

IMMIGRATION INSIDER

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USCIS Updates Guidance on OPT and Other Issues for F/M Nonimmigrant Students

U.S. Citizenship and Immigration Services (USCIS) has [updated its guidance](#) on when students may be eligible for optional practical training (OPT) extensions for science, technology, engineering, and mathematics (STEM) fields. USCIS also provided clarifying guidance for F and M nonimmigrant students about online study, school transfers, the grace period, and study abroad.

USCIS said its [Policy Manual update](#):

- Clarifies that students may count one class or three credits (or the equivalent) per academic session (or the equivalent) toward a full course of study if they take the class online or through distance learning not requiring physical attendance for any purpose integral to completion of the class.
- Explains that students may transfer between Student and Exchange Visitor Program (SEVP)-certified schools at the same educational level or move between educational levels.
- Explains that during the 60-day grace period following an authorized period of post-completion of OPT, students may change their education level, transfer to another SEVP-certified school, or file an application or petition with USCIS to change to another nonimmigrant or immigrant status.
- Clarifies that students may be eligible for post-completion OPT after completion of an associate's, bachelor's, master's, or doctoral degree program.
- Corrects the period during which students may apply for STEM OPT extensions and makes other technical corrections.
- Clarifies that a student enrolled in a SEVP-certified school during a study abroad program may remain active in the Student and Exchange Visitor Information System if the study abroad program lasts less than five months, but that the student will need a new [Form I-20, Certificate of Eligibility for Nonimmigrant Student Status](#), if the program lasts longer than five months.

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DHS Announces New Work Authorization Category for T Nonimmigrants

Effective August 28, 2024, the Department of Homeland Security (DHS) has established a [new C40 category](#) "for individuals with a pending Form I-914, Application for T Nonimmigrant Status, whose application is determined to be bona fide and meets the prima facie standard, and who apply and are approved for employment authorization." The principal T nonimmigrant applicant and family members may now receive an EAD with category C40. Previously, the C14 category (deferred action) was used when providing work authorization to T-1 applicants. DHS explained that T nonimmigrant status is for certain noncitizens who are or have been victims of a severe form of trafficking in persons.

Once T-1 nonimmigrant status is granted, DHS explained, those individuals will receive an EAD with category A16. T-2, T-3, T-4, T-5, or T-6 nonimmigrants will receive an EAD with category C25.

The Systematic Alien Verification for Entitlements (SAVE) database will provide an Initial Verification response of Temporary Employment Authorized for an EAD with category C40 if the applicant has no other status, DHS said. "SAVE may provide a different initial verification response if an applicant has an additional immigration status. In those situations, agencies should request additional verification to receive all the applicant's immigration statuses."

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[Texas District Court Temporarily Stops "Keeping Families Together" Parole-in-Place Program, But Applications Continue](#)

A [Texas District Court](#) has [temporarily stopped](#) the Biden administration's "[Keeping Families Together](#)" parole-in-place program. The program, which started August 19, 2024, allows noncitizen spouses and noncitizen stepchildren of U.S. citizens, if otherwise eligible, to apply for lawful permanent residence without leaving the United States. U.S. Citizenship and Immigration Services (USCIS) will continue to collect applications although parole grants under the program are paused.

On August 23, 2024, the state of Texas, along with [15 other states](#), filed a [complaint](#) in the U.S. District Court for the Eastern District of Texas, Tyler Division, calling the program "unlawful" and arguing that it "incentivizes illegal immigration and will irreparably harm the Plaintiff States." The District Court agreed, issuing an administrative stay. The court said it "has undertaken a first-blush review of the merits of plaintiffs' standing and cause of action in light of the evidence submitted with their motion for a TRO and a stay. The claims are substantial and warrant closer consideration than the court has been able to afford to date." In particular, the court said, its conclusion was based on the need to analyze (1) whether parole "into" the United States includes entry by those who are already in the United States, "as opposed to at or beyond the border," and (2) the relevant rule's possible misapprehension of the legal standard in focusing on significant public benefit from "this process" rather than whether a specific person's lawful presence in the country would have public, as opposed to private, benefit that is significant. The court said its review was a "screening" and did not express any ultimate conclusions about the success or likely success of the government's claims. The court noted that its stay applied to granting parole under the program but not to accepting applications.

