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Deportation Deferrals Put Employers of Immigrants in a Bind

By JULIA PRESTON

Manuel Cunha has been fighting for three decades to persuade the federal government to provide more legal immigrant workers for farmers in California's verdant San Joaquin Valley. So he was initially excited when President Obama [announced in June](#) that he would suspend the deportations of hundreds of thousands of young illegal immigrants.

But after reading the program's fine print, Mr. Cunha is telling the growers and small-business owners he organizes to proceed with caution.

Immigrants applying for two-year deportation deferrals can ask employers to verify their job status as one way to meet a requirement showing that they have lived for at least five years in the United States. But employers who agree to those requests could be acknowledging that they knowingly hired an unauthorized worker — a violation of federal law. Mr. Cunha fears that the enforcement authorities could one day use the information in their files to prosecute the employers.

The Department of Homeland Security "is not friendly at all to us," said Mr. Cunha, the president of the [Nisei Farmers League](#), which is based in Fresno, Calif. "We have seen agriculture being audited and targeted. For the workers, after two years this program could end. And then the agency could go after the employers for hiring illegal aliens."

Mr. Cunha said the message from Obama administration officials was "Just trust me." His reply: "No, no, there is no more trust."

The minefield for employers is one of the hazards that have appeared in the deferred deportation program since the agency in charge, Citizenship and Immigration Services, began receiving applications on Aug. 15. In the first month, the agency, which is part of the Homeland Security Department, logged in more than 82,000 applications, a figure that officials say shows that the program is advancing at a fast pace.

But with more than 1.2 million young immigrants estimated to be immediately eligible, some immigrant organizations say the application numbers are lower than they expected, in part because of unexpected pitfalls.

To qualify, illegal immigrants must have been under 31 years old on June 15, when Mr. Obama announced the program. They must show that they came to the United States before they were 16, have been here for at least five years and were in the country on June 15. They must also be enrolled in school or have a high school diploma or be honorably discharged from the military, and pass criminal background checks.

If approved, immigrants are granted what is officially known as deferred action, and separately they receive legal work permits. But they do not gain any legal [immigration](#) status.

A particularly tricky dilemma is facing farmers and other businesses nationwide that rely on low-wage labor. Many young immigrants work part time to help pay for college. Others are working after dropping out of college, unable to get tuition discounts or financial aid because of their status. According to the [Migration Policy Institute](#), a research group, about 740,000 immigrants eligible for deferment are in the work force.

“If you have actual knowledge that an employee is not authorized to work, you can’t employ them,” said Greg Siskind, an immigration lawyer in Memphis who has advised businesses on how to respond to job verification requests.

A lot depends on how an employee poses the question, said Tamar Jacoby, the president of [ImmigrationWorks USA](#), an organization of small businesses that employ immigrants. Those who ask for verification for deportation deferrals are admitting to being unauthorized workers. They might eventually obtain a permit to work legally, but in the meantime, the employer might have to fire them, Ms. Jacoby said.

The immigration agency issued new [guidelines](#) this month confirming that businesses could provide verification for deferred deportation applicants. This information will not be shared with the enforcement authorities “unless there is evidence of egregious violations of criminal statutes or widespread abuses,” the guidelines say.

Peter Boogaard, a Department of Homeland Security spokesman, said the agency is seeking to focus enforcement resources on threats to public safety. He said officials would investigate if workers’ applications pointed to “widespread patterns and practices of unlawful hiring” or “abusive employers who are violating other criminal laws.”

Neither Ms. Jacoby nor Mr. Cunha was comforted. “That’s a safety net with a lot of holes in it,” Ms. Jacoby said. She urges advocates to tell applicants not to mention the deferment program when asking for job verification.

The immigration service also clarified a section of the application that had asked immigrants to list **Social Security** numbers they had used. It is common for them to use fake Social Security numbers, or sometimes real numbers belonging to another person. On an official application, such numbers could be evidence of fraud or even **identity theft**.

The form is asking only for numbers “that were officially issued to you by the Social Security Administration,” the new guidelines say.

Department of Homeland Security officials “are not conferring immunity on anyone,” an administration official said. “But they are not interested in using this as a way to identify one-off cases where some individual may have violated some federal law in an employment relationship.”

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