



**National Alliance for Filipino Concerns
DEFERRED ACTION /DREAM ACT PRIMER
August 2012**

BACKGROUND:

The undocumented immigrant Filipino youth population must be understood as linked to the broader experience of Filipino undocumented immigrants. Their presence in the U.S. is fundamentally due to the labor export program (LEP) of the Philippine government, which actively encourages and facilitates the out-migration of its citizens rather than providing opportunities for a dignified livelihood for the Filipino people in the Philippines.

At the same time, it is a consequence of the family reunification backlog in the U.S. Filipinos who seek to reunite with their families through family-based petitions must wait for several decades. Hence, Filipinos find alternative ways to bring their families together, including overstaying their tourist or short-term employment visas which then renders them undocumented.

ISSUES:

Undocumented immigrant Filipino youth face struggles that are both similar but different from their undocumented immigrant parents, especially once they have completed their primary and secondary schooling.

Because many cannot avail of federal or state tuition assistance, for instance, they are unable to enroll in colleges and universities and are likely forced to join the ranks of the low-wage workers. Yet, unlike their more recently arrived counterparts, they can better “assimilate” because of they have mastery of the English language and American cultural norms. This may (or may not) cause tensions and divisions in the workplace amongst Filipino immigrant workers.

For those who manage to enroll in colleges and universities, they face potentially limited job prospects, especially in the public sector because they may be fearful of being caught or because these jobs require proof of either legal status or citizenship. This leads highly educated people being forced into low-wage jobs in abusive and exploited working conditions.

While undocumented youth might be able to evade immigration authorities in some ways because they look and act like “Americans” they may also, as youth of color, be targeted (as many youth of color from less privileged backgrounds generally are) by racial profiling. They run the risk of being caught up in the criminal justice system. Because local police often cooperate with federal immigration enforcement agencies, undocumented youth may find themselves especially vulnerable to deportation.

REFORMS:

There has been a long-running struggle led by undocumented youth and students to assert their rights; more recently they have been called “Dreamers” after the legislative proposal (which has undergone several iterations in order to win bipartisan support) called the “Dream Act.”

National petitions signed by scholars (including university officials) have supported the Dreamers; they have also been supported by local and state legislators who have declared official support for their concerns (though they are ultimately powerless in changing federal law).

The Dream Act was passed in 2010 by the House but failed to get Senate support. In its present form, it aims to allow people who have graduated from high school in the U.S. to gain legal status through higher education or military service.

At the state-level there has been success in extending services to undocumented youth like the California Dream Act: ([See CSAC website](#)). Student organizations have been active in ensuring their institutions are compliant with the law.

At the more local level, some colleges and universities have introduced policies that are considered friendly to undocumented students.

Most recently, the Obama administration issued an order of “**deferred action**” which allows undocumented youth to apply for a delay of deportation orders.

The criteria for applying for deferred action is as follows:

You may request consideration of deferred action for childhood arrivals if you:

1. Were under the age of 31 as of June 15, 2012;
2. Came to the United States before reaching your 16th birthday;
3. Have continuously resided in the United States since June 15, 2007, up to the present time;
4. Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
5. Entered without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012;
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

For reference see: [United States Citizenship and Immigration Web Site](#)

CRITIQUES

Numerous critiques have been made of the Dream Act, particularly in its current form, because it offers a pathway to citizenship for those who have served in the military. For some this demonstrates tacit support for a U.S. military that is active in several unjust wars and gross violations of human rights worldwide.

More urgent, however, is a critical analysis of deferred action. Filipino newspapers have all featured the issue very prominently because lawyers groups and other immigrant rights advocates have already been offering workshops/forums, etc. to help those who may qualify to apply. But more importantly, the attention being paid to deferred action in the Filipino media is most likely due to the fact that the issue of undocumented status is an urgent one for Filipino youth.

Initial critiques:

- Because deferred action is ultimately an administrative order and NOT a law, it is subject to being withdrawn at some point in the future, especially if a new administration comes into power after national elections in November. As USCIS explicitly states, “DHS can terminate or renew deferred action at any time at the agency’s discretion.”
- This is NOT a pathway to legalization or permanent residency. Deferred action = delayed deportation.
- Youth who qualify for deferred action may be able to qualify for employment but it is NOT a guarantee. They have to prove that there is “an economic necessity for employment.”
- If youth qualify for employment authorization (which is only for two years), it simply means that employers can now take advantage of a population of people who are in “legal” limbo. It is already very common for employers to take advantage of the undocumented and even legal immigrants; this is likely to continue under the new program.
- Deferred action is NOT automatic. It is determined on a case-by-case basis and youth will have to supply documentation to make their case.
- Deferred action can be seen as a money making scheme for the U.S. government. It costs \$465 just to delay your deportation (and not get legal status).
- There is no guarantee that personal information will be kept secure and won’t be used against you at some future date. In other words, there is no guarantee that youth who sign up for deferred action aren’t just signing up for their (and their family members’) deportation. The application process renders visible individuals who may not already be on the government’s radar. Though deferred action at present is supposed to protect applicants’ identities, USCIS also makes clear, “This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or

procedural, enforceable by law by any party in any administrative, civil, or criminal matter.”

- Biometric data is being collected as part of the deferred action application process. Is this kind of information something that people are willing to give up to the government only to avoid being deported for two years?
- Those who have criminal records (however minor) should be very cautious about applying because there is no guarantee that this won't send red flags to ICE who can then attempt to remove them. After all, the administration was very clear that ICE should prioritize “criminal” undocumented immigrants.

Conclusion

It is clear that the current deferred action program is far from any real solution to addressing the concerns of low-wage and undocumented Filipinos in the U.S. Deferred action is short-term relief which offers no long-term path to citizenship or legal permanent residency. Even JB Librojo and Jose Antonio Vargas, who helped put the plight of Filipino “Dreamers” on the national stage, will not be able to avail of this “relief”.

Yet without the efforts of thousands of our community members pushing for the DREAM ACT and a genuine Comprehensive Immigration Reform (CIR), President Obama would not have made this election-year move. His executive order signals that immigrant rights organizing is working and now more than ever Filipinos need to continue to push for an end to family petition backlogs and legalization for all.

Therefore, NAFCON remains committed in its efforts to push the U.S. government to pass legislation that unites Filipino families and allows all undocumented immigrants a path to work and support their loved ones legally. This means passage of not only the Dream Act but a genuine CIR.

Beyond CIR, NAFCON firmly recognizes the Philippine LEP as the ultimate issue to be addressed when seeking to improve the conditions for overseas migrant Filipinos. Changing the priority of the Philippine economic policy from one of exporting its people to equitable land distribution and industrial development is the key to resolving the numerous issues of migrants including the one million undocumented Filipinos in the U.S.

Currently NAFCON is engaged in its “Dignity and Justice for Im/migrants Campaign” which seeks to do research and education amongst the community in an effort to gain broader support for resolving issues that Filipino migrants face. To find more information on NAFCON and its campaigns, go to our website at www.nafconusa.org or email us at info@nafconusa.org.

For more information on resources and support for undocumented youth in your area please contact your nearest NAFCON regional representative:

Northeast: Michelle Saulon ne@nafconusa.org (347) 867 – 1550

Midwest: Lorena Buni mw@nafconusa.org (224) 678 - 1897

Nor Cal: Angelica Cabande nc@nafconusa.org (415) 946 – 9904

So Cal: Alex Montances sc@nafconusa.org (253) 381 – 7444

Northwest: Freedom Siyam nw@nafconusa.org (206) 659 – 1896