hope to have every student sign a letter, and we'll ask several of you to facilitate this in your classes this week. [TEACHER] will also be working with our alumni to get as many signed letters as possible. Our goal is to get 500 letters of support for [STUDENT].

Please let me know if you have any questions, and thanks very much for your help.

[PRINCIPAL]

Q&A WITH TEACHERS AT SCHOOL

1. How/why did this student reach out to your school? What did he ask you to do? How open about his immigration status was he before this incident?

The student was very open about his citizenship status throughout high school, which may have made it easier for him to contact his former teachers/administrators about his detention and removal proceedings. I also think his family (parents) felt comfortable approaching us for assistance since they did not know how best to proceed.

2. How did your school hope to help him? How much did your school know about the deportation process beforehand?

I can only speak for myself on this question. I wasn't sure what to expect - I was hoping that he would be allowed to remain in the country and not deported to a country he left when he was an infant. Personally, I knew little about the deportation process and even now, I'm not certain I understand it fully. Even though his case might have come to a resolution, it doesn't feel like a complete resolution.

3. Was there much discussion about how/whether to get involved? Was there a school-wide decision to get involved? Were there any reasons not to get involved?

We're a family at our school. We were going to get involved; we just needed to seek out the best resources to assist us in the process.

There wasn't much discussion about whether or not to get involved, but more about how we could help. We did not know much about what "help" looked like, and we had a few meetings to make sure everyone was informed, and moved forward w/ our letter writing campaign.

4. Whom did you turn to for help? Who ended up being the most helpful?

Since this was completely new for us, the support and expertise of legal counsel was invaluable. They walked us through a lot of the strategies and worked closely with the student and his family as well.

Students and teachers are the most helpful because they knew the student well.

5. Would you get involved to help another student in deportation? If so, what would you do differently?

Yes, definitely. I can't think of anything we could do differently, since our experience is so limited. It would have been good to follow up with people who wrote letters. People were confused about the outcome of this student's case. We were too -- there didn't seem to be a resolution to his case.

6. Any other suggestions to other schools/educators with students in deportation?

I am not sure what the outcomes have looked like for other students, but I think it's important for students to come up with a plan in case they are removed. I have been impressed with one of our students, in the deportation process, who is making plans in case she returns to her home country. She has identified a few schools she may be able to transfer to, and has begun mentally preparing herself for a return to her home country. We all hope she is able to stay here and will support any efforts to help keep her here, but always good to prepare for all outcomes.

Getting Your Friends to Make Phone Calls

PHONE BANKING CHECKLIST

Quick Things to Consider:

Why is it Important to Host a Phone Banking Party?

These events are an easy way to get a committed number of calls/petitions signed. It's much easier to make a phone call if you're in a group and others around you are as well.

Time/Date:

Just pick a few hours (ex. 11AM-2PM) and a convenient location (multicultural center, church) where people can come and sign a petition/make a call.

Materials:

Make sure to print enough copies of the call in script, and have at least one or two laptops available so that people can sign the online letter and forward it to their friends.

Set a Goal:

It really motivates people to make calls/faxes if they are working towards something. Have people track the number of calls/faxes they make each hour and set a goal, 50 in an hour, 200 for the party? People can make more than 1 call to the same number!

SAMPLE CALL-IN SCRIPT FOR PHONEBANKING:

TARGETS:

Senator Feinstein: (000) 000-0000

Senator Boxer: (000) 000-0000

Script:

“Hi I’m calling to urge Senator Feinstein/Senator Boxer to please stop the deportation of Jane Doe. She is an asset to our community. I ask that Senator Feinstein/Senator Boxer intervene today. Thank you.”

Optional Talking Points:

1. Jane immigrated here when she was just 5 years old. She is an honors student and an active volunteer at multiple non-profit organizations. Please don’t take her away from her community.
2. Jane dreams of becoming a teacher and teaching here in San Francisco
3. America is Jane’s home. She has no friends or family in South Korea and would be homeless upon arrival.

Tally the Number of Calls You Make Here:

TARGET:

Immigration and Customs Enforcement (ICE) Director, John Morton

ICE Office: (202) 282-8495, if voicemail box full, call live line (202) 732-3000

Script:

“Hi I’m calling to leave a message of support for Jane Doe, Alien Registration Number A# 123 - 456 - 789 who is going to be deported any day know. Jane Doe dreams of becoming a teacher one day. She is an asset to our community. I ask that John Morton please step in and defer her deportation. Thank you.”

Tally the Number of Calls You Make Here:

Set Up a Meeting With Your Senator or Representative's Legislative Aide OR Case Manager

Things to Consider:

1. Every Representative or Senator's website is different, but each of them have a variation of a list of key staff or case managers that can be contacted regarding your case. If you can't find anything on your Representative or Senator's website, simply call the local office near you and ask who the person that deals with immigration is and jot down their email and phone number.

Here is an example:

<http://feinstein.senate.gov/public/index.cfm?FuseAction=ServicesForCalifornians>.

Casework

2. Reach out to the case manager and provide detailed information about your case. Also give the background information to who YOU are (see How to Create a Profile).
3. Set up a meeting by writing a letter to the case manager via email requesting a meeting, if you have a few local organizations working on your case it would be helpful to include them in the email.
4. Case managers get lots of requests so you should follow up with them, especially since DREAM cases are so fast pace, it's important that you are on the case manager's radar. So if you don't hear from them in a few days have your teacher or pastor make a call to follow up, this shows that it's just not you but your community that cares about this case. Remember to keep it friendly though, you want this case manager to advocate for you.
5. If meeting in person is not possible, then push to have a phone meeting with them including you and your attorney. Then provide a list of leaders (teacher, counselors) that the case manager can talk to as well.

Once you have a meeting set up:

1. Decide who will be at the meeting? Keep it small (no more than 4 to 5 people). Is there a community leader that has a relationship with this office? Is your teacher available? Someone that can speak to your involvement in the community?
2. Make copies of your deferred action packet (see addendum) and your profile (news clippings, college transcripts, letters of support), etc. Make sure they receive a copy of all these documents in email and a hard copy when you meet with them.
3. When you meet with them, focus on the community support that you have and what contributions/accomplishments you have made.

What Does it Mean to Go Public?

Depending on your situation this can mean a variety of things. Typically, when advocating for students, we request that they be willing to speak to media. This includes print, television as well as radio. Not all cases will have opportunities for all sorts of media, but it is better to go in prepared to handle all of it.

By going public you are willing to share your name as well as pictures of yourself. You are willing to create short 2-3 minute video clips with your story or an update on your situation.

Going public for the most part has to do with being available to media. In cases where students are unwilling to go this route, we have found it to be difficult to get wide-spread public support. If the public does not have access to you and your story it is hard to build momentum for your case.

Oftentimes, for students, the biggest issue with being public is concern over its affect on other undocumented relatives. If this is your main concern, we advise you to limit the information you share.

For example: John Doe is 19, lives in Miami Florida but goes to college in Orlando. His family all lives in Miami. When asked questions by a reporter instead of talking about life in Miami, John would focus on life in Orlando. *"I have grown up in this state since I was 4, I don't know any other home. If I were to be deported from Orlando I do not know what I would do. All of my friends and family are in this state."*

What does running a public campaign entail?

Think of a public campaign to stop your deportation as a puzzle. Each step of this manual is a piece in that puzzle. You solve the puzzle when you stop your own deportation.

Immigration Customs and Enforcement ("ICE") has the power to stop anyone's deportation at any moment, however they only use this 'discretion' for cases that are very compelling. Your job is to show ICE that your case is **compelling** and worthy of discretion, i.e. deferred action.

There are several pieces in this puzzle; you do not need all of them to succeed, however it is recommended for best results. These pieces include:

Targets: Who has the power to help you?

Creating a profile: Who are you and why should people care about you?

Creating a buzz: How can you use Facebook / Twitter / Blogs to get your **targets** attention?

Phone banking: How to make sure your **targets** know people care about you!

Petitioning: Let's make sure you can show your **target** you have a lot of support.

Traditional Media: Who can get your story out into public light?

The act of putting all of these pieces together is called 'running a public campaign'. Think of it as "how do I put all these pieces together to create an effective, solid puzzle." This may entail focusing on one or two of the pieces first and then giving attention to some of the others.

Or maybe you do it all at the same time. It all depends on your level of support and personal comfort.

Below we expand on what each of these can look like as well as samples for you to take on and make your own.

Targets: What is a Target?

In this instance, a target is a person who can directly give you what you want or a person who can get in touch with the person who can give you what you want. Targets are specific people and not entities or bodies, like Congress, but rather individuals that can be moved and ultimately held accountable, like Senator Reid.

Who is your target to grant deferred action?

TARGET: John Morton, ICE Director of Immigration Customs and Enforcement (ICE)

Other possible target: The Field Office Director of the Regional Office in which you were detained in or is handling your deportation case. This information is not easily accessible and this person should only be the target if you or your attorney have their name.

Who else should be a target?

TARGET: Your two U.S. Senators, can be found here: <http://www.senate.gov/>

Your U.S. Representative, can be found here: <http://www.house.gov/> by typing your zip code

What can your Member of Congress do?

1. Introduce a private bill on your behalf. If a senator it will automatically stay your deportation. If a Representative it will not stay your deportation, however it looks good in showing your case is compelling.
2. Regardless of their willingness to introduce a private bill all members should be asked to "contact ICE and ask that my deportation be deferred." Members are open to making this ask and will often times do it much more readily than considering a private bill.

