



## DEFERRED ACTION FOR LABOR ENFORCEMENT (DALE) ONE-PAGER

*Every situation is unique. This is general information intended for educational purposes. It does not constitute legal advice.*

The Department of Homeland Security (“DHS”) announced a new process that permits workers who are involved in labor investigations to petition for deferred action and a temporary work authorization.

Deferred action is a discretionary decision made by the federal government that permits certain persons who are undocumented or have temporary status to stay in the country and work legally for a designated period. Deferred action does not confer legal status to individuals rather it reflects DHS’s intention to avoid deporting those persons for a period of time. This is a policy that offers temporary but important protection for vulnerable workers.

### 1. Who can seek deferred action and work authorization through this process?

Workers who are a part of a workplace investigation by a labor agency, like a victim of labor violations or a person who may act as a witness to a labor investigation. This deferred action process offers a person work authorization for **four years**. They may be able to renew their deferred action and work authorization for an additional two years after this initial period if the labor investigation remains ongoing.

Currently, DHS states that if the deferred action is not renewed, they do not plan to initiate deportation proceedings against someone unless that person is seen as a threat to national security. However, there is always a risk when you are an immigrant that you may be on the radar of the U.S. Immigration and Customs Enforcement (“ICE”). It is important that each person makes an informed decision with their immigration attorney or representative to see if this process is helpful to them, especially if you have a history of interactions with the criminal system or (an) order(s) of deportation.

### 2. What is the process for seeking deferred action?

First, an employment attorney will seek a Statement of Interest (SOI) letter from the labor agency which states that the agency is investigating your employer for labor violations.



The letter by the labor agency should cover the worksite generally rather than an individual worker. Once a worker receives a Statement of Interest letter, they can work with the assistance of their immigration attorney to apply for deferred action and a temporary work authorization from the United States Citizenship and Immigration Services (“USCIS”).

**3. Are the deferred action and work authorization renewable?**

If the labor investigation remains ongoing then you may be able to renew your deferred action and work authorization for an additional two years. The renewal request must be accompanied by an updated SOI letter by the labor agency explaining the continued need for workers to assist in their investigation or prosecution, or in the enforcement of any court order or settlement agreement.

**4. Can MRNY still support DALE applications and SOI screening when a client has a labor case open with another organization or private attorney?**

Yes, but we prioritize members when our capacity is limited.

**5. Does this apply to workers with informal work arrangements?**

If there is a labor violation and an open investigation by a labor agency, the person may be able to seek an SOI. Whether the work arrangement is informal is irrelevant. For example, if the terms of employment were made verbally instead of in writing that does not preclude a worker from requesting that a labor agency investigate their employer's labor law violations.

**6. Is DALE the best program for me and my situation?**

That assessment needs to be done on an individual basis by an immigration attorney. However, to even be screened for your DALE eligibility most immigration attorneys will want you to already have an SOI confirming you are participating in an open labor investigation.