As noted above, USCIS said it would continue to accept applications but not grant parole under the program while the stay is in place. USCIS also [noted](#) that the district court's stay "does not affect any applications that were approved before the administrative stay order was issued at 6:46 p.m. Eastern Time on Aug. 26, 2024." The court set forth a detailed "expedited schedule" for further court filings up to October 10, 2024, with extensions possible through mid-October, followed by "an expedited hearing on preliminary relief and summary judgment, and if necessary a consolidated bench trial."

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[Biden Administration to Resume Program for Migrants From Cuba, Haiti, Nicaragua, and Venezuela; Fraud Investigations Continue](#)

According to [reports](#), the Biden administration plans to resume a program that allows would-be migrants from Cuba, Haiti, Nicaragua, and Venezuela to apply from their home countries for entry into the United States. The 18-month-old program was paused due to fraud concerns. Reportedly, "[thousands of suspect applications](#)" from sponsors of the migrants will still need to be reviewed by U.S. Citizenship and Immigration Services' Fraud Detection and National Security Directorate.

According to [NBC News](#), an internal Department of Homeland Security (DHS) report "found that almost 101,000 sponsor applications for migrants from Cuba, Haiti, Nicaragua, Venezuela and Ukraine were filed by 3,218 so-called serial sponsors." DHS found "thousands of instances of would-be sponsors' using the same street addresses, internet protocol addresses or phone numbers. Almost 600 applications were flagged, for example, because they all appeared to use the address of the same commercial warehouse in Orlando, Florida. The authors also found repeated uses of the same Social Security numbers, including numbers belonging to dead people."

Homeland Security Investigations, a division of U.S. Immigration and Customs Enforcement, is assisting in investigating any potential instances of criminal fraud.

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[Annual Limit Reached in Several Employment-Based Categories](#)

On August 27, 2024, the Department of State (DOS) announced the issuance of all available visas in the employment-based [first preference \(EB-1\)](#) and [fourth preference \(EB-4\)](#) immigrant visa preference categories for fiscal year (FY) 2024. On August 16, 2024, DOS announced the issuance of all available visas in the employment-based [EB-3 and EW \(Other Workers\)](#) and [EB-5 unreserved](#) categories.

Regarding the EB-1 category, DOS said, "Maximizing these visas facilitates legitimate travel for individuals with extraordinary ability [who have] garnered national or international acclaim, outstanding professors and researchers, and multinational executives and managers." Regarding the EB-4 category, DOS said that maximizing such visas "facilitates legitimate travel for a wide variety of special immigrants, including religious workers, special immigrant juveniles, certain U.S. government employees, certain international organization retirees, and certain international broadcasting employees, among others."

The annual limits will reset with the start of the new fiscal year on October 1, 2024, DOS noted. "At that point, embassies and consulates may resume issuing immigrant visas in these categories to qualified applicants." USCIS may also resume approving applications for Adjustment of Status to Lawful Permanent Resident (Form I-485) in these categories to qualified applicants starting October 1, 2024.

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[OFLC Announces Delay in Transition Schedule for H-2A Applications and Job Orders Under 2024 Farmworker Protection Final Rule](#)

On August 26, 2024, a District Court in Georgia issued a preliminary injunction in *Kansas v. U.S. Department of Labor*, prohibiting the Department of Labor (DOL) from enforcing the [Farmworker Protection Rule](#) in certain states and with respect to certain entities. The states are Georgia, Kansas, South Carolina, Arkansas, Florida, Idaho, Indiana, Iowa, Louisiana, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Tennessee, Texas, and Virginia, and the entities are Miles Berry Farm and members of the Georgia Fruit and Vegetable Growers Association.

[DOL said](#) it is carefully reviewing the *Kansas* order and assessing various options to comply. For now, the Office of Foreign Labor Certification (OFLC) will delay until further notice updates to its FLAG system to implement revised H-2A job order and application forms associated with the rule, originally scheduled to begin at 7 p.m. ET on August 28, 2024.

OFLC will continue to receive and process H-2A job orders and applications in accordance with [20 CFR part 655, subpart B](#) in effect as of the calendar day before the effective date as stated in the rule. OFLC said it will provide additional public notice regarding a revised transition schedule as soon as possible.