Total Targets: 4 People (John Morton, Two U.S. Senators and one U.S. Representative)

Additional Targeting tips:

If you know your member of congress is particularly anti-immigrant you may want to stay away from targeting this individual. If you feel the individual will not advocate on your behalf it may be smart to search for an alternative target who can make 'an ask' of ICE. This might include getting the local Mayor involved. Maybe there is a specific state legislator who will be receptive to your situation. If you do not have a federal target, get creative and think of a local target. For example a recent Chicago case was able to gain the support of the city council; a resolution was passed in the students favor. This was something that went a great length in showing that the student's case was "compelling."

Creating a Profile – Why People Should Care About You?

Guide to sharing your story — Created by Tolu Olubunmi

Your story told in your own voice is by far the most powerful tool you have.

We all have a compelling story to tell and the story you choose to share with others is your “public narrative.” Public narratives are stories told to inspire others to act. They communicate our values through the language of the heart and translate those values into action. While telling your story, try not to explicitly state your values but let your story lead us to them (for example, instead of saying you are a hard-worker, talk about staying up late to complete assignments.)

To help your audience feel connected to you, your experiences and your challenges, include specifics like time, place, mood, sound, color, texture, taste, and feeling in your story. Adding these details also distracts from the specifics that you may not wish to include, like your last name or the name of your university. End your story with the urgent challenge we are called to face at this moment and include a description of how your audience can help change the lives of thousands of youth just like you.

Key points to include in your story:

Your name – Your first and last name should be used, stay consistent with your name as supporters who do not know you will use this to identify who they are supporting if they call legislators on your behalf.

Your age – It’s important to give your audience an idea of how long you’ve been in the US. How old were you when you were brought to the US and/or the year? What were your first memories of the US? How did you feel when you moved here?

Where you live – City and state should be included so that your legislator knows you are a constituent and your community feels connected to you. Please do not include your complete home address in a public letter.

Your education – Share your experience of growing up and going to school. Are you currently in school, high school/college? What are you studying? What do you want to do with your degree? What are the limitations imposed on your educations because of your status?

Community activities – How are you involved with you community? Do you play sports or tried to but was rejected because of your status? Do you volunteer or participate in after-school programs or tried to but was rejected because of your status?

Immigration status - When and how did you find out you were undocumented. How did that make you feel? How did it change you image of yourself, and your hopes and dreams? How has your status affected you and your family? How has it limited your ambitions? How has it enhanced your involvement in social justice issues? How have these experiences changed you as a person and your aspirations?

DREAM Act – What is the DREAM Act? How did you learn about the bill and why is it so important to you, your family, your community and this nation?

Your future - What are your hopes for the future? What is your desired career? What keeps you motivated to achieve your goals? Why is the US were you want to build a life?

The Ask - How can your audience support you? What do you need them to do? What does their involvement in this movement mean? What is the payoff?

Video:

Now that you have your story out of the way grab a video camera and make a short 2 to 3 minute video of yourself. Avoid reading off of your story; rather make it as natural as possible. Towards the end of the video you make a clear ask, "I am asking that you take action, call Sen. McCain and ask that he step in to stop my deportation. I dream of being nothing else than a nurse and giving back to my community. Thank you."

Check out a sample video here: http://youtu.be/kMU_DZofuWQ

Pictures:

Search your facebook profile, old albums and find some pictures that define you. By using pictures you intend to show the public that you are just like them, or maybe get them to feel as if you are like a friend they know and how could they sit back while a friend is going through this situation? Be creative. The goal of your story and picture is to make a personal connection.

During a recent case a DREAM student focused a lot on their love for animals, as a result many stepped up to help just because they too were animal lovers.

Why Go Public?

A Personal Narrative from a DREAMer in Deportation

Four days before my scheduled deportation, I had been forced to purchase a one-way ticket to Mexico. Not knowing where I would live or who I would stay with, I knew that I had no choice but to fight. In doing so, I had to prove that I deserved to remain in this country. Although uncommon now, the fight to stop my deportation would last a whole year. In the beginning, attorney after attorney told me that they would not pick-up my case, because my case was simple: there was nothing they could, and my best option was to go back. But to go 'back' implied that I had started something in Mexico, which was not the case. I had been brought to the United States at the age of 6. Having started the first grade in Chicago, most of my memories had been formed in this country.

I could not believe that it had taken me facing deportation to finally deal with the fact that I was undocumented. Previously, I had ignored the issue, put aside and pretend like it would go away. I had hoped that by the time I graduated high school, the DREAM Act or comprehensive immigration reform would have passed. That somebody else, but myself would fix my situation. Facing deportation was a stark realization that change had to start with me taking action. Through the help of various undocumented youth, faculty and numerous organizations, I was able to fight a public campaign.

It would not be until I met other undocumented youth like myself, that I found the support that I had been looking for. Unlike the lawyers, they agreed that I deserved to remain in this country, that this was my home. Shortly thereafter, we came together to formalize a campaign. The message was simple: I had been a contributing member to my community, and someone that would benefit the United States. It would take - 25,000 faxes sent to the Department of Homeland Security (DHS), over 1,000 faculty signing a petition, thousands of calls to DHS, 5 Congress people, 2 city resolutions (City of Chicago, Berwyn), one private bill, and several rallies to stop my deportation.

The halting of my deportation came with the realization that I owed it to myself, to all the people that contributed to my campaign, and to the immigrant rights movement to continue to fight. We therefore must all come to the self-realization that we are the only ones that can change our situation and living in the shadows is no longer an option.

***Rigo Padilla is the co-founder of the Immigrant Youth Justice League in Chicago and currently is pursuing a Masters' Degree at the University of Illinois at Chicago*

Creating a Petition

This is by far the most important action oriented part of this entire process. Up until now, you probably have support from your friends, some teachers you are in touch with and others in your community. However, you have not been able to articulate just how many people support you.

We create petitions for two main reasons:

- » It allows for us to be able to say “Over 3,000 people have joined us in asking that ICE defer Pedro’s deportation.”
- » A petition created with the right software will email the target each time it is signed. So 3,000 petition signatures means that 3,000 emails have gone out to each target showing support.

The process of creating a petition is very simple, especially if you have completed the task of finalizing your story, pictures and video. Follow these easy steps:

1. You need to know who your targets are. Check out the “Targets” section of this guide
2. You need a title, keep it short, simple and relevant. If you have other descriptive information like future dreams etc., then be sure to include that. If the date of deportation is within the month put in a date to build urgency.

Sample Petition Titles:

“Stop the deportation of Herta Llusho”

“Stop the May 14th deportation of Herta Llusho”

“Stop the deportation of aspiring engineer, Herta Llusho”

3. Incorporate your story into a letter written in third person. Here is a sample from a case we supported in Arizona:

I write to humbly request that you take action to immediately stop the deportation of Pedro Gutierrez (A#88 769 334).

Pedro Gutierrez is about to be deported to Mexico, after growing up in the United States since the age of 7, surmounting numerous obstacles, and committing to serve this country by joining the US Marine Corps.

Pedro is an amazingly resilient and promising young person. His parents both suffered from substance abuse issues, and Pedro was taken in and raised by his loving grandmother, who brought him to Arizona for a brighter future. His grandmother died when Pedro was kid, and he was abandoned by his grandfather, leaving Pedro homeless and with no family either in Arizona or in Mexico.

In the face of incredible adversity, Pedro has managed to not only survive, but to thrive, and he attributes much of that to the opportunities afforded to him in the United States. Pedro is admired by many for his spirit and tenacity, and, perhaps most of all for his desire to give back to his country by joining the US Marine Corps. The local recruiting officer, who Pedro has been in constant communication with, considers him the perfect candidate.

Pedro would qualify for the DREAM Act, a narrowly tailored bill that majorities of

both the House and the Senate voted to support this past December. The bill would allow for undocumented youth who, like Pedro, were brought here at a young age, to earn legal status upon completion of two years of military service or two years of college.

Pedro exemplifies what it means to be an American, what it means to stand up to adversity with dignity, strength and a passion for serving others. He should be allowed to live the American dream and serve our country. Let Pedro serve and let our country enjoy the talents and contributions of this young man.

If deported, Pedro would be returned to a country where he has no family or friends. This future Marine needs your help. Please take action to stop his deportation.

4. If you have followed the above steps, you are almost done. If you are doing this process on your own, then we recommend you use **<http://www.change.org/start-a-petition>**. If you would like additional guidance and 1:1 support please contact us and we can assist you with everything from wording your petition to who you should pick as a target. For support you can send an email to **Maria@dreamactivist.org**
5. If you want to take a stab at it yourself use **www.change.org**. Once on the petition page plug in the title you want to use and the targets you identified.

It will ask you for a “description”, in that area put a brief outline of what you are doing and how people can help:

On Saturday April 30th my friend Luis was detained, he will be deported by Monday May 23rd. Please take action to help stop his deportation.

1. Sign his petition here <insert link to petition just in case people want to send to friends>
2. Join his support group here <insert link to facebook group> Look at **“creating buzz” section of this manual.**
3. Please call X and Y person asking that his deportation be deferred. **Check out phone-banking section of this manual for tips.**

Please send this out to as many friends and family as you can!!

4. Finally, copy and paste the third person letter you created into the bottom of the form, this will serve as the ‘petition text’, i.e. each time someone signs your petition your targets will receive this letter via email.
5. Click “Create Your Petition” and you are done. Copy and paste the link for your petition to everyone you know and ask that they share it with everyone they know. Follow the next section of this manual to creatively get your audience engaged.

Creating a Buzz

Okay, so you have your story, pictures and now your petition / action alert out of the way, now it is time to get yourself out into the social media world. The neat thing about social media is you can do it all on your own, you do not need to wait for a reporter to care about your case and cover it.

In the past students have done all of the follow, below each we'll include some tips:

Facebook Page: You are probably a part of an email list, whether for a school project, a sports league or some other organization you are a part of. Consider your facebook page to be your email list. It is an easy way to keep supporters up to date with what is going on with your case and, more importantly, it allows for your story to reach hundreds of people from across the nation.

