

PROSECUTORIAL DISCRETION TEMPLATE

This is a template letter to be sent from a community organization to ICE. The purpose of the letter is to provide ICE with information showing that an individual who is currently in deportation proceedings is a good candidate for prosecutorial discretion. Your organization should submit this letter only with the individual’s consent, and only after informing him or her that you are not an attorney, that you cannot provide legal advice or representation and that, if ICE offers to close his or her removal case in an exercise of prosecutorial discretion, he or she should consult with an immigration attorney before deciding whether to accept the offer. Do NOT submit this letter for anyone who is not currently in deportation proceedings. If you are submitting this letter for someone who is represented by an immigration attorney, consult with the attorney before submitting the letter. Consult with an immigration attorney before disclosing any facts or details that could be used against the individual. This includes any details about arrests, criminal convictions, and past immigration violations.

This template is not meant to be legal advice. Every case is different.

Text in CAPITAL letters should be replaced with case-specific information. Text in red and in the sidebars consists of pointers, examples and explanations, and should be removed before sending the letter.

[RETURN ADDRESS]
[DATE]

[ADDRESSES OF THE LOCAL ICE FIELD OFFICE AND OFFICE OF CHIEF COUNSEL]

You can find your local offices here: <http://www.ice.gov/contact/ero/> and <http://www.ice.gov/contact/opla/>

Re: [LAST NAME, FIRST NAME; A ###-###-###]

Favorable Exercise of Prosecutorial Discretion

For example: In removal proceedings, detained at X detention center, subject to a final order of deportation.

Dear Director NAME and Chief Counsel NAME:

I write on behalf of ORGANIZATION to notify you about a case of urgent importance to our members. MR./MS. FIRST NAME LAST NAME is currently STATUS OF CASE. However, based on ICE’s prosecutorial discretion policies, as described in Director Morton’s June 17, 2011 memoranda, *Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens* and *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs*, it appears that MR./MS. LAST NAME is an excellent candidate for a favorable exercise of prosecutorial discretion.

MR./MS. LAST NAME is a valuable member of our community. HIS/HER deportation would be a devastating blow to ORGANIZATION. Although MR./MS.

Add this only if the person is unrepresented.

LAST NAME does not have legal representation, we understand that it is ICE policy to review all pending deportation cases, including cases of people who are unrepresented, to determine whether prosecutorial discretion is warranted. **MR./MS. LAST NAME made a pro se request for prosecutorial discretion on DATE**. We are providing the information below at HIS/HER request in order to assist with ICE's prosecutorial discretion review of HIS/HER case. Attached is a privacy waiver from MR./MS. LAST NAME authorizing ICE to discuss HIS/HER case with NAME, POSITION.

Add this only if the person made a pro se prosecutorial discretion request.

I. Case Background

MR./MS. LAST NAME has lived in STATE for NUMBER years. MR./MS. LAST NAME was placed into removal proceedings as a result of (describe the steps that led him/her to be placed into removal proceedings.)

II. MR./MS. LAST NAME Merits a Favorable Exercise of Prosecutorial Discretion

Remember! Consult with an immigration attorney before disclosing any facts or details that could be used against the person.

MR./MS. LAST NAME should be considered low-priority under ICE's prosecutorial discretion guidelines and merits [REQUESTED ACTION] per those guidelines. The following positive factors support a favorable exercise of discretion in MR./MS. LAST NAME's case:

Ex. Release from detention, administrative closure of removal proceedings, a stay of deportation.

(a) MR./MS. LAST NAME came to the U.S. as a child, and has lived in the country for more than five years: MR./MS. LAST NAME arrived to CITY, STATE in YEAR, when he was 13 years old. See SUPPORTING DOCUMENT, attached.

(b) MR./MS. LAST NAME is the primary economic provider and caretaker for his U.S. citizen wife and son. Mr. LAST NAME is the primary economic provider and caretaker for his wife and son, both U.S. citizens. Mr. LAST NAME's wife has just ended a battle with cancer. Although she is now cancer-free, she is still not able to work and is receiving disability because of anxiety and depression. See SUPPORTING DOCUMENT, attached.

These are examples only—make this specific to the individual. See NDLO's [Prosecutorial discretion cheat sheet](#) for a list of positive factors.

(c) Continue to list positive factors . . .

We are aware that MR./MS. LAST NAME may have a NEGATIVE FACTOR. We believe that the positive factors in HIS/HER case outweigh any negative factors because EXPLAIN.

BRIEFLY acknowledge any negative factors, such as prior deportation order, misdemeanor convictions, etc. See NDLO's [Prosecutorial discretion cheat sheet](#) for a complete list of negative factors.

Remember! Consult with an immigration attorney before disclosing any facts or details that could be used against the person.

Focus on mitigating factors, like the amount of time that has passed since any criminal conviction or facts showing rehabilitation. Emphasize the strength of the positive factors compared to the negative ones.

III. Conclusion

As the enclosed information shows, MR./MS. LAST NAME merits a positive exercise of discretion because (re-state compelling positive factors and why they outweigh any negative factors.)

IV. Supporting Documents

The following documents are attached to assist in your review of this case:

- 1 Birth certificates of MR./MS LAST NAME's U.S. Citizen children
- 2 Marriage certificate showing MR./MS LAST NAME's marriage to NAME, a Lawful Permanent Resident
- 3 Naturalization certificates of MR./MS LAST NAME's parents and siblings
- 4 Medical records of MR./MS LAST NAME's wife, documenting her medical conditions.
- 5 MR./MS LAST NAME's high school diploma from U.S. HIGH SCHOOL.
- 6 Letters of support from politicians or community leaders
- 7 Affidavit from MR./MS. LAST NAME's daughter describing the hardship she will suffer if MR./MS. LAST NAME is removed.
- 8 Complaint filed by MR./MS. LAST NAME with AGENCY, documenting MR./MS. LAST NAME's status as a civil rights plaintiff.



These are examples only. You should providing supporting documentation for anything you listed as a positive factor. If no supporting documentation exists, include an affidavit from the person or a relative.

Thank you for your attention to this matter. Please contact me at NUMBER with any questions and with ICE's decision regarding prosecutorial discretion in this case.

Sincerely,

[SIGNATURE]

Encl.

cc. John Morton, Director
Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536