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[USCIS to Open International Field Office in Quito, Ecuador](#)

On August 30, 2024, U.S. Citizenship and Immigration Services (USCIS) [announced the opening of an international field office in Quito, Ecuador](#), on September 10, 2024. The Quito Field Office, to be located in the U.S. Embassy in Ecuador, "will focus on increasing refugee processing capacity, consistent with USCIS commitments under the U.S. Refugee Admissions Program, and helping reunite individuals with their family members already in the United States."

With a field office in Ecuador, USCIS "will be able to provide immigration expertise to U.S. embassy and regional partners in support of the [Oficinas de Movilidad Segura](#), or Safe Mobility Offices, in Ecuador."

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DOS Releases Notice to *Emami* Class Members

The Department of State (DOS) released a notice on August 27, 2024, with instructions to class members in the consolidated cases *Emami v. Mayorkas* and *Pars Equality Center v. Blinken*. The notice explains that a U.S. District Court in California certified a class to allow certain visa applicants who were refused visas under Presidential Proclamation 9645 "to receive a one-time, non-transferable fee credit to submit a new visa application and (for eligible class members) to have the option to get a prioritized visa appointment. The fee credit may be used once towards any immigrant or nonimmigrant visa at any U.S. embassy or consulate."

Class members include an estimated 24,560 nationals of Iran, Libya, North Korea, Somalia, Syria, Venezuela, or Yemen, who are otherwise eligible and were denied a visa under Presidential Proclamation 9645 between December 8, 2017, and January 20, 2021, and did not receive a waiver under that proclamation.

Class-wide relief was available starting August 12, 2024. The notice is available in [English](#), [Arabic](#), and [Farsi](#).

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Court Preliminarily Approves Proposed Settlement in *Garcia Perez v. USCIS*

The U.S. District Court for the Western District of Washington granted [preliminary approval](#) of a [proposed settlement agreement](#) in *Garcia Perez v. U.S. Citizenship and Immigration Services*.

The case is a class action lawsuit involving the federal government's practices with respect to Employment Authorization Documents for applicants for asylum or withholding of removal. Under the terms of the proposed settlement, class members are entitled to new procedures relating to the crediting of time toward eligibility for work authorization.

Details:

- [USCIS notice](#) (scroll to Aug. 5, 2024).

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DOS Issues Final Rule on Effect of Certain Pardons on Criminal-Related Grounds of Ineligibility

Effective August 22, 2024, the Department of State (DOS) has [amended](#) a regulation relating to the effect of certain pardons on criminal-related grounds of visa ineligibility.

The rule amends the existing regulation "to implement the plain meaning of statutory authorities and the President's constitutional authority regarding the effect of pardons on inadmissibility under INA sections 212(a)(2)(A)(i) and 212(a)(2)(B)." The rule "conveys [DOS's] interpretation of Congress having expressly not provided an exception to inadmissibility based on a pardon, reflecting a plain reading of the inadmissibility ground in INA section 212(a)(2)(A)(i) that multiple courts have shared."

DOS found that the rule is "interpretative" and amends visa policy as a "foreign affairs function of the United States" and is therefore not subject to notice-and-comment requirements.

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[DHS Announces Expedited Asylum Processing at Northern Border to Deter Unauthorized Migrants](#)

The Department of Homeland Security (DHS) has announced measures to reduce unauthorized migration across the U.S. border with Canada:

- Starting August 14, 2024, asylum officers conducting threshold screening interviews (TSI) for noncitizens who are processed pursuant to the U.S.-Canada Safe Third Country Agreement (STCA) are considering credible testimony, documents, and other reliable evidence available at the time of the TSI. Additional documentary evidence may not be submitted after the interview concludes, DHS announced, noting that "[a] lack of documentary evidence alone does not preclude noncitizens from establishing that they qualify for an exception to the STCA."
- Additionally, DHS has reduced the time period for noncitizens to consult with attorneys or representatives before their TSIs from 24 hours to "a minimum of four hours beginning at the time the noncitizen is provided an opportunity to consult with a person of the noncitizen's choosing and continuing only during the hours of 7 a.m. and 7 p.m. local time."