When making a facebook page we recommend you:

1. Keep the title simple, to the point. The more descriptive you can be the better. "Stop Pedro Alvarez's May 12th Deportation!"
2. Include a brief description of what is going on and a numbered list of actions people can take part in. Be sure you provide a link to any actions, or if an article has been published you can direct folks to that.
3. Include a picture of yourself.

Update the group with anything new that is happening, it is especially helpful if your case is on a shorter time-frame and everyone is on edge. Each update to the group should accompany and action or ask.

i.e. 'Today we will deliver 500 petitions to local ICE, please keep those calls in support of Pedro coming 404-543-4454'

Twitter: Do you use twitter already? If not, then you should register for an account www.twitter.com. Not all of the cases we have worked on have an active twitter account, but it is just another helpful tool to reach a new audience and get the word out. Many politicians, journalists, professors etc. are on twitter and you can

send them messages asking them to support your efforts and ask their followers to support your efforts. The more people get your message out the more petition signatures and calls you can generate.

Digg: Not familiar with it, that's okay. It is easy to use. We use digg often to drive online traffic to a specific link or website. You can drive folks to your facebook group or, as we recommend, to your petition page. Register an account and submit an article. You then ask friends to go to Digg and give a 'thumbs up' or in other words Digg your story. The more Diggs you get the more traffic is driven to your link. The more traffic that is driven to your action alert the more likely you are to find supporters.

It is recommended that you coordinate your use of Digg with friends so that within an hour or two of submitting an article you can receive at least 25 Diggs. The faster you get diggs the sooner your article moves into prominence.

Media 101

Media is critical to a public campaign. Please see the Appendix Section for helpful samples of media advisories and press statements. Once you have written those, you need to make sure media actually come to your event and role-play what you want to say to the media. If you would like 1:1 media support for your campaign or a list of press contacts, please contact juan@dreamactivist.org

How to Make a Pitch Call

The idea of a pitch call is to quickly and confidently “sell” the story. You might have about 30 seconds to get the idea across, and see if folks have time to hear more. Some TV stations might just say, “Got it” and cut you off pretty soon, don’t take it personally. Think of it this way: they are as busy as we are the hour before an action.

Writing out the pitch can be helpful, and practicing it to yourself a few times will make it feel more natural.

An example:

“Hi, this is Jessica from the San Francisco DREAM Team. Today at 11 AM, students will rally at Senator Feinstein’s office to urge her to stop the deportation of 20 year old UC Berkeley student, Jane Doe. The San Francisco Mayor John Doe will be there to support Jane and her family. Can I tell you more?”

Do not lead the pitch with “did you get our press release” they receive tons of them and can’t confirm receipt.

Pitch calls should be made twice, once when you send out the media advisory (3-5 days before your event) and once again the day of your event before the morning assignments are given (8AM-9AM is ideal)

*adapted from California Immigrant Policy Center

Media Talk: Speaking the Language of the Reporters

By: Juan, Director of Communications of dreamactivist.org

Talking to the media isn’t exactly a walk through the park, nor is it one of the most satisfactory things you’ll ever do within your career.

It won’t take long until you come face to face with the enormous responsibilities that come when dealing with both media and communications. Everything from press releases to media advisories become your responsibility. The position your organization takes on an issue, your responsibility. Securing media interviews to cover your events, also your responsibility. And this is only a brief glimpse as there is obviously a great deal of skill needed in order to become a true professional.

Can you write? Can you speak in a clear and concise manner? Do you know how to implement both traditional and new media into your work? If the answer is YES to at least two of these questions then you might just be on your way to be the next media Coordinator of your group! (Take it from me, I was assigned this role almost 3 years ago and my writing as you can tell is certainly not impeccable whatsoever; yet, I manage to do the job in an OK fashion. With that said I am not a professional and all of the following is my interpretation of the job from firsthand experience.).

Here are some very, very basic points on the Do’s and Dont’s of Media:

Reporters are not your friends:

Granted that this may seem a bit harsh, but you come talk to me when the reporter you thought you were helping writes about you in a very negative or controversial light. Not too long ago this was the case with USA Today when they painted undocumented students as “illegal students”, imagine the clean up we had to do for that one!

Be conscious of what you’re telling the reporter, speak clearly, and stay on message because remember they are the ones writing the story, not you. It goes without say that you should not make it your mission to antagonize them either, just as there are good reporters there are also bad ones and it’s in your best interest to make sure you rub their bellies so that your coverage is favorable.

Stick to your talking points:

Do you know what the purpose of your action is?

Memorizing your talking point and sticking to them is possibly one of the single most important of your action. It becomes very easy for reporters or media to come and ask you questions and if what you're saying does not match what I'm saying on the back end, then Houston we have a problem! Messaging is the key to success and in the great scheme of things it is what binds the action together.

You wouldn't want the press to think you're saving the whales when in reality your advocating for immigrant rights would you? Look at your talking points and messaging, learn them, memorize them, and digest them.

Never go off the record:

The words "off the record" should never spill out of your mouth. This is a red flag to reporters who may draw conclusions that you or other activists are hiding a bigger scoop from them which could prompt more and more questions for you. Avoid this at all cause if you want to avoid any messaging pitfalls or risk looking like a complete imbecile by tripping over your own words.

Delegate:

Now, we all know you want to be the next American Idol, I mean really, who wouldn't?!

Keep in mind that the action doesn't involve just you; thus, you are no means here to hog the spotlight.

Delegate amongst your peers: who will be speaking to whom. You wouldn't believe what a world of a difference it makes for reporters to find a student that is well versed in their medium (and even more on their messaging).

Case and point if you can't speak to a camera, don't. Find another activist/representative who may be able to do so. Remember, everyone is different and while you're unable to talk to a camera that doesn't mean you can't speak to print/radio/blogs/etc. Find your niche and stick with it and eventually you'll be savvy enough to interchange between mediums.

Stage fright? No Problem!

Were you the kid in class that umm'd? You know the uh..., um... ah.... sounds you make when you find yourself stuck on a question. Yeah, they suck at both the giving and receiving ends. Avoid this by practicing with a buddy.

Have mock questions if you know you get the jitters or become nervous when interviewing, after all you don't want to look bad on your 15 seconds of fame do you? Be mindful that this happens to everyone and that when panic overcomes you all you have to do is take a deep breath, repeat your last sentence and continue to spit out hot fire.

Can't take the fire? Look for the answers in your friends, tell a story, or ask for help. Obviously this doesn't work on live feeds like television, but when you're on the scene and all there is in front of you is a reporter with a pen and paper it becomes fairly easy to phone a friend.

Never lie:

Now, we all have our fair share of white lies here and there but when it comes to activism you better wash your mouth with toothpaste and soap. Remember that you action speaks for the moment, but your words speak for your organization, the movement, yourself which all lead back to the action.

Nobody likes liars; moreover, nobody likes people who stretch the truth either. You know how we ridicule or call out anti-immigrants on their bluff? Well this is a two way street kiddo!

Don get called out or make up a fantastical story on how you hope this action may catapult your career as a Russian ballerina, because quite frankly it's destructive to the end product/purpose of the action. A lie can twist our action and all it takes is for you to tell it to a reporter you're not familiar with and then SURPRISE! It made it to the front page of the NYT. DO NOT LIE. EVER.

Hablas Español?

This is very direct. Do you speak the language that the reporter will write the story in? If yes then go ahead and speak with accents and whatever speed you're comfortable with! No? Then hold back, you may want to delegate (see above) and let fluent or knowledgeable speakers take the lead on this story.

Be personable:

You and your story and the single most important piece of marketing that our movement possesses. Do not be a grumpy old hag or have a nasty attitude. Go out there, have fun, and speak to as many people as possible. Chances are that if you are good enough to the press you'll be able to send a picture of yourself from a local or

national newspaper to your mommy. Who knows, maybe you could be the next big thing on TV as well. Don't let your attitude be the reason you lose any opportunities.

Take every opportunity available:

Can you speak to the radio, TV, print and have time to participate in you action? Maybe not, delegate or ensure that you follow up with reporters. Even if you're not able to make every request you get, it is your responsibility to follow up with reporters and see if their deadlines can be extended for you to get your story in. Remember, each piece of media out there caters to a specific audience and in turn those are donors, supporters, new allies, or other undocumented youth who may be inspired by you! There is no reason why reporters should be left unattended before or after your action.

Bring it back to basics:

Remember to always bring the narrative back to your action. Reporters might want to know everything about you and your doggies back home, however, keep at the forefront of your mind that you are here with a purpose and it's that purpose what should take priority messaging wise over how much you want to buy the new iPad 2 or any other unnecessary comment.

Example:

"My name is _____, I'm from _____. I came here today to state that I am Undocumented and Unafraid and I stand here today to give Senator Sessions this eater basket in order for him to support the Dream Act!"

See how you were able to cover basic details as to where you're from, where you are and your name and yet you brought it back to you action? You can use this trick whenever an unrelated question comes up.

Granted that the example above would action would probably never happen, but your words coupled with your action is what makes the interview shine. No action = No interviews. It's that simple. **Always come back to your taking points!**

Tips & Tricks

1. Are you really active but not in deportation proceedings? Consider putting together a profile and copies of important documents relevant to your immigration case to be prepared at a moment's notice. Make copies of awards, letters of recommendations, scholarships you've received, honors, news clippings and keep it in a folder and consider having a trusted ally keep a copy as well.
2. Don't just think about support from federal officials, it's important to have local and state officials to support you too.
3. Look up who your state and local officials are and reach out to them. Can you get your city to pass a resolution (see addendum for examples)? Can your mayor sign a letter of support? Who else can be included? Even though they can't make a decision on your case it's important to show a broad community supports you.
4. Be clear with your friends how public you want the case to go. If you are clear about your boundaries, they will respect it and you won't have any surprises down the line (facebook links)
5. Don't be afraid to ask for help

Conclusion

We hope this guide has been helpful to you. In the beginning, our main goal has always been to equip DREAMers and their allies with the necessary tools to advocate for their right to stay in this country. DREAM Act students have been told "NO" more times that they can count. We want to tell you, "Yes, it can be done. Yes, it can be done. Here is what we have learned from doing it." DREAMers are resilient, brave and champions in their own right. Yet, when faced with imminent deportation, we see they must push even further and fight to stay in the place they've called home for so many years. We hope that you know you're not alone in this, that there are many young people in the exact same situation as you, and that together you will overcome our broken immigration system.

