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Deferred Action for Labor Enforcement (DALE) or Deferred Action for Workers in Labor Dispute

Deferred Action for Labor Enforcement (DALE)

What exactly is DALE?

DALE, if granted, is a commitment from DHS to protect its recipient from deportation for four years, with a possibility to renew that protection for an additional two years. During this time, a DALE recipient is considered to be lawfully present in the United States and is able to apply for work authorization.

It is important to understand that DALE is *only a temporary protection* that does not offer any pathways to a permanent legal status in the U.S. Also, applying for DALE does notify DHS that you

are in the United States, with the possibility that DHS could try to deport you after your legal status expires — even though DHS has stated it has taken steps to prevent this from happening. We strongly recommend talking to an immigration attorney before requesting DALE, especially if you have a criminal record or outstanding warrants.

How can workers apply for DALE?

The DALE application is typically made with the assistance of an immigration lawyer or a U.S. Department of Justice (DOJ) Accredited Representative. The Immigration Advocates Network has an [updated list](#) of free or low-cost immigration service providers that may be able to support workers with their applications. Additionally, in California, [a new pilot program](#) is in development that will provide free immigration legal assistance to ~~undocumented~~ agricultural workers involved in investigations by the Division of Labor Standards Enforcement.

DHS has a list of materials and forms that should be included with the DALE application on its [website](#). Although the application for DALE is free, an applicant will also need to submit an application for employment authorization with their application, which requires a processing fee (\$520, as of Sept. 2024). But this fee can be waived if the applicant is eligible for a fee waiver. Importantly, before applying for DALE, workers must first request and receive a Statement of Interest (SOI) from the relevant labor agency.

From USCIS

The U.S. Department of Homeland Security plays an important role in ensuring that our nation's workplaces comply with our laws by supporting federal, state, and local labor and employment agencies to accomplish their important work enforcing wage protections, workplace safety, labor rights, and other laws and standards. See the Oct. 12, 2021, [DHS Policy Statement 065-06](#), “Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual.”

FROM NYS DOL

Undocumented workers involved in workplace labor investigations by the NYSDOL may submit, or have an advocate or attorney submit on their behalf, a Statement of Interest request to NYSDOL supporting prosecutorial discretion from DHS. The Worker Protection Unit will evaluate the request and render a determination within 30 days. Separately, the worker would need to submit a concurrent filing for deferred action to DHS. Each application is reviewed by DHS and, if approved, the worker may be granted deferred action, which protects them from removal for two years, or longer in the case of ongoing investigations or subsequent payouts from employers. New York State has granted 32 Statements of Interests since the launch of this process, impacting more than 100 workers.

Once a Statement of Interest letter has been accepted by DHS, all workers at a worksite impacted by the investigation are eligible to apply for deferred action. For more information about the process, visit the prosecutorial discretion [webpage](#).

Process for Requesting a Statement of Interest from the NYS DOL Website

Workers who are experiencing a labor dispute at their worksite can notify DOL of the labor dispute and request that DOL submit a “Statement of DOL Interest” in support of a request to DHS for immigration-related prosecutorial discretion. Requesters should send the request to statementrequests@dol.gov with the subject line “Request for Statement of DOL Interest.” In the emailed request, requesters are encouraged to provide enough information for the Department to identify the worksite that is the subject of the labor dispute.

Additionally, requesters are invited to include facts that support any factors listed in FAQ #3 that DOL may consider in responding to these requests, including but not limited to:

- A description of the labor dispute and how it is related to the laws enforced by DOL;
- A description of any retaliation or threats workers at the worksite may have witnessed or experienced related to labor disputes; and
- A description of how fear among workers at the worksite of potential immigration-related retaliation or other immigration enforcement in the future is likely to deter workers from reporting violations related to the labor dispute to DOL or otherwise cooperating with DOL. As relevant, please specify the time, place, and manner of any such facts.

DOL may contact the requester with questions or for additional information necessary to evaluate the request, so it will be helpful to include reliable contact information for the requester. A request may be made by a worker or by an advocate or representative. Requests may be made on behalf of a group of workers.

NOTE: DOL will evaluate requests to determine whether a labor dispute related to a law enforced by DOL exists at a particular worksite and whether and how immigration-related prosecutorial discretion for workers at the worksite would help DOL carry out its enforcement mission and priorities. For more information, see FAQ #3. Disclosure of individual worker names may not be necessary to establish that a labor dispute exists, depending on, for instance, DOL's additional corroborating information.

In the emailed request, requesters should not disclose: • Individual workers' particular immigration histories or needs; • Sensitive personally identifiable information, including dates of birth, Social Security Numbers, or Alien Registration Numbers.

Questions about the process outlined above may also be directed to statementrequests@dol.gov before a request is submitted

What factors will the Department consider when deciding whether to provide a

Statement of DOL Interest in a worksite's labor dispute?

DOL will assess each request on a case-by-case basis and in consideration of its specific enforcement needs. **Factors that may be considered include, but are not limited to:**

- DOL's need for witnesses to participate in its investigation and/or possible enforcement;
- Whether DHS's use of immigration-related prosecutorial discretion would support DOL's interest in holding labor law violators accountable for such violations;
- Whether workers are experiencing retaliation, threats of retaliation, or fear retaliation and/or may be "chilled" from reporting violations of the law or participating in DOL enforcement;
- Whether immigration enforcement concerning workers who may be witnesses to or victims of a violation of laws within DOL's jurisdiction could impede DOL's ability to enforce the labor laws or provide all available remedies within its jurisdiction;
- Likelihood that immigration enforcement could be an instrument used to undermine DOL's enforcement of laws in the geographic area or industry and/or give rise to further immigration-based retaliation.

The Department will weigh factors listed above based on the specific circumstances of the labor dispute. DOL may contact the requester with questions or for additional information necessary to evaluate the request

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