"DHS carefully reviewed its implementation of the Safe Third Country Agreement with Canada and concluded that it could streamline that process at the border without impacting noncitizens' ability to have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection," the agency said. Migrants crossing the northern border without authorization and taken into U.S. custody increased from 2,200 in 2022 to a record 16,500 so far in fiscal year 2024.

Details:

- [USCIS notice](#) (Aug. 13, 2024).
- [U.S. to Speed Up Asylum Processing at Northern Border to Deter Migrant Crossings](#), CBS News (Aug. 14, 2024).

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[USCIS Releases Filing Guide Ahead of New Spousal Parole Program](#)

U.S. Citizenship and Immigration Services (USCIS) has created a [filing guide](#) for the new "Keeping Families Together" spousal parole process that began August 19, 2024. USCIS will [reject any related filings](#) received before that date.

Under the new process [announced](#) in June 2024, USCIS will consider, on a case-by-case basis, requests for certain noncitizen spouses of U.S. citizens who have been continuously physically present without admission or parole in the United States for 10 years or more, have no disqualifying criminal convictions, do not pose a threat to national security and public safety and pass vetting, are otherwise eligible to apply for adjustment of status, and merit a favorable exercise of discretion.

If paroled, USCIS said, these noncitizens "will generally be able to apply for lawful permanent residence without having to leave the United States and be processed by a U.S. consulate overseas." The Department of Homeland Security estimates that "500,000 noncitizen spouses of U.S. citizens could be eligible to access this process; on average, these noncitizens have resided in the United States for 23 years. Approximately 50,000 noncitizen children of these spouses are estimated to be eligible to seek parole under this process."

USCIS said that additional information on the application process, required fee, and other key information will be detailed in a forthcoming Federal Register notice. USCIS said it will continue to collect applications although parole grants under the program are paused pursuant to a court opinion in Texas (more about this above in [Texas District Court Temporarily Stops "Keeping Families Together" Parole-in-Place Program, But Applications Continue](#)).

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[OFLC Releases Public Disclosure Data, Selected Program Statistics, H-2B Foreign Labor Recruiter List for Q3 of FY 2024](#)

The Department of Labor's Office of Foreign Labor Certification (OFLC) has released several batches of data and information, including:

- A comprehensive set of [public disclosure data](#) through the third quarter (Q3) of fiscal year (FY) 2024 drawn from employer applications requesting prevailing wage determinations and labor certifications for the PERM, LCA (H-1B, H-1B1, E-3), H-2A, H-2B, CW-1, and Prevailing Wage programs. The public disclosure files include all final determinations that OFLC issued for these programs during the October 1, 2023, through June 30, 2024, reporting period of fiscal year 2024.
- [Selected program statistics](#) for Q3 of FY 2024 for the PERM, LCA (H-1B, H-1B1, E-3), H-2A, H-2B, CW-1, and Prevailing Wage programs.
- An updated list of the names of foreign labor recruiters for the H-2B program. The [H-2B Foreign Labor Recruiter List](#) contains the names and locations of persons or entities identified on Appendix C of Form ETA-9142B that were hired by, or working for, the recruiters that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their H-2B applications. The list includes only those names and locations associated with H-2B applications that were processed or issued a final decision from October 1, 2023, through June 30, 2024. OFLC also released related [frequently asked questions](#).

Details:

- [OFLC notice](#) (two notices) (scroll to Aug. 15, 2024).

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[EOIR Relocates Houston Immigration Court](#)

The Executive Office for Immigration Review (EOIR) announced on August 15, 2024, that the Houston–Smith Street Immigration Court is relocating and will be renamed the Houston–Jefferson Street Immigration Court. The court will suspend normal operations at the close of business on August 22, 2024, to prepare for relocation. The court will reopen at its new location on August 27, 2024.

On August 23 and August 26, hearings will proceed at 1919 Smith Street, which EOIR said will be established as the court's annex effective August 27. Staff will remain on site and available to accept filings, answer phone calls, and oversee court operations. EOIR said it will provide official advance notice to all parties whose cases are reassigned.

