



WE ARE YOUR DOL



Department
of Labor

PROSECUTORIAL DISCRETION

What It Means for Immigrant Workers in New York State

Are you currently involved in a workplace labor dispute or New York State Department of Labor (NYSDOL) investigation? Do you have an actual or perceived fear that your employer may retaliate against you for exercising your rights because of your immigration status? If you answered yes to either of these questions, Prosecutorial Discretion may be an avenue to deferred action.

WHAT IS PROSECUTORIAL DISCRETION?

Prosecutorial Discretion (PD) is a new, streamlined process for immigrant workers to obtain temporary protection from deportation and work authorization if they cooperate with a NYSDOL investigation.

HOW DOES PROSECUTORIAL DISCRETION WORK?

If you are involved in a current and ongoing NYSDOL investigation and afraid to cooperate in the investigation because of potential immigration-based retaliation, your attorney or advocate can request a Statement of Interest (SOI) letter. NYSDOL will review the request, and if approved, issue a SOI letter to the U.S. Department of Homeland Security (DHS). Once accepted by DHS, your attorney or advocate can apply for deferred action. DHS will review your application along with the SOI and make their own determination on your specific case. The NYSDOL is not involved in this procedure.

WHAT INFORMATION WILL BE IN THE SOI LETTER?

The SOI letter will describe NYSDOL's authority to investigate your case, describe the workers' retaliation-based fear, and NYSDOL's interest in ensuring that workers are free to participate in our investigation by eliminating the fear of immigration-based retaliation.

ARE THERE OTHER FORMS OF IMMIGRATION-BASED RELIEF AVAILABLE TO ME?

Yes, if you are the victim of a crime or subject to exploitation by an unscrupulous employer and are cooperating in a NYSDOL investigation, you may be eligible for a U or T nonimmigrant law enforcement visa certification.

More Information on NYSDOL's role and U or T nonimmigrant law enforcement visa certification, is available at dol.ny.gov/dipa/immigrant-crime-victims.

SHOULD I HAVE AN ADVOCATE OR ATTORNEY ASSIST ME WITH THIS PROCESS?

NYSDOL cannot provide legal immigration advice. Typically, requests for U or T nonimmigrant law enforcement visa certifications are submitted by legal advocates and/or attorneys. The decision to apply for deferred action is one that should be done in consultation with a legal professional. For additional information or to request a copy of a Statement of Interest letter, please call **877-466-9757**, email SOIrequest@labor.ny.gov, or visit dol.ny.gov/prosecutorial-discretion.

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