

Obama's 'DREAM Act': How it will work is still a work in progress

The official responsible for carrying out Obama's 'DREAM Act' answered questions Tuesday on the illegal immigrants program, but said final details will be known only on Aug. 15, when the first applications are accepted.

By [David Grant](#), Staff Writer / August 7, 2012

Ever since [President Obama](#) announced in June that he was halting deportations of otherwise law-abiding young immigrants brought to the [US](#) illegally, the immigrants (and restive members of Congress) have been eager to learn how the program would work.

They are about to find out, but only on Aug. 15, the day [US Citizenship and Immigration Services \(USCIS\)](#) begins accepting immigrants' applications for a special status deferring immigration action against them for two years, says USCIS Director Alejandro Mayorkas, the man largely responsible for carrying out Mr. Obama's policy.

Mr. Mayorkas, appearing Tuesday at a seminar held by the nonpartisan [Washington-based Migration Policy Institute](#), had answers for a number of questions raised by immigrant advocates and members of Congress alike about how, specifically, the government would carry out Obama's order that, in addition to staving off deportation, would allow eligible individuals to apply for work permits.

But on the most granular specifics, Mayorkas stressed repeatedly that the agency would work hard to evaluate every applicant on an individual basis and that final details would only be available the day that USCIS begins accepting applications.

"We will make our determinations on an individualized, case-by-case basis" beginning Aug. 15, Mayorkas said. "And not before then."

Nearly 1.3 million illegal immigrants under the age of 31 would be immediately eligible for the policy, according to an estimate released Tuesday by the Migration Policy Institute. Some 500,000 more could become eligible in coming years as they reach the age of 15, the minimum age for the designation.

The final details are of keen interest to two distinct groups. First, illegal immigrants with military service or who are pursuing or already obtained a high school education are weighing whether to step out of the shadows and into the program. These young people are frequently referred to as DREAM-ers, after long-stalled federal legislation known as the [DREAM Act](#) that would effectively cement the Obama administration's move into federal immigration law.

At present, the Obama administration justified its move by arguing that it is using "prosecutorial discretion" to focus on illegal immigrants who are a danger to public safety or national security

given limited immigration enforcement resources.

Key to these groups was Mayorkas's announcement that application for the program will cost \$465, that individuals who are denied by the program cannot file a motion to reopen or reconsider their application, but those rejected from the program would not necessarily be referred to Immigration and Custom Enforcement ([ICE](#)), the arm of immigration policy responsible for deportations.

USCIS, in addition, would allow some flexibility in how applicants must document their eligibility for the program.

Applicants will have to prove that they entered the US before the age of 16; that they've been in the US continuously since June 2007; were present in the US on June 15 of this year; have met certain academic or military qualifications; have not been convicted of a felony, significant misdemeanor or three or more misdemeanors; and otherwise do not pose a threat to public safety or national security.

While saying the most specific requirements for documents that USCIS will accept will be available on Aug. 15, Mayorkas listed a litany of specific items from high school diplomas to military documents to healthcare records that would be acceptable in meeting some part of the eligibility requirements. In building the list, he said, "we took into consideration the documentary realities that undoubtedly the young people requesting deferred action would confront."

But that flexibility is a warning siren for the second group of individuals who are deeply interested in USCIS's guidelines: critics of the program, like [House Judiciary Committee](#) Chairman [Lamar Smith](#) (R) of [Texas](#), who see the administration's decision as opening the floodgates to immigration fraud.

"The lack of specific standards for employees processing the applications is an open invitation to fraud," Representative Smith said in an e-mailed statement in response to updated guidance provided by USCIS on Friday, "especially because the Administration is allowing illegal immigrants to submit third party affidavits as proof of at least one of the DREAM Act requirements."

During a half-hour long speech on the subject, Mayorkas provided answers to many of the some three dozen questions raised by Smith in June in a [letter](#) to USCIS and other government immigration institutions.

- Driving under the influence counts as a "serious misdemeanor," preventing a person from qualifying for the program.
- Affidavits will be allowed to help bridge small gaps in an applicant's documentary record, but not stand on their own as proof for eligibility.

- The organization would use the \$465 fund to pay for the additional staff needed to run the process so that other cases from legal immigrants would not be shortchanged.

The USCIS director also pushed back one critique of the policy by saying that no individuals would be processed by the policy before Aug. 15 – a claim Smith leveled in a separate, July letter to Department of [Homeland Security Secretary Janet Napolitano](#) as proof the Obama administration was rushing ahead with the policy without putting proper safeguards in place.

Concern about the integrity of an immigrant’s documents “is a legitimate point,” says [David Martin](#), a law professor at the [University of Virginia](#) and former principal deputy general counsel at the [Department of Homeland Security](#), who spoke on a panel alongside Mayorkas.

“There’s indication in the guidance of real seriousness about documentary integrity,” he said, “but the devil’s in the details. We’ll see that in a week.”

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