The new location is:

Houston—Jefferson Street Immigration Court
500 Jefferson Street, Suite 300
Houston, TX 77002

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[USCIS Completes Second Random Selection for Regular Cap From Previously Submitted FY 2025 H-1B Cap Registrations](#)

U.S. Citizenship and Immigration Services (USCIS) announced on August 5, 2024, that it has completed its second random selection to reach the fiscal year (FY) 2025 H-1B regular cap numerical allocation.

As background, following its initial selections in March 2024, U.S. Citizenship and Immigration Services (USCIS) announced that it would need to select additional registrations for unique beneficiaries to reach the FY 2025 regular cap numerical allocation.

USCIS said it did not conduct a second selection for the advanced degree exemption (master's cap) because "enough masters cap registrations had already been selected and sufficient petitions were received based on these registrations as projected to meet the master's cap numerical allocation."

USCIS said it selected 114,017 beneficiaries, resulting in 120,603 selected registrations in the initial selection for the FY 2025 H-1B cap. The agency selected 13,607 beneficiaries in the second selection for the FY 2025 H-1B regular cap, resulting in 14,534 selected registrations.

Details:

- [USCIS notice](#) (Aug. 5, 2024).
- [FY 2025 H-1B Cap Registration Process Update](#), USCIS (Aug. 5, 2024).

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[DC Circuit Court Upholds H-4 Spousal Work Authorization](#)

On August 2, 2024, a D.C. Circuit Court [ruling](#) in *Save Jobs USA v. DHS* upheld the authority of the Department of Homeland Security (DHS) to grant work authorization to H-4 spouses of certain H-1B workers.

Save Jobs USA had challenged DHS's authority to issue a rule that allows certain visa holders to work in the United States. The court said it had already interpreted the relevant provisions of the immigration statute to answer a similar question in favor of DHS. "Because Save Jobs USA has not meaningfully distinguished this case from that binding precedent, we affirm the district court's grant of summary judgment," the court said.

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[DOS Releases FY 2025 Diversity Visa Results](#)

The Department of State's [Visa Bulletin for September](#) includes results from the diversity visa (DV) lottery for fiscal year (FY) 2025 (October 1, 2024, to September 30, 2025). The Kentucky Consular Center in Williamsburg, Kentucky, has registered and notified the approximately 131,060 selectees who are eligible to participate. Entrants registered for the DV-2025 program were selected at random from 19,927,656 qualified entries received. The country with the most registrants selected is Algeria, with 5,526.

The bulletin notes that those selected "will need to act on their immigrant visa applications quickly. Applicants should follow the instructions in their notification letter and must fully complete all required steps." Many more were selected than can receive visas (55,000) to account for factors such as some selectees not completing their cases or being found ineligible for a visa.

Dates for the DV-2026 program registration period will be publicized in the coming months, the bulletin notes.

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[E-Verify Employers Should Not Create a Case for Re-Paroled Ukrainian Employees, USCIS Says; Additional Guidance Released](#)

U.S. Citizenship and Immigration Services (USCIS) issued an update to its policy on Ukrainian employees with parole, stating that E-Verify employers should not create a case in E-Verify for re-paroled employees unless they are newly hired.

USCIS had announced previously that beginning February 27, 2024, certain Ukrainian citizens and their immediate family members displaced by the Russian invasion and paroled into the United States can request an extension of parole (re-parole) for up to two additional years.

USCIS said that parolees who are approved by USCIS for re-parole should print a copy of their electronic Form I-94, Arrival/Departure Record, from the [CBP I-94 website](#). An unexpired Form I-94 that shows a class of admission of "UHP" and a most recent date of entry [on or before September 30, 2024](#), is an acceptable document that temporarily shows identity and employment authorization for up to 90 days, USCIS said: "These employees should provide a printed Form I-94 if they are newly hired employees or during reverification on Form I-9."

USCIS also released a reminder with additional details about which Ukrainian parolees and immediate family members are [employment-authorized](#) incident to parole.

Details:

- [E-Verify notice](#) (Aug. 6, 2024).

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[USCIS Provides Fact Sheet on STEM Petition Trends in EB-2 and O-1A Categories](#)

U.S. Citizenship and Immigration Services (USCIS) has provided a [fact sheet](#) on science, technology, engineering, and mathematics (STEM) petition trends in the EB-2 and O-1A categories in fiscal years 2018 to 2023. The fact sheet highlights data trends in these categories during fiscal years (FYs) 2022 and 2023 compared with fiscal years before a policy guidance change in January 2022. The trends include an increase in receipts of EB-2 petitions from FY 2022 to FY 2023 and increases in National Interest Waiver use and O-1A petition receipts, USCIS said.