For the lawyers who thought nothing could be done, we hope you will reconsider. Attorneys from all over the United States have represented DREAMers in removal proceedings and have been successful. The collaboration of legal and organizing strategies are critical for a case. All legal options should be exhausted before pursuing deferred action or prosecutorial discretion and we encourage you to reach out to us if you have more technical questions or concerns.

Addendum

Appendix

I. Glossary of Legal Terms

Adjudicate

Adjudicate refers to making a formal judgment or decision about a problem or disputed matter.

Adversarial Proceeding

An adversarial proceeding is a legal system where two advocates represent their parties' positions before a judge, who acts as a neutral decision maker. In removal (deportation) proceedings, the U.S. Department of Homeland Security is represented by an attorney from the Office of Chief Counsel. Individuals have a right to representation, but an attorney will not be provided for them if they cannot afford one.

Board of Immigration Appeals (BIA)

The Board of Immigration is the highest administrative body for interpreting and applying immigration laws. Generally, an individual can appeal a final decision made in removal proceedings by an immigration judge to the BIA. The BIA usually decides appeals by conducting a "paper review" of cases instead of hearing oral arguments.

Circuit Court of Appeals

Circuit Court of Appeals are federal courts that hear appeals of some decisions issued by the Board of Immigration Appeals (BIA). There are currently thirteen United States Circuit Courts of Appeals.

Conditional Permanent Resident Status

Under previous DREAM Act proposals, individuals would be placed on a conditional permanent residence status for a certain time period before it can be removed. This is to ensure that individuals fulfill all requirements that are set forth by the DREAM Act before they could gain a permanent resident status. Individuals with conditional permanent resident status would be eligible for work study and student loans except for public benefits.

Consulate

A consulate is a government office charged with representing the country's interests overseas and providing services to citizens living abroad. Consulates are responsible for issuing passports and travel documents to its citizens living abroad.

Continuance

A continuance is the postponement of a hearing for a later date. This is requested by either or both parties in dispute.

Deferred Action

Deferred action is a discretionary act by the U.S. Department of Homeland Security to not pursue a removal order against or physically deport a particular person. It cannot be granted by the immigration judge.

U.S. Department of Homeland Security (DHS)

The U.S. Department of Homeland Security (DHS) is a cabinet department of the federal government engaged in areas involving counterterrorism, border security, immigration enforcement, and disaster preparedness. On March 1, 2003, DHS absorbed former immigration and naturalization services and provides immigration-related services. DHS houses the Immigration & Customs Enforcement (ICE), Citizenship and Immigration Services (CIS) and Border and Customs Protection (CBP).

U.S. Department of Labor

The United States Department of Labor is a department responsible for occupational safety, wage and hour standards, unemployment insurance benefits, re-employment services, and some economic statistics.

Discretionary Decision

A discretionary decision refers to the power or right to make official decisions using reason and judgment to choose from among acceptable alternatives. Law enforcement officers, the president, immigration judges, and administrative agencies are among those who often carry out these types of decisions. Not all decisions are subject to discretion.

Form EOIR-33

Known as a Change of Address form, EOIR-33 is filed when an individual changes address during a removal proceeding. This form can be found at www.justice.gov.

Executive Office for Immigration Review (EOIR)

The Executive Office for Immigration Review (EOIR) serves the purpose of deciding immigration cases. The EOIR is comprised of Immigration Courts and the Board of Immigration Appeals.

Green Card

A green card is used to informally refer to an individual's permanent residence immigration status. An individual with a green card gives a person the right to live and work in the United States provided that they maintain lawful permanent resident status.

Immigrant Visa

An immigrant visa is a type of visa which permits an individual to become a lawful permanent resident or a green card holder. Some people must obtain immigrant visas overseas at a United States consulate while others are eligible to apply for adjustment of status in the United States.

Immigration Courts

Immigration courts are administrative courts that conduct removal (deportation) proceedings. An immigration judge conducts removal proceedings.

Immigration and Customs Enforcement (ICE)

The Immigration & Customs Enforcement (ICE) is a federal law enforcement agency under the U.S. Department of Homeland Security (DHS), responsible for investigating and enforcing U.S. immigration law.

Immigration Judge

Immigration judges conduct formal removal (deportation) proceedings to determine whether an individual should be allowed to remain in the United States or should be removed (deported). Their decisions are final unless appealed or certified to the Board of Immigration Appeals.

Jurisdiction

In removal proceedings, [immigration courts](#) have jurisdiction over an individual. This means that they have the official power to make legal decisions and judgments.

Limbo

A legal limbo may occur when laws or court rulings leave an individual without any form of remedy. For example, when an individual is granted deferred action, s/he will not be removed but s/he will also not have a lawful status in the United States.

Motion to Dismiss or Terminate

A motion to dismiss is a party's request to a court to dismiss a case.

National Labor Relations Board

The National Labor Relations Board is an agency of the United States whose responsibility is to conduct elections for labor union representation and investigating and remedying unfair labor practices.

Principal Legal Advisor

The Office of the Principal Legal Advisor is the part of the [Department of Homeland Security \(DHS\)](#) which represents its interests before the Executive Office for Immigration Review. The Office of the Principal Legal Advisor serves a role in removal proceedings similar to that of a prosecutor in criminal matters.

Order of Removal

An order of removal is an administrative order which allows the government to deport a person. Removal orders can be issued following a removal hearing before an immigration judge or in some cases without a formal hearing before an immigration judge.

Pleadings

At some point during removal proceedings, the immigration judge will ask the individual to plead to the allegations and charges listed on the Notice to Appear. An individual has the right to deny all allegations and charges. Denying an allegation or charge does not mean that you are claiming that it is untrue, it means that you are asking the government to submit proof of the immigration charges. The government must prove the charges and allegations by clear and convincing evidence.

Removal (Deportation) Proceeding

A removal (deportation) proceeding is comprised of several court hearings, which determine whether or not an individual will be deported from the United States. An individual, if eligible, may apply for immigration benefits and if granted, provide relief from removal.

Citizenship and Immigration Services (USCIS)

USCIS is a part of the U.S. Department of Homeland Security tasked with adjudicating applications for immigration benefits including work permits, naturalization certificates, and lawful permanent residence cards, ie., green cards.

Voluntary Return (Departure)

A Voluntary Return/Departure allows an individual to depart the United States without receiving a final order of removal. This allows an individual to leave at his/her own expense. However, failing to depart within the period granted can result in severe penalties. Even if timely departing, individuals may still face lengthy bars to returning to the United States.

II. SAMPLE #1 DEFERRED ACTION APPLICATION

October 20, 2010

Katrina S. Kane, Field Office Director

U.S. Department of Homeland Security

Detention and Removal

1100 Bowling Road

Florence, Arizona 85132

RE: Shing Ma "Steve" Li

A

Request for Deferred Action in Lieu of Deportation

Dear FOD Katrina S. Kane,

This is a request pursuant to Operations Instruction (OI) 242.1a(22) that you exercise discretion to recommend approval of deferred action status for Mr. Shing Ma "Steve" Li. He is a non-criminal alien. He is also a native and citizen of Peru, but he is ethnically Chinese. As discussed below, Mr. Li should be considered for the privilege of deferred action because: (1) of humanitarian concerns based on DREAM Act eligibility; (2) he should not be punished for his parents' actions that led to a final order; (3) he is a person of good moral character; (4) lengthy residence in the United States, (5) he has strong community support and (6) providing safe harbor for applicant would be in the "public interest."

STATEMENT OF FACTS

Shing Ma "Steve" Li is a 20-year old native and citizen of Peru. He was born on ???? in Lima, Peru. (See Copy of his Peruvian passport). He is ethnically Chinese and his parents are Chinese citizens. Mr. Li was admitted to the United States as a B2 visitor for pleasure on July 1, 2002 when he was only 12-years old. (See Copy of the Notice to Appear). He came to the United States with his father, Xing Guang Li, when he was a minor. His mother, Ma Li, arrived shortly thereafter. He came to the United States because his parents made the decision to leave Peru and apply for political asylum in the U.S. He was not part of that decision-making process, because he was only 12-years old at the time.

He is currently a student at City College of San Francisco studying nursing. (See Copy of City College Transcript). He is scheduled to graduate in June 2011 and intends to work in the health care industry. He graduated from George Washington High School in San Francisco, CA. (See Copy of High School Degree).

His mother applied for an affirmative application for political asylum in New York City. Counsel believes that Mr. Li and his father were derivative beneficiaries of her application. On March 28, 2003, the New York Asylum Office sent a referral notice to his mother, Ma Li. (See Copy of Asylum Referral Notice). Subsequently, Mr. Li and his parents were issued Notice to Appear(s) and placed in removal proceedings in New York City on April 7, 2003. (See Copy of Notice to Appear). All three cases were consolidated before

the Immigration Court: (A); (A) and Shing Ma Li (). The family retained the assistance of Ming Yang, Esq. A merits hearing was scheduled for April 28, 2004 and Immigration Judge George Chew denied the asylum application on the same day. (See Copy of Judge's oral decision). Mr. Li was only 14-years old when he was ordered removed from the United States. Because he was a minor, his presence was waived.

