



## U.S. Citizenship and Immigration Services

# USCIS Updates Notice to Appear Policy Guidance to Support DHS Enforcement Priorities

[Versión en español](#)

**WASHINGTON** — U.S. Citizenship and Immigration Services [issued updated guidance \(PDF, 139 KB\)](#) today that aligns its policy for issuing Form I-862, Notice to Appear, with the immigration enforcement priorities of the Department of Homeland Security.

A Notice to Appear ([NTA](#)) is a document given to an alien that instructs them to appear before an immigration judge on a certain date. The issuance of an NTA commences removal proceedings against the alien. Under the new guidance, USCIS officers will now issue an NTA for a wider range of cases where the individual is removable and there is evidence of fraud, criminal activity, or where an applicant is denied an immigration benefit and is unlawfully present in the United States.

“For too long, USCIS officers uncovering instances of fraudulent or criminal activity have been limited in their ability to help ensure U.S. immigration laws are faithfully executed. This updated policy equips USCIS officers with clear guidance they need and deserve to support the enforcement priorities established by the president, keep our communities safe, and protect the integrity of our immigration system from those seeking to exploit it,” said USCIS Director L. Francis Cissna.

Deferred Action for Childhood Arrivals (DACA) recipients and requestors are exempted from this updated guidance when: (1) processing an initial or renewal DACA request or DACA-related benefit request; or (2) processing a DACA recipient for possible termination of DACA. As explained in the concurrently issued DACA-specific guidance, USCIS will continue to apply the [2011 NTA guidance \(PDF, 77 KB\)](#) to these cases. USCIS will also continue to follow the existing DACA information-sharing policy regarding any information provided by a DACA requestor in a DACA request or DACA-related benefit request.

USCIS, along with U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP), has legal authority under current immigration laws to issue NTAs. This Policy Memorandum updates the guidelines USCIS officers use to determine when to refer a case to ICE or to issue an NTA. The revised policy generally requires USCIS to issue an NTA in the following categories of cases in which the individual is removable:

- Cases where fraud or misrepresentation is substantiated, and/or where an applicant abused any program related to the receipt of public benefits. USCIS will issue an NTA even if the case is denied for reasons other than fraud.
- Criminal cases where an applicant is convicted of or charged with a criminal offense, or has committed acts that are chargeable as a criminal offense, even if the criminal conduct was not the basis for the denial or the ground of removability. USCIS may refer cases involving serious criminal activity to ICE before adjudication of an immigration benefit request pending before USCIS without issuing an NTA.
- Cases in which USCIS denies a Form N-400, Application for Naturalization, on good moral character grounds because of a criminal offense.
- Cases in which, upon the denial of an application or petition, an applicant is unlawfully present in the United States.

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The revised policy does not change the USCIS policy for issuing an NTA in the following categories:

- Cases involving national security concerns;
- Cases where issuing an NTA is required by statute or regulation;
- Temporary Protected Status (TPS) cases, except where, after applying TPS regulatory provisions, a TPS denial or withdrawal results in an individual having no other lawful immigration status;
- DACA recipients and requestors when: (1) processing an initial or renewal DACA request or DACA-related benefit request; or (2) processing a DACA recipient for possible termination of DACA.

[Under separate policy guidance \(PDF, 77 KB\)](#) issued concurrently, USCIS officers will continue to apply PM 602-0050, [Revised Guidance for the Referral of Cases and Issuance of Notices to Appear \(PDF, 77 KB\)](#) (NTAs) in Cases Involving Inadmissible and Removable Aliens, dated November 7, 2011, to the issuance of NTAs and Referrals to ICE for DACA recipients and requestors.

[Interim and final policy memos](#) are official USCIS policy documents and are effective the date the memos are issued.

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