

NOV 22 2011



U.S. Immigration
and Customs
Enforcement

Scott Daniel McVarish, Esq.
Immigration Law Office of Los Angeles
P.O. Box 4564
Culver City, CA 90231

Dear Mr. McVarish:

Thank you for your October 12, 2011 letter to John Morton, Director, U.S. Immigration and Customs Enforcement (ICE), concerning your request that ICE halt the removal of and grant work authorization to all students who would be eligible under the proposed Development, Relief, and Education for Alien Minors (DREAM) Act.

Prosecutorial discretion, unlike benefits specified in the Immigration and Nationality Act, is not a form of relief from removal based on specific, established criteria or exercised on a categorical basis for large classes of aliens, as you requested in your letter. Instead, it is exercised on a case-by-case basis. ICE officers, special agents, and attorneys review each case on its own merits in conformity with the ICE priorities described in the enclosed ICE Director Morton June 17, 2011 memorandum, "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens." You can also find this memorandum on ICE's website: <http://www.ice.gov/doclib/secure-communities/pdf/prosecutorial-discretion-memo.pdf>.

In determining whether to exercise prosecutorial discretion, ICE officers, special agents, and attorneys consider every case that they handle individually to decide whether, based on the totality of the circumstances, an exercise of prosecutorial discretion is appropriate. ICE will continue to use prosecutorial discretion on a case-by-case basis when the totality of the circumstances would so warrant. With respect to your request that work authorization be granted to all students that would fall under the proposed DREAM Act, that is entirely under the purview of U.S. Citizenship and Immigration Services.

Thank you again for your letter.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia O'Connor".

Cynthia O'Connor
Executive Secretary

Enclosure