Mr. Li and his parents appealed to the Board of Immigration Appeals. The Board dismissed the appeal on November 30, 2005. Mr. Li was only 15-years old. He was not aware that he was ordered deported. His family did not share that information with him, and on the contrary, hid that fact from him. To the best of Counsel's knowledge, they did not appeal to the Second Circuit Court of Appeals.

Shortly after the removal order, Mr. Li moved with his parents to San Francisco, California where he graduated from George Washington High School and enrolled in the Phelan campus at City College of San Francisco. He was still not aware that he was ordered deported from the United States.

On September 15, 2010, several ICE agents arrived at Mr. Li's home in San Francisco where he lived with his mother. His parents had divorced several years earlier. Needless to say, Mr. Li discovered that he was a subject to the absconder / fugitive operations initiative. He was detained at Sacramento County Jail and involuntarily transferred to Florence, Arizona. His parents were also detained, but they were released and placed on the ISAP program. They have since been reporting regularly with ICE in San Francisco, California.

Counsel at the Asian Law Caucus in San Francisco, California was retained in mid-October. The Asian Law Caucus is a non-profit organization providing free legal representation to individuals facing detention and deportation.

LEGAL STANDARD FOR EXERCISING PROSECUTORIAL DISCRETION

"Prosecutorial discretion" is the authority of an agency charged with enforcing a law to decide whether to enforce, or not to enforce, the law against someone.³³ A "favorable exercise of prosecutorial discretion" means a discretionary decision not to assert the full scope of the former INS' enforcement authority under law.³⁴ Such decisions will take different forms, depending on the status of a particular matter, but include decision such as not issuing an NTA, not detaining an alien placed in removal proceedings, and approving deferred action.³⁵

There is no precise formula for identifying which cases warrant a favorable exercise of discretion. Factors include: immigration status, length of residence in the United States, criminal history, humanitarian concerns, immigration history, likelihood of ultimately removing the alien, likelihood of achieving enforcement goal by other means, whether alien is eligible for relief, effect of action on future of admissibility, cooperation with law enforcement authorities, honorable U.S. military service, community attention, resources available to the INS.³⁶

SHING MA "STEVE" LI IS DESERVING OF DEFERRED ACTION BECAUSE:

A. HE WAS A MINOR WHEN HE WAS ORDERED REMOVED AND HE WOULD BE DREAM ACT ELIGIBLE.

³³ See Doris Meissner Memorandum to Regional Directors, District Directors, etc. U.S. Department of Justice, Immigration and Naturalization Service, Exercising Prosecutorial Discretion, November 17, 2000.

³⁴ Id. at 2.

³⁵ Id.

³⁶ Id. at 7-8.

Mr. Li was only 14-years old when he was ordered removed from the United States. He came to the United States when he was only 12-years old after his parents made the decision to relocate from Peru. Since arriving in the United States, he has attended and graduated from George Washington High School in San Francisco, California. He was enrolled in the Honors Program at George Washington High School he was a participant at the school's Wellness Center. Through their Wellness Program, he provided presentations to fellow students on the dangers of drinking and driving and sexually transmitted diseases. He was Washington High's reporter, editor and cameraman for the school newspaper called Eagle News. He was also on the cross country and track team at George Washington High School.

After graduating from George Washington High School in 2008, he enrolled in higher education at City College of San Francisco. He has been a student at City College since the Spring of 2008 working towards a nursing career. He was awarded the Goldmans Scholarship to attend City College on a full ride. He received \$500.00 per semester for each year he attends City College. At City College, he was a member of several student associations including APASS and the Stem Program. APASS stands for Asian American Students Success Center. STEM (Science, Technology, Engineering, Mathematics) is a 2-year outreach and educational support program. During college, he interned at the San Francisco State University Summer Science Institute. It was a year-long internship that would provide him with the experience and skills to enter the health care industry upon graduation in 2011.

Mr. Li is the perfect candidate for the DREAM Act. DREAM is the Development, Relief and Education for Alien Minors Act. It is a bipartisan legislation that addresses the situation faced by young people who were brought to the United States years ago as undocumented immigrant children and who have since grown up in the United States, stayed in school and kept out of trouble.

Under the DREAM Act, students with good moral character who came to the United States at age 15 or younger at least five years before the date of the bill's enactment would qualify for "conditional permanent resident status" upon acceptance to college, graduation from a U.S. high school, or being awarded a GED in the United States. Previous DREAM Act bills contained an additional requirement that the student be under age 35. In this case, Mr. Li entered the United States when he was 12-years old, graduated from George Washington High School, and is currently matriculated at City College of San Francisco. He is scheduled to graduate in Spring 2011.

The DREAM Act includes students who are on the honor roll, star athletes, talented artists, homecoming queens, aspiring teachers, doctors and U.S. soldiers. They are young people who have lived in the U.S. for most of their lives and desire only to call the United States as their home. Mr. Li was a former editor and writer for his school newspaper. He was on the track and cross country at George Washington High School. He aspires to be a health care worker one day and work alongside doctors using his multilingual language skills to assist patients in need.

Recently, the DREAM Act came close to passing in the Senate. On September 14, 2010, Senate majority Leader Harry Reid (D-NV) announced plans to add the DREAM Act as an amendment to the Department of Defense authorization bill. The DREAM Act currently has 39 cosponsors in the Senate and 128 cosponsors in the House of Representatives. In September 2010, it was voted 57-43. Thus, it was short by three votes. But it was a vote for the entire Defense Authorization Bill, not necessarily just the DREAM Act.

The DREAM Act has a long history and support in both the House and Senate. It was reintroduced on March 26, 2009, by Senators Richard Durbin (D-IL) and Richard Lugar (R-IN) in the Senate and in the House by Representatives Howard Berman (D-CA), Lincoln Diaz-Balart (R-FL), and Lucille Roybal-Allard (D-CA).

Support for the DREAM Act has grown each year since it was first introduced in 2001 by Senators Durbin and Orrin Hatch (R-UT). The DREAM Act has twice passed the Senate Judiciary committee in bi-partisan fashion, by a 16-3 vote in the 108th Congress and again in 2006 by a voice vote without dissent as an amendment to the comprehensive immigration reform bill. On October 24, 2007, in a 52-44 vote in the Senate, the DREAM Act fell just 8 votes shy of the 60 votes necessary to proceed with debate on the bill.

The DREAM Act has enjoyed the support of President Obama, former Secretary of state General Colin Powell, leadership in the House and Senate and all relevant committee chairs. Over 70% of the American public would support the passage of the DREAM Act. (See DREAM Act Poll). Mr. Li would stand to benefit if the DREAM Act were to pass tomorrow.

B. MR. LI IS A PERSON OF GOOD MORAL CHARACTER.

Since he came to the United States in 2002, he has been law-abiding. He has never been arrested in the United States or abroad. He came to the United States when he was a minor. When he overstayed his visa, he was only about 13-years old. The decision to come to the United States and overstay their visa was not his decision at all. He was ordered removed when he was only 14-years old. He was about 15-years old when the Board of Immigration Appeals dismissed his and his family's appeal. He was not aware that he was placed in deportation proceedings. Neither his mother or his father informed him that he had a final order of removal. He did not realize that he was a fugitive until ICE officers came to his home on September 15, 2010. As such, he should not be punished for his parent's wrongdoing as he was an unwilling participant in all of his immigration matters. Because he has no criminal past or immigration violations that are attributable to him, he is not likely to violate the laws of the United States.

C. LENGTHY RESIDENCE IN THE UNITED STATES.

Mr. Li has been living in the United States for the past eight years. Since his departure from Peru, in 2002, he has not returned to Peru. He does not have permanent residence or citizenship in a third country. While Peru considers him to be their citizen and/or national, he does not consider Peru to be his "home." He has no immediate or extended family members in Peru. His mother and father are Chinese citizens. If his parents are eventually deported, the United States would deport them back to the country they came from which is China. His parents at one time had temporary residence in Peru, but that is no longer the case. Mr. Li's paternal grandparents had at one time lived in Peru, but his grandmother has returned to China and his grandfather died in Lima. He left Peru when he was only 12-years old. While he speaks fluent Spanish, he does not believe that he has a future in Peru. He would be homeless upon arrival. His family cannot immigrate to Peru without the proper legal documents. Currently, his parents cannot go to Peru in anticipation of his deportation, because they are on the ISAP program.

D. HE HAS STRONG COMMUNITY SUPPORT.

Since news of his ICE detention went public, his former professors and classmates have been emailing letters of support to the Asian Law Caucus. Counsel has attached all of these letters to the application for deferred action.

E. PROVIDING SAFE HARBOR FOR MR. LI WOULD BE IN THE PUBLIC INTEREST.

It is in the interest of justice not to deport Mr. Li. He is only 20-years old, and he should not be penalized for his parents' decisions to come to the United States, overstay their visa and remain in the United States despite their deportation order. Mr. Li is a bright and intelligent young man with strong community support. Mr. Li is DREAM Act eligible, and is one of many DREAM Act students who came to the United States as a minor. These young people have garnered wide spread support from individuals including U.C. Berkeley Chancellor Robert Birgeneau; Stanford University President John L. Hennessy; and a small group of University Presidents including Eastern Washington University; Northern Virginia Community College; the University of California at Berkeley, and the University of Houston-Downtown. (See copies of DREAM Act Supporters and Letters from University Presidents). Arne Duncan, the Secretary of Education, have openly supported the DREAM Act. It would be in the public interest to grant Mr. Li his deferred action request.

