NQAPIA Immigration Relief Executive Action Fact Sheet

President Obama announced several executive actions on immigration that can change the lives of millions of individuals. His announcements came after years, if not decades, of organizing and advocacy from immigrant communities.

NQAPIA commends the President for his actions and so many LGBT people, especially those who are Asian American, South Asian, Southeast Asian, or Pacific Islander will enjoy relief from deportation. Yet, we also urge law-makers to consider those still left behind. Many LGBTs will not benefit if they are not married or have children. Those who got into trouble with the law no matter the reason even if dues have been paid are excluded. NQAPIA will press for more comprehensive solutions that include all of our community and we encourage those who qualify to APPLY for current programs.

What is executive action on immigration?
On June 15, 2012, the President announced the Deferred Action for Childhood Arrivals (DACA) program. This program allowed certain undocumented individuals to lawfully stay in the U.S. and gain work authorization. Since June 30, 2014, 685,544 people have participated in DACA. The Asian countries with the largest estimated number of youth eligible are South Korean (33,000), Philippine (15,000), China (15,000), India (11,000), and Pakistan.

On November 20, 2014, President Barack Obama announced expansions to the DACA program and a new Deferred Action for Parental Accountability (DAPA) program. This was done through a series of executive memoranda issued by the Department of Homeland Security. DACA and DAPA will provide temporary relief from deportation for up to 5 million undocumented immigrants.

The programs are not a permanent fix to our broken immigration system, which only Congress can do.

What does the executive action do and who qualifies?

Deferred Action for Childhood Arrivals (DACA)
Administered by USCIS, DACA provides temporary relief from deportation for certain people brought to the United States as minors. It allows individuals who qualify to stay in the U.S. and obtain a work permit. DACA is granted on a case-by-case basis and does not provide a path to lawful permanent residence or U.S. citizenship. The DACA program was revised by the November 20th announcement. Implementation of the revised DACA program will begin on February 18, 2015. Check www.uscis.gov for updates.
Eights guidelines to qualify for the DACA program:

1. Under the age of 31 as of June 15, 2012. *On February 18th, 2015, the revised DACA program will eliminate the age ceiling.*
2. At least 15 years of age at the time of application or in removal proceedings.
3. Entered the United States before the age of 16.
4. Continuously resided in the United States (U.S.) since June 15, 2007 to the present time. *On February 18, 2015 this date will change to January 1, 2010.*
5. Physically present in the U.S. on June 15, 2012 and at the time of applying for DACA.
7. Either currently in school, graduated from high school, completed a GED or equivalent, or a veteran honorably discharged.
8. Not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

As of February 18, 2015, work visas will be extended from two to three years. Current DACA recipients should check with USCIS about how these changes will impact them. DACA recipients must reapply every three years. Recipients should start the process between 120-150 days before expiration.

Find videos about DACA in Mandarin, Cantonese, Korean and Thai as well as receive legal advice in these languages at Asian American’s Advancing Justice and guides in Bengali, Urdu and Hindi at South Asian Americans Leading Together.

To apply for DACA or renew DACA, visit www.uscis.gov/childhoodarrivals.

*Many LGBT young people, who were undocumented, have benefited from the DACA program and have gained legal status and work authorization.*

Deferred Action for Parental Accountability (DAPA)

The Deferred Action for Parental Accountability (DAPA), administered by USCIS, provides temporary relief from deportation and work authorization to undocumented parents of U.S. citizens or Lawful Permanent Residents (LPRs). DAPA lasts for three years and should be ready for application in late May 2015.

Qualification for the DAPA program:

1. Have a U.S. citizen or LPR son or daughter (by blood or adoption) as of November 20, 2014
2. Continuously resided in the United States since before January 1, 2010
3. Physically present in the United States on November 20, 2014, and at the time of applying
4. Have no lawful immigration status on November 20, 2014
5. No criminal convictions (including a felony, significant misdemeanor, or three or more misdemeanors), no gang involvement or terrorism, not a recent unlawful entrants, and others
6. Pass a background check that includes a criminal and immigration background check

Check www.uscis.gov to confirm start dates and the application process.

*Now, parents of LGBT people can benefit and gain legal status.*
How do I prepare?