In January 2022, USCIS updated its policy guidance to clarify how certain professionals in STEM fields can demonstrate eligibility for (a) the National Interest Waiver (NIW) in an employment-based immigrant status (EB-2), and (b) nonimmigrant status for individuals of extraordinary ability (O-1A).

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California Service Center Moves to New Address

U.S. Citizenship and Immigration Services (USCIS) announced that on August 12, 2024, the California Service Center moved to a new address:

California Service Center
2642 Michelle Drive
Tustin, CA 92780

USCIS said applicants should refer to form filing address pages on uscis.gov to find the specific address information, including suite numbers, they should use depending on which form they are submitting.

Details:

- [USCIS notice](#) (Aug. 7, 2024).

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OFLC Announces Upcoming Final Decommission of Permanent Online System

The Department of Labor's Office of Foreign Labor Certification (OFLC) alerted employers and other interested stakeholders that the legacy Permanent (PERM) Online System, which provides public access to permanent labor certification applications and final determinations, will be fully decommissioned on December 1, 2024. The [Foreign Labor Application Gateway \(FLAG\) System](#) replaces the legacy Permanent Online System. OFLC said:

On December 1, 2024, the legacy Permanent Online System will no longer be accessible to account holders and the general public will be redirected to the [FLAG System](#). Stakeholders who require documents from their Permanent Online System accounts are strongly encouraged to access and download those documents well in advance of December 1, 2024. Permanent Online System account holders who need to upload documents or request a specific case action on an application submitted in the Permanent Online System (e.g., request reconsideration, withdraw applications, etc.) should complete action in the system by November 30, 2024, at 7 PM EST.

Applications still pending in the Permanent Online System after November 30, 2024, will continue to be processed by OFLC. Starting December 1, 2024, stakeholders who need to submit a response to the Department, upload documents, or request a specific case action on an application that was submitted in the Permanent Online System must do so by email, sent to the PLC Help Desk at PLC.Help@dol.gov. Documents should be submitted as PDF attachments and named with the case number assigned and title of the attachment. After November 30, 2024, stakeholders with applications pending in the Permanent Online System will not be able to upload documents directly. Employers and their attorney/agents should continue to check their email for correspondence and notifications related to these pending applications.

Details:

- [OFLC notice](#) (scroll to Aug. 7, 2024).

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New Publications and Items of Interest

Webinar on Haiti TPS: U.S. Citizenship and Immigration Services (USCIS) will hold a stakeholder engagement on the Temporary Protected Status (TPS) extension and redesignation for Haiti on Tuesday, September 24, 2024, from 2 to 3 p.m. ET. The [extension of TPS for Haiti](#) allows current beneficiaries to re-register to retain TPS through February 3, 2026, if they meet the eligibility requirements for TPS. Existing TPS beneficiaries who wish to extend their status through February 3, 2026, must re-register during the 60-day re-registration period that began July 1, 2024, and ends August 30, 2024. The redesignation of Haiti for TPS allows additional Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) to file initial applications for TPS if they were continuously residing in the United States on or before June 3, 2024. Not all re-registrants who apply for a new Employment Authorization Document (EAD) may receive it before their current EAD expires, so the Department of Homeland Security is automatically extending through August 3, 2025, the validity of certain EADs previously issued under Haiti's TPS designation.

To register for the stakeholder engagement: 1. Visit the USCIS [registration page](#). 2. Provide your email address where indicated and select "Submit." 3. The next screen will notify you that you successfully subscribed to this event. Once USCIS processes your registration, you will receive a confirmation email with additional details including how to submit questions in advance by 4 p.m. ET on Monday, September 2, 2024.

EOIR University: The Department of Justice's Executive Office for Immigration Review (EOIR) is opening a new training facility in Los Angeles, California. [EOIR University](#) "is a first-of-its-kind immigration training available at no cost to those interested in providing representation to individuals within our Nation's immigration system." Completion of EOIR University's curriculum "will provide applicants for accreditation with proof of adequate training to streamline their application process and will provide attorneys with the knowledge they need to take cases on a pro bono basis," EOIR said. On September 24, 2024, EOIR University will launch with a live hybrid session of its Model Hearing Program.