Date: October 21, 2010
San Francisco, CA

Sincerely,

Sin Yen Ling, Esq.
Asian Law Caucus
55 Columbus Avenue
San Francisco, CA 94111
Phone: 415-896-1701 x110
Fax: 415-896-1702
Email: sinyenL@asianlawcaucus.org

**EVIDENCE IN SUPPORT OF SHING MA "STEVE" LI'S
APPLICATION FOR DEFERRED ACTION**

- (1) Copy of Shing Ma Li's Peruvian passport and U.S. visa;(pgs.1-9)
- (2) Copy of Shing Ma Li's City College of San Francisco Transcript;(pgs.10-11)
- (3) Copy of Asylum Referral Notice, March 28, 2003;(pgs.12-13)
- (4) Copy of Notice to Appear(s) for Shing Ma Li, ???, and ????(pgs.14-19)
- (5) Copy of Immigration Judge's Oral Decision;(pgs.20-25)
- (6) Copy of Board of Immigration Appeals' Decision;(pg.26)
- (7) Copy of Shing Ma Li's Diploma from George Washington High School;(pg.27)
- (8) Declaration of Shing Ma "Steve" Li;(pgs.28-29)
- (9) Letters of Support from Shing Ma Li's classmates, professors and faculty members;(pgs.30-74)
- (10) DREAM Act Poll;(pgs.75-77)
- (11) DREAM Act Supporters from Arne Duncan, Secretary of Education and University Presidents;(pgs.78-119)

Sample #2 Deferred Action Application

ANDRES C. BENACH

DIRECT DIAL: 202-776-7812

PERSONAL FAX: 202.478.1799

E-MAIL: acbenach@duanemorris.com

www.duanemorris.com

DUANE MORRIS LLP

505 9TH STREET, N.W., SUITE 1000 WASHINGTON, D.C. 20004-2166 PHONE:

202.776.7800 FAX: 202.776.7801

June 30, 2009

VIA FEDEX

Mr. Michael D. Rozos

Field Office Director

Immigration & Customs Enforcement

Krome SPC

18201 SW 12th St

Miami, FL 33194

Re: Walter LARA, A88-848-500

Dear Director Rozos:

We write to request that Immigration & Customs Enforcement agree to grant our client, Mr. Walter Lara, deferred action in the United States. Mr. Lara is a twenty-three year old Argentine national who has resided in the United States since the age of three. On March 6, 2009, Immigration Judge Rex Ford granted Mr. Lara 120 days of voluntary departure in lieu of an order of removal. He must depart the U.S. on or before July 6, 2009. Unaware that he would become inadmissible for a period of ten years upon his departure from the United States, Walter accepted the voluntary departure, believing he could easily return with a visa to the only country he has ever known. Mr. Lara has achieved so much so young and his plight has drawn the attention of political leaders, such as Senator Bill Nelson, who has written ICE in support of this request, and Congresswoman Corrine Brown, who has introduced a private bill on his behalf. Mr. Lara has been featured in the media as emblematic of the need for the DREAM Act, which would allow the U.S. to reap the benefits of so many high-achieving foreign students like Walter by allowing them to normalize their status in the U.S.

As Senator Nelson stated in his letter, Walter Lara "came here at a very young age, possesses a solid record of academic achievement, has a strong work ethic, and is of good character." Walter graduated fourth in his high school class and attended Miami Dade Honors College, where he earned a degree in computer animation in 2006. Walter has logged over 1,000 hours of community service in the Miami area. There are no negative factors in his background. Enclosed with this request is a portfolio of Walter

Lara's achievements and the words of his supporters. School officials, political figures and hundreds of everyday Americans have come forward to ask that this remarkable young man be given the chance to fulfill his promise in the U.S. and offer his talents to the country that has supported him.

Deferred action has long been available to ICE to remedy unduly harsh results caused by strict enforcement of the immigration law. It vests the Field Office Director with the power not to seek the removal of removable aliens. Historically, the Director is to take into account the following factors: (1) the likelihood of removal; (2) the presence of sympathetic factors; (3) the likelihood that because of sympathetic factors, a large amount of adverse publicity will be generated; (4) whether the person's presence in the U.S. is desired by law enforcement; and (5) whether the individual is a member of a class of deportable aliens whose removal has been given high enforcement priority. See Standard Operating Procedures for Enforcement Officers: Arrest, Detention, Processing and Removal (Standard Operating Procedures), Part X.; Meissner, Comm., Memo, HQOPP 50/4 (November 17, 2000).

Mr. Lara seeks deferred action for a limited period of time to give Congress time to act on the DREAM Act. If such relief is not forthcoming, Mr. Lara will depart the U.S., so ICE can be assured that Mr. Lara will either receive immigration benefits or will depart the U.S. Second, there are significant sympathetic factors present in this case. Mr. Lara came to the U.S. as a child, with no input into whether he should enter or not. He has remained here and excelled in school and as a young man. He has hopes and ambitions, a strong work ethic and a solid character and desires nothing more than to be a productive and contributing member of our society. He has no ties to his native Argentina and would be cast adrift to lose the opportunity that he has made so much of in the U.S. These sympathetic factors are what have inspired the DREAM Act and the outpouring of public and official support for Walter Lara. The Miami Herald, the Orlando Sentinel and various other traditional media, notwithstanding the extensive activity in social networking sites such as Facebook and Twitter, have all shone a light on the injustice of removing Walter Lara. Congresswoman Corrine Brown has submitted a request for a private bill. This publicity could very well turn adverse if ICE were to ignore this groundswell of support and the request of a U.S. Senator. Finally, it cannot be argued that Mr. Lara is a priority for ICE. With no criminal record, no history of fraud and an entry that occurred when he was three years old, Mr. Lara is not among any of the classes of individuals ICE has focused enforcement efforts on. Under the traditional criteria for deferred action, Mr. Lara presents an undeniably compelling case for a favorable exercise of discretion.

Recently, the use of deferred action for sympathetic classes of removable aliens, such as certain widows of U.S. citizens has demonstrated that the Department of Homeland Security recognizes that deferred action is an appropriate tool to remedy unjust situations and to give Congress an opportunity to act. DHS's recent directive grants widows and children of U.S. citizens two years of deferred action, with minimal individualized evaluation. See Memorandum, "Guidance Regarding Surviving Spouses of Deceased U.S. Citizens and Their Children," Donald Neufeld, Acting Associate Director, Office of Domestic Operations, June 15, 2009. This reprieve emphasizes the Department's efforts to balance "strong enforcement practices with common - sense, practical solutions to complicated issues." See "DHS Establishes Interim Relief for Widows of U.S. Citizens," June 9, 2009. Without interim relief, these widows would be denied the opportunity to remain in the U.S. while a solution to the gap in the law is addressed. It is important to note that at the time that deferred action was offered to the widows, no legislation had been introduced to amend the law that permits their removal. In addition, the widow

policy acknowledges and responds to humanitarian concerns raised in the complicated cases of those living in the U.S. for a long time U.S. and whose removal would be certain without an interim relief to resolve their legal status.

The case for prosecutorial discretion for Walter Lara is at least as compelling as the new policy for widows. Without deferred action, Mr. Lara faces the same fate that Secretary Napolitano's policy for widows attempts to address. He will be denied an opportunity to remain in the country that has become his home. Moreover, Congress is certainly aware of and in the process of seeking to remedy the situation faced by individuals like Mr. Lara through the DREAM Act. In the Senate, the DREAM Act has 22 cosponsors and the House version has 70 cosponsors.

The DREAM Act would provide a form of relief for students like Walter Lara, who would be eligible for the DREAM Act in its legislative form. His removal would have tragic consequences by making him ineligible for the benefits of this legislation, which has a very good possibility of being enacted in this session of Congress. In addition, Walter's removal would cause America to lose a vital asset: an educated and promising student who has demonstrated a commitment to hard work and a strong desire to be a contributing member of society. Walter Lara's case illustrates the compelling need for DHS to exercise favorable prosecutorial discretion and grant him deferred action. Senator Nelson, a cosponsor of the DREAM Act, explains that Mr. Lara is exactly the type of student that the sponsors of the legislation had in mind when proposing the DREAM Act. Stating that "Walter is exactly the kind of person the DREAM Act is intended to help," Senator Nelson has asked ICE to defer any action against Mr. Lara until the DREAM Act is considered by Congress.

A grant of deferred action for Walter Lara would be consistent with the administration's support for the DREAM Act. President Obama voted for the DREAM Act as a Senator and supported it on the campaign trail. In confirmation hearings, Secretary Napolitano reiterated her support for the legislation. Their support recognizes that ICE can better serve its mission of protecting the homeland from security and law enforcement threats if it did not need to remove young people like Walter Lara.

It is likely that the Congress will act on the DREAM Act in this legislative session, which runs through October 2010. A grant of deferred action for this period will allow Mr. Lara to participate in the debate and serve as an example of what this legislation was meant to achieve. If Congress passes the DREAM Act, Mr. Lara would be eligible to seek benefits. If not, Mr. Lara will have been given the opportunity to complete his bachelor's degree and will voluntarily depart the U.S.

We thank you for your attention to this matter. Please let us know if you have any questions.

Sincerely yours,

Andres C. Benach

Partner

ACB

cc: Walter Lara

Senator Bill Nelson

Congresswoman Corrine Brown

Assistant Secretary for Homeland Security John T. Morton

Sample Media Advisories/Statements

Sample Media Advisory:

Media advisories should be sent ideally 3-5 business days prior to your event, they are different from a press statement which is usually sent after an event or important announcement.

MEDIA ADVISORY

For Immediate Release, Wednesday Nov. 3

Contact: Your Name, Organization, Cell Phone

CCSF STUDENT SET FOR DEPORTATION; FRIENDS, EDUCATORS URGE CA SENATORS TO INTERVENE

Supporters of Jane Doe gather to mark her 50th day in detention, plea for Senator Boxer and Feinstein to take immediate action to halt her deportation and enact lasting reform

What: News conference and rally to urge Senator Boxer and Feinstein to intervene and halt the deportation of Jane Doe, a 20 year old CCSF student set for immediate deportation to Peru any day now. As community members and educators mark Jane's 50th day in detention, they are calling upon the Senators to introduce a "private bill" so that Jane can stay in San Francisco and continue to pursue her dream of becoming a nurse.