1. Save money (at least $465 for the application fee).
2. Get proof of identity such as a government-issued passport, birth certificate or ID card.
3. Gather proof of relationship to U.S. citizen or lawful permanent resident (LPR) son or daughter.
4. Gather proof of how long you have been in the U.S.
5. Gather any criminal records.
6. If you have a criminal conviction, check with an attorney to expunge, vacate, or modify this conviction.
7. If you have a prior deportation or removal order, check with an attorney.
8. Stay informed and know your rights!

For more information, go to http://nilc.org/toptenwaystoprep.html.

Where can I find assistance to apply?

Fees to apply for DACA and work authorization are currently $465, with limited fee waivers for people in need. USCIS is expected to begin accepting applications for expanded DACA in February 2015 and DAPA in May 2015. Seek advice from trusted legal immigration service provider and be aware of scams. Go to www.nqapia.org for more information.

Are there any risks in applying for relief?

Every person who applies for administrative relief must go through a national security and criminal background check. Anyone who qualifies for relief will be entered into a national database, and there will be a simple fine for the unauthorized entry. We encourage people to apply, and be prepared. BE AWARE OF FRAUD. Work with trusted legal immigration service providers. This is temporary relief, and we can work together to change our nation’s immigration laws and create a permanent pathway to citizenship.

Others who will benefit from administrative action:

Employment/Student Visas

President Obama’s executive actions also included proposed changes in the visa programs. Individuals should talk to an immigration lawyer, and check www.uscis.gov for updates.

- Expansion of degree programs eligible for Optional Practical Training (OPT) program, which authorizes foreign students from U.S. schools to gain work experience after graduation. Students in the science, technology, engineering, and mathematics (STEM) fields will be allowed to work for a longer period in the United States.
- Greater visa portability for employment-based permanent resident status.
- Provide employment authorization (H4 visa) to spouses (including same-sex spouses) of H1B foreign workers who have been approved for a green card.

Several other changes are being proposed, and a task force is working to modernize the visa processing system. Check http://www.dhs.gov/immigration-action for more information.

Many LGBT Asians and South Asians come to the United States on professional worker (H1B) visas or as foreign students (F-1). These changes will extend the time that they can stay in the US and improve their experience with securing a visa.
How about enforcement of immigration laws?
DHS has discounted the problematic the Secure Communities program as a result of organizing and advocacy around the nation. However, a new Priority Enforcement Program (PEP) focuses on national security, border security, and public safety. Unlike Secure Communities that focused on pre-conviction arrests, PEP prioritizes detention and deportation post-conviction and continues to rely on cooperation with local, state, and federal law enforcement agencies. DHS programs such 287(g) and Criminal Alien Program still exist. DHS continues to expand the opening of new detention centers including those for families and children. If you need support with immigration enforcement concerns, please contact American Immigration Lawyers Association.

Work permits for foreign students graduating in the Sciences, Technology, Engineering, and Maths (STEM) are expanded for 2.5 years under Optional Practical Training (OPTs). OPT will be expanded to include many more fields of study. A significant number of LGBT students studying in the United States as F-1 student visa holders are from Asian countries. Oftentimes, they come to the US to study, and then they come out. Moreover, the administration is considering an expansion of the fields of study that qualify for OPTs.

This is a step in the right direction, but NQAPIA and our allies will still monitor the programs for the impact on LGBTs.

Where do we go from here?
Administrative relief is a temporary solution. Our community must organize and press Congress for a permanent solution to our broken immigration system. The executive action also excludes community members with criminal convictions and LGBT people who do not have legally recognized partnerships or supportive families. The administrative action allows for profiling of communities under concerns of “national security” or “gang violence” with limited civil liberty protection.

As a community we must work to protect all of our family members.

Contact us at nqapia@gmail.com with any questions.

Donate or contact nqapia@gmail.com to support NQAPIA’s work on immigration.


The National Queer Asian Pacific Islander Alliance (NQAPIA) is a federation of lesbian, gay, bisexual, and transgender (LGBT) Asian American, South Asian, Southeast Asian, and Pacific Islander (AAPI) organizations. We seek to build the organizational capacity of local LGBT AAPI groups, develop leadership, promote visibility, educate our community, enhance grassroots organizing, expand collaborations, and challenge homophobia and racism.