



# Just What is Executive Action? A Lesson from the Principal's Desk

## Overview

Much has been made of the president's use of executive action in order to carry out the nation's laws. It is a vague term that puzzles many in the media and raises large questions. Is it legal? Is it an abuse of power? Is it constitutional? Has it been used by Democratic and Republican presidents alike?

As suggested by the title, "Just What is Executive Action? A Lesson from the Principal's Desk," students will apply inductive reasoning skills about individual school policies that are determined by the principal in order to understand what executive action is and its limitations. Students will apply their knowledge of school policy in order to define executive action in their own words as well as to read the media for accuracy and bias. An extension of this activity is also available for students to closely read a report [Executive Grants of Temporary Immigration Relief, 1956-Present](#) published by the American Immigration Council.

## Objective

Students will be able to ...

- define executive action in order to understand the purpose and limitations of this presidential power and to critically read media appropriateness and bias.

## Essential Question

- What is an executive action and what are its limitations?

## Key Terms

[executive action](#) - any action that a president does in order to clarify or enforce a law including, and not limited to, memorandums, statements of policy, and regulations

## Grade 9-12

## Common Core Standards

### *High School*

#### [CCSS.ELA-Literacy.RI.9-10.1](#)

Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

#### [CCSS.ELA-Literacy.RI.11-12.1](#)

Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

## Texts & Materials

- [“Just What is Executive Action?”](#) (NBC News)
- [Close Read Chart: Executive Grants of Temporary Immigration Relief, 1956-Present](#) (American Immigration Council), if using.

## Lesson Preparation

- Print copies of [“Just What is Executive Action?”](#)
- Have computers available for students to conduct research
- Print copies of the [Close Read Chart: Executive Grants of Temporary Immigration Relief, 1956-Present](#). The report without questions is also available online: [Executive Grants of Temporary Immigration Relief, 1956-Present](#)

## Lesson Procedure

### *Using Inductive Reasoning to Define and Understand*

1. A good way to think about executive action is it is a wish list of policies that the president would like to enact. Similar to a president, a principal can use his or her discretion to make an executive action for his/her school in order to carry out a school-wide rule. By comparing executive action to a more familiar situation, students will be able to better understand the President's power.

First, explain to students that you will be learning about executive action in class: what it is and what are its limitations. While it is a concept that confuses many people, it shouldn't, and that as a class you are going to use your reasoning skills to determine what it is in order to understand and teach it to others.

Distribute and read this note [“Just what is Executive Action?”](#) (NBC News: First Read) to convey the vagueness of the term in the media for students.

2. Ask students to brainstorm a list of school policies. You might differentiate between what is a policy and what is a rule. For example, it is a rule that school starts at 7:30am, but it is policy the way that principals and teachers handle lateness to class.

Once you have generated a list, ask students why do we have these policies? For what purpose are they enacted?

3. In pairs or individually, have students choose one policy from the class list and write answers to the following questions:
  - a. What is the policy?
  - b. Who ordered it?
  - c. What does it seek to do?
  - d. Who enforces it?
  - e. Whom does it affect?
  - f. Do you think it is fair or unfair? Explain why.
  - g. If you had the power to change it, would you? Why or why not?

Discuss student answers as a class. How are a principal's executive actions a part of school policy?

In their own words, ask students to write a working definition of what they think executive action is in a sentence or less. Have students share their definitions with a partner to correct themselves and then share-out a definition with the class. Choose or modify several definitions in order to come up with one the class can agree upon on as a good student-friendly definition. Have students copy the class definition in their notes with modification as you see fit.

### **Extension: An Immigration Case Study**

- 1 This [close read](#) of a report published by the American Immigration Council can be used as homework activity or in class. Students should read this brief report at least twice. The first read questions are designed to get a general understanding of the text. These are answers that can be found directly in the text. The second read questions are designed to draw inferences and implications from the text. These are answers that require critical thinking skills. The cumulative task asks students to synthesize their learning with direct support from the text in order to answer the prompt. Two to three

paragraphs would be appropriate for most students.

- 2 As a follow-up to this lesson, please see our other lesson, ["Writing a Way In: Multiple Perspectives on Executive Action"](#) to analyze the diverse responses through creative writing based on non-fiction accounts.