When: Noon, Friday, November 5th 2010

Where: Ram Plaza (by Student Union) CCSF Ocean Campus, 50 Phelan Ave. San Francisco, CA 94112

Who: Confirmed speakers are Educational Board of Trustee, Co-director of Summer Science Institute at SFSU, Jane's teacher and mentor, and Jane's friend; more speakers to be confirmed.

Media Visuals: Students holding colorful signs and banners

Background: Supporters throughout the state are mobilizing to stop the deportation of Jane Doe, a 20 year old CCSF student who has lived in California since 2002. "I was studying to be a nurse so that one day I can work in the San Francisco community and now I'm in an immigration detention center in Arizona, it's unreal how fast things change", says Jane. There has been a broad coalition of educators and students advocating to halt her deportation. In less than a week, over 2,000 people have sent letters to both Senator Feinstein and Boxer but neither have stepped in to help Jane.

On September 15, Immigration Customs and Enforcement (ICE) raided Jane's San Francisco home and arrested her. Jane is ethnically Chinese but was born in Peru as her parents fled political persecution from China. Five years ago, Jane's family was denied political asylum from China and issued a removal order. However, Jane was not aware of her immigration situation until her home was raided. Advocates and community members see Jane's case as a prime example of how the nation's dysfunctional immigration system tears up families and targets contributing members of society.

Her arrest was just a week before Congress failed to vote on the DREAM Act, a widely supported common sense bill that would provide a pathway to legalization to undocumented students who've grown up in the US and attend two years of college or

serve two years of the military in which Jane and thousands of other Bay Area students would directly benefit from. "It's critical to pass the DREAM Act before the new Congressional session, but Jane literally cannot wait and is set for deportation any day now. That's why we need our Senators' leadership today," says Sin Yen Ling, senior staff attorney at the Asian Law Caucus and also Jane's legal representation.

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Sample Media Advisory (2)

Media Advisory

For Immediate Release

Contact: Your Name, Organization, Cell Phone

20-year Old CCSF Nursing Student Scheduled for Deportation Monday

Anguished family and friends plea for 11th-hour intervention

What: Lawyer Sin Yen Ling has learned from credible source that ICE plans to deport Jane Doe, a 20 year old nursing student on Monday November 15, 2010. In response, supporters will stage a news conference and rally to urge Senator Boxer to sponsor a "private bill", a last ditch effort to halt Jane's deportation.

When: Noon, Friday, November 12th 2010

Where: Senator Boxer's Office, 1700 Montgomery St, San Francisco 94111

Who: Jane's mother, District Supervisor, Jane's teacher and mentor, Jane's friend, and Sin Yen Ling, Jane's legal counsel. More speakers to be confirmed.

Media Visuals: Students holding colorful posters and banners, dressed in nursing scrubs and caps and gowns

Background: After weeks of statewide mobilization efforts to stop the deportation of Jane Doe, her legal counsel, Sin Yen Ling has learned from a credible source that ICE plans to deport Jane on Monday November 15, 2010.

"Despite the possibility of a DREAM Act vote in the lame-duck session, ICE is once again acting as a rogue institution and plans to deport a young bright student," says Ling.

"Jane was the type of student teachers love having in their classroom, she aspired to be a nurse and serve low income communities in San Francisco," says Jane's teacher and mentor. Before Jane's arrest, she was preparing to transfer to San Francisco State University and finish her nursing degree in order to pursue her dreams in health education.

"Jane is just as American as I am, we listen to the same music, eat the same food, speak the same language," says Jane's friend. "It's senseless to deport her back to Peru where she will be homeless upon arrival", continues Jane's friend.

On September 15, Immigration Customs and Enforcement (ICE) raided Jane Doe's San Francisco home and arrested her. Jane is ethnically Chinese but was born in Peru as her parents fled political persecution from China. Five years ago, Jane's family was denied political asylum from China and issued a removal order. However, Jane was not aware of her immigration situation until her home was raided. Advocates and community members see Jane's case as a prime example of how the nation's dysfunctional immigration system tears up families and targets contributing members of society.

Her arrest was just a week before Congress failed to vote on the DREAM Act, a widely supported common sense bill that would provide a pathway to legalization to undocumented students who've grown up in the US and attend two years of college or serve two years of the military in which Jane and thousands of other Bay Area students would directly benefit from.

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Sample Press Statement:

Press Statements should be sent after an important rally or used to make an important announcement

For Immediate Release

November 10, 2010

Contact: Your Name, Organization, Cell Phone

SF Board of Supes, Board of Education Both Decry Immigration Detainment of CCSF Student

As popular student still faces devastating deportation to Peru, Anguished supporters plan vigil next week

SAN FRANCISCO – Yesterday, the San Francisco Board of Supervisors and Board of Education overwhelmingly passed resolutions denouncing the planned deportation of Jane Doe, a 20 year old City College nursing student who has been living in the U.S. since 2002. Both Boards called for the immediate release of Jane and urged California Senators Feinstein and Boxer to intervene and halt her deportation.

“Jane’s detention deprives our community of the best and the brightest and serves as an example of why we need to pass the federal DREAM Act immediately,” said Supervisor Mar, the sponsor of Tuesday’s resolution. After hearing from friends and teachers of Jane, the San Francisco Board of Supervisors unanimously denounced her deportation. A group of twenty five of Jane’s supporters enthusiastically cheered after the Board vote of 11-0.

“The deportation of Jane is fundamentally an issue about equal access to education; our ICE officials would rather deport young smart students then let them pursue higher education,” said a teacher and mentor of Jane at the Board of Education vote.

“These resolutions send a clear message that there is broad support for Jane,” noted Sin Yen Ling, senior staff attorney at the Asian Law Caucus and Jane’s legal counsel. “We have yet to get a response from either Senator Feinstein or Boxer and it’s actions like these that will make sure our voices are heard,” added Ling.

Organizers around Jane’s case are gearing up towards a candlelight vigil on Wednesday November 17th at 4:30PM in front of Senator Feinstein’s office.

DREAM Act is a bi-partisan legislation that would allow undocumented students that arrived before the age of 16 a pathway to legalization if they either attend two years of community college or serve two years of the military.

Text of resolutions available upon request.

MAXIMIZING YOUR MEDIA IMPACT: Lessons from the Steve Li Case

By Jon Rodney, California Immigrant Policy Center and Lisa Chen,
Asian Law Caucus

A. Thinking strategically

- » Always take some time to think through your GAME (Goals, Audience, Messages, Engagement) Plan.
- » *Goals*: What concrete, measurable outcomes are you fighting for? Your overall plan should guide your media work, not the other way around.
- » *Audiences*: Who do you need to influence to get what you want? What motivates those decision-makers and their constituents? What values do you share with them?
- » *Messages*: Appeal to common values (eg: community, common humanity), emphasize solutions, and highlight how this directly impacts the audience (eg, the tremendous contributions DREAMers can make to society)
- » *Sharing DREAMers' stories*: Why are you called to speak out? How have the challenges you've faced shaped your life? What are your dreams for the future?

B. Framing your story for maximum impact: what can we learn from the Steve Li campaign?

1. What happened? This fall, community groups in San Francisco stopped the deportation of Steve Li, a 20-year old DREAMer and nursing student who has lived in the US for nearly 10 years. Along with legal advocacy and community organizing, a communications strategy was an essential component to this victory. The Asian Law Caucus, with media relations assistance from the California Immigrant Policy Center, worked in partnership with Steve's friends, educators, and other community groups to share Steve's powerful story with Bay Area audiences. (Social media also helped get the word out - a Facebook page set up by Steve's friends reached 7,000 supporters.) After an outpouring of sympathetic news coverage, California Senator Dianne Feinstein was moved to action and introduced a private bill on Steve's behalf. Steve has since become one of the area's leading voices for immigrant rights.

2. "Solutions, values, community" narrative. Once private legal and political avenues appeared to be exhausted, advocates and supporters decided to "go public" with Steve's case. Advocates worked closely with community supporters to craft a narrative that focused on Steve's values and his desire to contribute to society, and that pointed to systematic reforms like the DREAM Act as important solutions to a dysfunctional immigration system. Advocates made a conscious decision to keep the story away from a "personal responsibility, it's not Steve's fault" narrative. The chart below highlights some key framing decisions.

Ingredients to success	What did Steve's supporters do?	What did the press report?
<i>Promote positive characterizations</i>	Rather than let Steve be characterized as an "illegal" (sic) immigrant, supporters repeatedly referred to Steve as a "20-year old nursing student."	"Li is a 20-year-old nursing student at City College.." (NPR affiliate KQED Radio, 11/12/10)
<i>Activate values: contributions and service to community</i>	Advocates highlighted Steve's talent and desire to contribute back to society by identifying and repeating a specific example - Steve's dream of opening a clinic for low-income San Franciscans.	"Li, who speaks Cantonese, English, French, and Spanish, grew up reciting the Pledge of Allegiance and dreams of opening a clinic to serve low-income San Franciscans. " (SF Bay Guardian, 11/30/10.)
<i>Activate values: deep connection to this country</i>	As seen above, supporters also emphasized that Steve had grown up in the US, and was American in all but paperwork.	"Steve is just as American as I am , we listen to the same music, eat the same food, speak the same language," (Friend M. Luu in wire piece featured by 5 TV stations.)
<i>Expose the harmful consequences of deportation, on society and the individual.</i>	Supporters cast Steve's deportation as a painful loss for society as a whole. Friends and family also used vivid language to drive home the devastating impact of deportation to country where Steve knew no one.	I think it's really upsetting that someone who is goal-oriented and an asset to the community is going to be taken from his family and flown to Peru" (Friend T. Coney to the AP, 11/12/10) "He has no suitcase, no clothes, just the clothes on his back the day he was arrested. No relatives, no friends," (Steve's lawyer Sin Yen Ling to Contra Costa Times, re-run by Yahoo! News, 11/12/10).
<i>Promote solutions</i>	In addition to advocating for immediate relief for Steve, supporters also used the case to emphasize the need for larger solutions. Key elected officials echoed this approach.	"Speaker Pelosi believes that Steve Li's case is a textbook example of the pressing need for comprehensive immigration reform and passage of the DREAM Act." (Spokesperson Drew Hammil to Associated Press, 11/12/10.)

