



# CONSUMER ADVISORY DO NOT BE MISLED

The Obama Administration's Immigration  
Announcement is NOT an Amnesty Program!

## **WARNING!**

Do NOT believe anyone who tells you they can sign you up for a work permit (Employment Authorization Document or "EAD") or get you legal status based on the Secretary Napolitano's August 18, 2011 announcement!  
Anyone who says that is not to be trusted!

There is NO "safe" way to turn yourself in to immigration and there is NO guarantee that your case will be considered "low priority." ANY person who comes into contact with immigration authorities may be arrested, detained or even removed.

Only a QUALIFIED IMMIGRATION LAWYER can evaluate your case and tell you about your rights.

Do NOT seek legal advice from a notario or immigration consultant.

For more information about avoiding immigration scams go to [www.StopNotarioFraud.org](http://www.StopNotarioFraud.org)

### **What the new policy is NOT:**

- **The Obama Administration announcement is NOT an amnesty, it is NOT about granting legal status, and is NOT something that you can sign-up for!**

The Obama Administration made very clear that the announcements do NOT provide any way to "apply" for a work permit or "EAD" nor is there a new way to apply to remain in the United States. The change announced is not about giving people work permits or legal status. The announcement applies ONLY to cases already in the system, ensuring that low priority cases do not continue to clog up an already overburdened immigration court system.

## **What the new policy IS:**

The Obama Administration announced the creation of a high-level working group made up of Department of Homeland Security and Department of Justice officials who are to do the following:

- Review all cases *already pending* before the immigration courts. Those that are considered “low priority” may be administratively closed. Those that are considered a “high priority” will be prosecuted more aggressively.
- There are *no rules or guarantees* that a particular type of case will be considered a “low” or “high” priority. Recent guidelines are helpful, but no one can tell you if your case is a low priority--only immigration authorities will make that decision.
- In the future, immigration authorities will review the cases people *before they are placed in removal proceedings*. Those that are “low priority” may not be referred to the immigration court.
- Create department-wide guidance to help USCIS, CBP, and ICE agents and officers *make better, more consistent decisions* about who to place in removal proceedings.
- Issue guidance on providing discretion in compelling cases for persons who *already have a final order of removal*.

In other words, the August 18<sup>th</sup> announcement was preliminary and *nothing* has been implemented yet. Any details about how the review process will work, what cases will be considered low priority or how to have a particular case considered have not been decided.

**The best course of action is to consult an immigration lawyer or accredited representative, not to take action because a friend, neighbor or coworker encourages you to act.**

**An online directory of AILA attorneys is available at [www.ailalawyer.com](http://www.ailalawyer.com)**

Even if a friend, neighbor or coworker encourages you to act, do NOT try to contact immigration authorities or fall for a scam! **At this time, there is NO application to fill out, NO form that can be filed, NO filing fee that can be paid and NO guidance from immigration authorities AT ALL as to how the review of cases will happen.** Eventually, as the government decides how to proceed, that information should be available from official government websites, such as USCIS.gov and USICE.gov, this website or the website of the American Immigration Lawyers Association, [www.aila.org](http://www.aila.org). To locate an immigration attorney, including searches by location, practice area and language skills, you can find an online directory of AILA attorneys at [www.ailalawyer.com](http://www.ailalawyer.com).

**The Announcement does NOT mean that all “low priority” cases will automatically be granted a work permit or EAD**

The Administration’s announcement said that if a case is administratively closed, the individual will be able to *apply* for a work permit (employment authorization document or “EAD”). But there are no details, guidelines or instructions on *how* to apply for an EAD, or *who* will be eligible for an EAD. Unless you are *already* eligible for an EAD under existing regulations and guidelines, you should *not* go to immigration and ask for an EAD, or apply to immigration for an EAD or you risk losing several hundred dollars in

filing fees. More information on what an EAD is and how much it costs to apply for one is found below.

#### **What are “low priority” cases?**

The factors for determining low priority cases will likely be based on the [June 17, 2011 memo](#) on prosecutorial discretion. However, just because a case seems to fall into one or more of those categories, does NOT automatically mean that it will be considered “low priority.” The people reviewing the cases will be looking at the “totality of the circumstances” and each file will be reviewed on a case-by-case basis. It is unclear how different factors will be considered and weighed. Given that there are approximately 300,000 cases pending, it is also unclear WHEN a particular case might be reviewed.

#### **What is administrative closure?**

Administrative closure applies only to an individual whose case is *already* before the immigration judge. When a case is administratively closed, it means that the case is no longer active and no action will be taken, including no future hearings, unless and until either the government or the noncitizen asks for the case to be made active again. *A person whose case is administratively closed is still in removal proceedings.*

**Administrative closure is NOT legal status.** It is simply a temporary suspension of an immigration court case.

#### **Will I get legal status from the Administration’s announcement?**

No. According to the announcement, cases that are deemed to be of low priority will either (1) be administratively closed, or (2) no enforcement action will be taken. **This is not an amnesty or legal status, but rather a temporary decision not to use limited government resources to deport low priority individuals.**

The Administration has also stated that individuals whose cases are administratively closed will be eligible to apply for a work permit (or EAD). An EAD means that an individual can legally work in the United States and obtain a social security number for work. In some states, having an EAD also means you can apply for a drivers license or other identification). **An EAD does not give a person legal status--it is just temporary permission to work.**

#### **What is an EAD?**

An EAD or employment authorization document (also known as a work permit) is a temporary document that gives an individual permission to work lawfully in the United States. An EAD is generally valid for one or two years (though it is unclear at this time how long an EAD under this policy will be valid), and can generally be renewed. The application fee is currently \$380, though individuals who can demonstrate financial hardship may be eligible for a fee waiver. **An EAD is NOT an immigration status in and of itself.**

*The American Immigration Lawyers Association is the national association of immigration lawyers established to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members.*

American Immigration Lawyers Association • Suite 300, 1331 G Street, NW, Washington, DC 20005 • (202) 507-7600