



## **President Obama's Executive Action on Immigration: Positive Step for Hundreds of Thousands of Farmworkers and their Families**

**Executive Action Is Needed and Will Benefit Farmworkers:** On November 20, 2014, President Obama announced several executive actions to reform the immigration system. One significant measure was the creation of the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program and expansion of the Deferred Action for Childhood Arrivals program (DACA), which together will provide relief from deportation for up to 4 million undocumented immigrants.

The need for administrative immigration relief in the absence of Congressional action is acute in farmworker communities. There are an estimated 2.4 million farmworkers laboring on our farms and ranches to bring food to our tables.<sup>1</sup> Estimates indicate that at least one-half of farmworkers are undocumented immigrants.<sup>2</sup> The broken immigration system inflicts harm on farmworkers, their family members, their communities, and the businesses that need their labor. The undocumented status of the majority of farmworkers is widely recognized as a major contributing factor to the low wages, poor conditions and extensive illegal practices in agriculture. Undocumented workers' fear of deportation and job loss deprives them of bargaining power with their employers and inhibits them from challenging illegal employment practices. The presence of undocumented workers depresses wages and working conditions for all farmworkers, including the roughly 720,000 to 1.25 million United States citizens and lawful immigrants in agriculture.<sup>3</sup>

Immigration reform is desperately needed to stabilize the agricultural workforce and improve wages and living and working conditions. In the absence of Congressional action and short of an administrative relief program specifically addressing the needs of the agricultural workforce, the DAPA program and DACA expansion are important steps toward achieving a greater measure of justice for the people who put food on our tables. Farmworkers and their family members represent a significant percentage of individuals eligible for administrative relief (DAPA and DACA)—at least 1 out of every 6 potential administrative relief beneficiaries.<sup>4</sup> Estimates indicate that roughly 780,000 undocumented farmworkers and their spouses and children are eligible for DAPA or DACA.<sup>5</sup> With protection against the constant fear of deportation, farmworkers and other aspiring Americans will be able to contribute more fully to their communities and will be empowered in their workplaces.

---

<sup>1</sup> Philip Martin *California Ag Employment: 2014* <http://migrationfiles.ucdavis.edu/uploads/cf/files/2014/04/22/martin-california-ag-employment-2014.pdf> (last visited July 16, 2014).

<sup>2</sup> The National Agricultural Worker Survey public access data ("NAWS"), FY 2011-2012, <http://www.doleta.gov/agworker/naws.cfm> (last visited July 14, 2014).

<sup>3</sup> Number based on NAWS estimate of 48% undocumented workforce: if 52% of the total workforce of 2.4 million is authorized, US and LPR workers constitute roughly 1.25 million agricultural workers. Even assuming the percentage of undocumented farmworkers approaches 70%, there would still be roughly 720,000 U.S. farmworkers.

<sup>4</sup> Ed Kissam and Jo Ann Intili, *Number, Distribution, and Profile of Farmworkers Eligible for DAPA or DACA*, (Revised/Expanded analysis), Werner-Kohnstamm Family Fund, Dec. 12, 2014, at p. 3

<sup>5</sup> *Id.*

**DAPA and Expanded DACA Programs:** These programs are opportunities for eligible individuals to apply for deferred action, which will provide temporary relief from deportation and work authorization for a renewable 3 year period. Participants also will be able to apply for a social security number and, in most states, a driver's license. The programs are discretionary and eligibility is determined on a case-by-case basis. Deferred status under DACA and DAPA is temporary and does not provide a path to legal immigration status or citizenship. Because deferred action is based on the government's discretion about who to deport and who not to deport, DAPA or DACA may change in the future based on different enforcement priorities.

**To be eligible for DAPA, individuals must:**

1. Have a child who is a US citizen or lawful permanent resident (LPR), and who was born on or before November 20, 2014,
2. Have lived in the US since January 1, 2010 or earlier, AND
3. Have been in the US without lawful immigration status on November 20, 2014.

**DACA applicants must:**

1. Have come to the US before the age of 16 (under expanded DACA there is no longer an upper age limit to apply; for the current DACA program applicants must have been under the age of 31 as of June 15, 2012),
2. Have lived in the US since January 1, 2010 or earlier (for the 2012 DACA program applicants must have lived in the US since June 15, 2007),
3. Have been in US without a lawful immigration status on June 15, 2012, AND
4. Be enrolled in school or adult education classes, or have a GED or high school diploma.

For both programs, individuals with certain criminal or immigration enforcement histories may not be eligible and should consult with an attorney or immigration practitioner. Applicants for both programs must pay a \$465 fee and pass a criminal and national security background check.

***WARNING! AVOID IMMIGRATION FRAUD: There is NO application process yet for DAPA and the expanded DACA programs.***

On February 16, 2015, a federal judge issued a court order in Texas v. United States temporarily preventing the federal government from implementing DAPA or extended DAPA. The Obama Administration is appealing the decision and is expected to eventually win. Until an appeals court overturns the judge's order, potential DAPA and extended DACA applicants should continue to prepare for deferred action, including by saving money for the fees and collecting needed paperwork. Potential DAPA and expanded DACA applicants should not pay for anyone to file or prepare an application as there is currently NO application process nor any waiting list for DAPA or expanded DACA. Please note that the original DACA program announced in 2012 is still accepting original and renewal applications.

**Conclusion:** DAPA and the expanded DACA programs could provide hundreds of thousands of farmworkers with the critically important opportunity to obtain protection from deportation and work authorization. This administrative relief is an important step toward achieving a greater measure of justice for the people who put food on our tables and it would help many farmworkers improve their situations in the workplace and at home.