3. Managing interviews: Don't be afraid to "pivot"

away from tough questions. When Steve's supporters learned that they did not need to directly answer all of a reporter's questions, but rather could essentially respond with our message, many felt empowered. This helped keep quotes "on message." Useful phrases:

- » Before we continue, let me emphasize that...
- » If there's one thing the public needs to understand...
- » What really matters is...

4. Look for spokespeople who will move your audience.

- » Steve managed to give several moving interviews from prison.
- » *Educators, friends, elected officials:* Steve's educators and close friends gave moving testimony; local elected officials' interest help draw more attention to the case
- » *Family members* can be powerful spokespeople, but advocates also served as a buffer to respect the wishes of the family to not speak to multiple press outlets. Additionally, note that parents may face difficult questions like "why did you come here illegally?"

5. Pitching a "story with legs." Supporters used an escalating series of events - each with a different news hook - to raise media attention. This approach caught the attention of local reporters and news editors, who were drawn to Steve's "developing" story. "Hooks" that helped keep Steve's case in the news included:

- » *Breaking stereotypes:* October. The unexpected/unusual situation of a young man of Chinese heritage facing deportation to his native Peru helped drum up initial press interest.
- » *Commemorating a key date:* November 5. Rally held on campus to mark the 50th day of Steve's detention
- » *Local government action:* November 9: City's Board of Supervisors passes unanimous resolution in support of Steve, DREAM Act
- » *Urgency/Human impact:* November 12. After Steve's attorney learned he was to be deported the following Monday, supporters announced an emergency action with this dramatic headline: "20-year Old CCSF Nursing Student Scheduled for Deportation Monday; Stunned supporters plea for 11th-hour intervention."

6. Results. With 22 media outlets attending the emergency action, the case began to reverberate "all over the news," in the words of one blogger. That

evening, Senators Feinstein and Boxer, and Speaker Pelosi all issued sympathetic press statements on Steve's case for the first time. By Sunday morning, Senator Feinstein announced to an *SF Chronicle* reporter that she would pursue a private bill. Within a week, Steve was home.

As Steve later told the *SF Chronicle*: "I will never forget those people that I met inside [the prison] ... Their stories and faces will be with me for the rest of my life as I'm fighting for people who are law abiding, tax paying but are currently undocumented." Since returning to San Francisco, Steve has become a leading spokesperson and activist for the DREAM Act and immigrant rights, giving dozens of media interviews to advance the cause of immigrant justice.

Sample Resolutions

Sample Resolution 1: Board of Supervisors

[Denouncing the Deportation of STUDENT and Urging Congress to Pass the DREAM Act]

Resolution denouncing the deportation of [STUDENT], a DREAM Act student at [SCHOOL], calling for Immigration and Customs Enforcement to grant the student deferred action status, and urging Congress to pass the DREAM Act.

WHEREAS, The Development, Relief, and Education for Alien Minors (DREAM) Act is bipartisan legislation that addresses the situation faced by young people who were brought to the United States years ago as undocumented immigrant children and who have since grown up here, stayed in school, and kept out of trouble; and,

WHEREAS, Each year 65,000 United States-raised students who qualify for the DREAM Act's benefits graduate from high school; and,

WHEREAS, ON April 21, 2010, Assistant Senate Majority Leader Dick Durbin (D-IL) and Senator Richard Lugar (R-IN), asked the U.S. Department of Homeland Security Secretary Janet Napolitano, to halt the deportation of immigrant students who could earn legal status under the DREAM Act; and,

WHEREAS, The DREAM Act has the support of the House and Senate leadership, all of the relevant committee chairs, as well as our nation's military leaders including the former secretary of state, General Colin Powell; and,

WHEREAS, On September 15, 2010, President Barack Obama, before the Congressional Hispanic Caucus, expressed his full support of the DREAM Act stating, "I will do whatever it takes to support the efforts to pass this bill so that I can sign it into law on behalf of students seeking a college education and those who wish to serve in our country's uniform. It's the right thing to do."; and,

WHEREAS, [STUDENT] is a student at [SCHOOL] and aspires to be a teacher serving the local under-resourced schools in her community. She graduated from [HIGH SCHOOL] where she was an [LIST ACHIEVEMENTS]. She is scheduled to graduate from [SCHOOL] in Spring [YEAR]; and,

WHEREAS, [STUDENT] entered the United States with

her family when she was 5 years old. She and her family overstayed their tourist visa.

WHEREAS, Last year, there was a routine check point in Jane's neighborhood. She was in the passenger's seat and one of her friends was driving. Everyone was asked for their identification. She was quickly questioned about her legal status when she couldn't provide an ID, then arrested and transferred to ICE custody.

WHEREAS, [STUDENT] is DREAM Act eligible, and her deportation to South Korea should be halted; and,

WHEREAS, Immigration and Customs Enforcement should grant her application for deferred action and allow her to remain in the United States; and

WHEREAS, Deporting DREAM Act children is unfair and a violation of their constitutional rights. While the immigration system is broken, deporting immigrant children is not the answer; and,

WHEREAS, the [DISTRICT] Board of Supervisors recognizes the support of the [SCHOOL] including her mentors, classmates and professors, the [COMMUNITY ORGANIZATION /IMMIGRATION GROUPS]. In less than one week, the community has called, emailed, and written over 500 letters to Senator Dianne Feinstein and Speaker Nancy Pelosi asking that they speak out against the deportation of [STUDENT]; now, therefore, be it

RESOLVED, That unless the DREAM Act is passed in Congress, all deportation of immigrant children should be stopped; and, be it

RESOLVED, That unless the DREAM Act is passed, [STUDENT] should be released from ICE custody, returned to her family, and be allowed to remain in the United States under the deferred action plan; and, be it

FURTHER RESOLVED, that the [DISTRICT] Board of Supervisors urges that until Congress passes the DREAM Act, and that Senator Feinstein or Senator Boxer issue a private bill on behalf of [STUDENT].

Sample Resolution 2: Board of Education

WHEREAS, The Development, Relief, and Education for Alien Minors (DREAM) Act is bipartisan legislation that addresses the situation faced by young people who were brought to the United States years ago as undocumented immigrant children and who have since grown up here, stayed in school, and kept out of trouble; and,

WHEREAS, Each year 65,000 United States-raised students who qualify for the DREAM Act's benefits graduate from high school; and,

WHEREAS, ON April 21, 2010, Assistant Senate Majority Leader Dick Durbin (D-IL) and Senator Richard Lugar (R-IN), asked the U.S. Department of Homeland Security Secretary Janet Napolitano, to halt the deportation of immigrant students who could earn legal status under the DREAM Act; and,

WHEREAS, The DREAM Act has the support of the House and Senate leadership, all of the relevant committee chairs, as well as our nation's military leaders including the former secretary of state, General Colin Powell; and,

WHEREAS, On September 15, 2010, President Barack Obama, before the Congressional Hispanic Caucus, expressed his full support of the DREAM Act stating, "I will do whatever it takes to support the efforts to pass this bill so that I can sign it into law on behalf of students seeking a college education and those who wish to serve in our country's uniform. It's the right thing to do."; and,

WHEREAS, [STUDENT] is a student at [SCHOOL] and aspires to be a teacher serving the local under-resourced schools in her community. She graduated from [HIGH SCHOOL] where she was an [LIST ACHIEVEMENTS]. She is scheduled to graduate from [SCHOOL] in Spring [YEAR]; and,

WHEREAS, [STUDENT] entered the United States with her family when she was 5 years old. She and her family overstayed their tourist visa.

WHEREAS, Last year, there was a routine check point in Jane's neighborhood. She was in the passenger's seat and one of her friends was driving. Everyone was asked for their identification. She was quickly questioned about her legal status when she couldn't provide an ID, then arrested and transferred to ICE custody.

WHEREAS, [STUDENT] is DREAM Act eligible, and her deportation to South Korea should be halted; and,

WHEREAS, Immigration and Customs Enforcement should grant her application for deferred action and allow her to remain in the United States; and

WHEREAS, Deporting DREAM Act children is unfair and a violation of their constitutional rights. While the immigration system is broken, deporting immigrant children is not the answer; and,

WHEREAS, The community at [SCHOOL] including her former classmates and professors, the [COMMUNITY ORGANIZATION /IMMIGRATION GROUPS] called, emailed, and wrote over 500 letters to Senator Dianne Feinstein and Speaker Nancy Pelosi asking that they speak out against the deportation of [STUDENT]; now, therefore, be it

RESOLVED, That until the DREAM Act is passed in Congress, all deportation of immigrant children should be stopped; and, be it

RESOLVED, That until the DREAM Act is passed, [STUDENT] should be released from ICE custody, returned to her family, and be allowed to remain in the United States under the deferred action plan.

THEREFORE, BE IT RESOLVED, that until Congress passes the DREAM Act, and that the [STUDENT] is released from ICE custody and that Senator Feinstein or Senator Boxer issue a private bill on behalf of [STUDENT].

Originators: Trustee [NAME]