Lowest southwest border encounters in nearly four years: U.S. Customs and Border Patrol (CBP) released [July statistics](#) on August 16, 2024, showing the lowest southwest border "encounters" with undocumented persons in nearly four years following a Presidential Proclamation in June 2024. CBP said that since the Presidential Proclamation and interim final rule went into effect on June 5, 2024, the Department of Homeland Security "has removed or returned more than 92,000 individuals to more than 130 countries, including by operating more than 300 international repatriation flights. DHS has almost tripled the percentage of noncitizens processed for Expedited Removal, and the percentage of releases pending immigration court proceedings is down nearly half. Total removals and returns over the past year exceed removals and returns in any fiscal year since 2010 and a majority of all southwest border encounters during the past three fiscal years resulted in a removal, return, or expulsion."

Webinar on changes to H-2A program: On August 21, 2024, the Department of Labor (DOL) hosted a public [webinar](#) on changes to the H-2A program made by the 2024 H-2A Farmworker Protection final rule. The webinar included a demonstration of the new forms in the Foreign Labor Application Gateway (FLAG) system. The final rule became effective June 28, 2024, and the Office of Foreign Labor Certification began accepting applications subject to the provisions of the rule on August 29, 2024. For details, see <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to August 13, 2024).

Also, on August 7, 2024, DOL hosted a similar public webinar. The presentation materials are available at the hyperlinks below and on DOL's website under the "Webinars" tab at the bottom of the H-2A Program page at <https://www.dol.gov/agencies/eta/foreign-labor/programs/h-2a>.

- [View slides on the Farmworker Protection Final Rule](#)
- [View the webinar recording on the Farmworker Protection Final Rule](#)

E-Verify webinars: E-Verify has updated its [calendar of webinars](#).

SAVE webinars: Systematic Alien Verification for Entitlements (SAVE) has updated its [calendar of webinars](#).

Immigration agency X (formerly Twitter) accounts:

- EOIR: @DOJ_EOIR
- ICE: @ICEgov
- Study in the States: @StudyinStates
- USCIS: @USCIS

Alliance of Business Immigration Lawyers: ABIL is available on X (formerly Twitter): [@ABILImmigration](#)

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ABIL Member/Firm News

Glasko Immigration Law Partners, LLP, has published a client alert, [H-4 Spousal Work Authorization Wins Against Legal Challenge](#).

Charles Kuck and **Stephen Yale-Loehr** were quoted by *Bloomberg Law* in [GOP States Sue to Overturn Biden Immigrant Parole Program](#). "The logic of the challenge, that single parent households and separating families is better for a state than keeping families together, is something that can only come out of the mind of a true nativist and hater of immigrants," he said. Mr. Kuck and Mr. Yale-Loehr noted that parolees admitted under the program would be eligible for benefits, including Medicaid and Food Stamps. Mr. Yale-Loehr said that claims that the program exceeds agency authority echo challenges to the Deferred Action for Childhood Arrivals program.

Cyrus Mehta and **Kaitlyn Box** co-authored several new blog posts: [Parole in Place – A Means to an End or An End in and of Itself?](#), [The Perils of Claiming the Foreign Earned Income Exclusion When Sponsoring an Immigrant on an Affidavit of Support](#), and [Court Upholds Regulation Issuing Employment Authorization to H-4 Spouses Even After the Demise of Chevron Deference](#).

Angelo Paparelli of **Seyfarth Shaw LLP** authored a new blog post: [Pound Wise, Penny Foolish—Federal Court Affirms Employer Choice of Immigration Filing Fees](#).

Mr. Yale-Loehr was quoted by the *Gothamist* in [President Biden Spares 20,000 New Yorkers From Deportation With Executive Action](#). Commenting on the new "Keeping Families Together" program, he predicted that "fewer people will get approved than originally thought." Mr. Yale-Loehr said, "People may be hesitant to provide information to the government in case they are denied and then put into deportation proceedings." Mr. Yale-Loehr pointed out that those who have criminal records, including felonies and certain misdemeanors, would be disqualified. The article notes that he co-authored a letter signed by more than 100 law professors arguing that the Biden action was constitutional.