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Date: \_\_\_\_\_

### Close Read Chart: Executive Grants of Temporary Immigration Relief, 1956-Present

Text	First Read	Second Read
<p>[1] Much has been made of President Obama’s Deferred Action for Childhood Arrivals (DACA) program, through which he deferred deportation for young adults brought to the U.S. as children. But as immigration legal scholar Hiroshi Motomura has noted, the president has broad executive authority to shape the enforcement and implementation of immigration laws, including exercising prosecutorial discretion to defer deportations and streamline certain adjudications. In fact, the history books reveal that President Obama’s action follows a long line of presidents who relied on their executive branch authority to address immigration challenges.</p> <p>[2] A chart of these decisions below makes clear that presidents have ample legal authority—and abundant historical precedent—supporting their discretion to take action in immigration matters. Since at least 1956, every U.S. president has granted temporary immigration relief to one or more groups in need of assistance. This chart collects 39 examples, which span actions large and small, taken over many years, sometimes by multiple administrations.<sup>1</sup> Some presidents announced programs while legislation was pending. Other presidents responded to humanitarian crises. Still others made compelling choices to assist individuals in need when the law failed to address their needs or changes in circumstance.</p> <p>[3] Perhaps the most striking historical parallel to today’s immigration challenges is the “Family Fairness” policy implemented by Presidents Ronald Reagan and George Bush, Sr. The story behind the fairness policy begins on November 6, 1986, when President Reagan signed the 1986 Immigration Reform and Control Act (IRCA), which gave up to 3 million unauthorized immigrants a path to legalization if they had</p>	<p>What is DACA?</p> <p>What do the history books reveal?</p> <p>How long have presidents been using executive action to grant temporary immigration relief?</p> <p>How many examples are in the chart?</p> <p>What are the three reasons cited as to <i>when</i> a president decides to use executive action?</p> <p>What is IRCA?</p>	<p>How does the term “executive action” apply to immigration?</p> <p>Why are these executive actions considered to be “temporary”? <i>Hint: Are they law?</i></p> <p>What is a “split-eligibility” family?</p>

<p>been “continuously” present in the U.S. since January 1, 1982. But the new law excluded their spouses and children who didn’t qualify and forced them to wait in line, creating “split-eligibility” families, as they were called. The U.S. Catholic bishops and immigration groups criticized President Reagan for separating families.</p> <p>[4] In 1987, Reagan’s Immigration and Naturalization Service (INS) commissioner announced a blanket deferral of deportation (logistically similar to today’s DACA program) for children under 18 who were living in a two-parent household with both parents legalizing, or with a single parent who was legalizing. Then, in July 1989, the Senate passed legislation to protect a bigger group—prohibiting deportation of all spouses and children of those who were legalizing under IRCA.</p> <p>[5] But the legislation stalled in the House, and in 1990 President Bush Sr. administratively implemented the Senate bill’s provisions. His INS commissioner, saying “We can enforce the law humanely,” expanded the blanket deferral to as many as 1.5 million spouses and children of immigrants who were legalizing, provided they met certain criteria. President Bush thus protected over 40 percent of the then-unauthorized population from deportation. The House then passed legislation, and President Bush signed it later that year.</p> <p>[6] The Family Fairness program is only one example of the common characteristics of presidential decisions to act on immigration. Several decisions were large-scale actions potentially affecting hundreds of thousands or millions of immigrants. Some presidents focused on the necessity of keeping families together. And other presidents acknowledged the absurdity of trying to deport people for whom major legislation in Congress was pending. Some of these examples include:</p> <p>[7] Large-scale actions: In addition to Family Fairness, other large-scale actions include paroles of up to 600,000 Cubans in the 1960s and over 300,000 Southeast Asians in the 1970s,</p>	<p>What did President Bush Sr. do when legislation stalled in Congress?</p> <p>Why were the majority of these executive actions created? List 3 reasons.</p> <p>What is the largest number of the large-scale actions to date? For which group?</p>	<p>In this context, what does it mean to “enforce the law humanely”?</p> <p>Why do you think one or more of these groups might have been so large?</p>
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<p>President Carter’s suspension of deportations for over 250,000 visa-holders, and President Reagan’s deferral of deportations for up to 200,000 Nicaraguans.</p> <p>[8] Family-based actions: Other actions to protect families include the suspended deportations of families of visa-holders (Carter), parole of foreign-born orphans (Eisenhower, Obama), deferred action to widows of U.S. citizens and their children (Obama), and parole-in-place to families of military members (Obama).</p> <p>[9] Actions while legislation was pending: Other actions taken while legislation was pending include parole of Cuban asylum seekers fleeing Castro (Nixon, Kennedy, Johnson), deferred action to battered immigrants whom the Violence Against Women Act (VAWA) would protect (Clinton), parole of orphans (Eisenhower), and DACA (Obama).</p> <p>October 2014</p>	<p>Why were Cubans seeking asylum?</p>	<p>What is the purpose of family-based action?</p> <p>Why might a president take action when legislation in congress is pending?</p>
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Endnotes

1 This data is compiled from Marshall Fitz, *What the President Can Do on Immigration If Congress Fails to Act* (Washington, DC: Center for American Progress, July 2014), <http://www.americanprogress.org/issues/immigration/report/2014/07/01/93042/what-the-president-can-do-on-immigration-if-congress-fails-to-act/>; Andorra Bruno, Todd Garvey, Kate Manuel, and Ruth Ellen Wasem, *Analysis of June 15, 2012 DHS Memorandum, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children* (Washington, DC: Congressional Research Service, July 13, 2012), <http://edsources.org/wp-content/uploads/Deferred-Action-Congressional-Research-Service-Report.pdf>; Arthur C. Helton, “Immigration Parole Power: Toward Flexible Responses to Migration Emergencies,” *Interpreter Releases* 71, no. 1637 (December 12, 1994); John W. Guendelsberger, “Family Fairness: A Status Report,” *In Defense of the Alien* 15 (1992):45-57, <http://www.jstor.org/stable/23143114>; and other media reports, press releases, and articles, linked to here where publicly available

Cumulative Task: Presidents have long used executive action to enforce the law. What does it mean however to enforce the law “humanely” in the context of granting immigration relief? Use the policy report and cite at least one specific example from the chart to support your answer. (Feel free to research the historical context further if you think it will improve your response.)