Mr. Yale-Loehr was quoted by *Newsday* in [New Immigration Court Cases Plummet on \[Long Island\], Across U.S. Since Biden Policy Change](#). He said the long-term legal viability of President Biden's order restricting the eligibility for asylum of unauthorized migrants who cross the U.S. border remains undetermined. "Immigrants' rights advocates are challenging the new restrictions as illegal, but it may be some time until a court decides their lawsuit," he said.

The Cornell International Law Journal will host "The (Im)possibility of Immigration Reform?," a symposium celebrating **Mr. Yale-Loehr's** career and his contributions to the field of immigration law. The symposium will be held at Cornell Law School on November 8, 2024, from 9:30 a.m. to 4 p.m.,

followed by a reception. Register to attend the symposium [in person](#), or if you are unable to attend in person, there is a [webinar option](#).

Join a panel of experts from the Cornell Law School immigration law and policy research program to learn what immigration laws and policies might change, both in the lame-duck session after the election and in 2025. The free webinar will be on Wednesday, November 20, 2024, from 1-2 p.m. ET. To register, go to <https://ecornell.cornell.edu/keynotes/overview/K112024/>. If you can't attend the webinar live, you can register to get the recording afterwards. The webinar is sponsored by the [Cornell Migrations Initiative](#), the [Cornell Population Center](#), the [Cornell Jeb E. Brooks School of Public Policy](#), [Catholic Charities Tompkins/Tioga Immigrant Services Program](#), and the [Cornell Law School Migration and Human Rights Program](#).

Mr. Yale-Loehr was quoted by the *Chicago Tribune* (available by subscription) in [Chicago Not Expecting Migrant Surge Ahead of DNC, City Official Says](#). Commenting on a drastic drop in the expected numbers of migrants to be bused from Texas to Chicago in time for the Democratic National Convention, which has been attributed to President Biden's policy at the border of denying asylum to anyone crossing into the United States without authorization, Mr. Yale-Loehr said, "There just aren't that many people to send."

Mr. Yale-Loehr was quoted extensively by *Newsweek* in [Growing Backlog in Immigration Courts Could Slow Trump's Mass Deportations](#). Among other things, Mr. Yale-Loehr noted that the "average wait time right now for an asylum case in immigration court is about five years, so that causes a lot of problems. He noted that "[w]e have not funded the immigration court system adequately to be able to keep up with this increase." Mr. Yale Loehr noted that "Trump said in the first administration that he wanted to deport more people and he didn't really do that. You just cannot deport people without a hearing. Due process is embedded in the Constitution and it applies to everyone in the United States, not just U.S. citizens. So you can't just round them up and send them across the border." The article notes that Mr. Yale-Loehr co-wrote a [report](#) in 2023 that recommends sweeping changes. "You certainly could also have more judges at the border," he suggested. "If you had people who came in and had their asylum claims judged at the border within the first couple of months and then quickly deported," that "would not add to the backlog and people would have a decision more quickly." He observed that people "have problems hanging on for that long, or they evaporate into the shadows. [So] even if they are ordered deported, nobody can find them."

Mr. Yale-Loehr was quoted by the *Chronicle of Philanthropy* (registration required) in [As Election Nears, Four Freedoms Fund Seeks \\$5 Million to Support Immigrants](#). Among other things, the article discusses Path2Papers, a nonprofit project at Cornell University Law School, which recently received \$1.5 million from the Crankstart Foundation to offer free consultations to Deferred Action for Childhood Arrivals (DACA) recipients in the San Francisco, California, area who are seeking work visa options. The article notes that Path2Papers "has done more than 400 consultations, finding that more than half of DACA recipients it worked with may be eligible for a work visa." "While that is a great start, it is a drop in the bucket compared to the over 500,000 DACA holders in the U.S.," Mr. Yale-Loehr said. He also noted that courts consider immigration cases very complex to adjudicate.

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Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS case processing times online: <https://egov.uscis.gov/processing-times/>

Department of State Visa Bulletin: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

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About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 400 member lawyers and their more than 1,000 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <https://www.abil.com/>. ABIL is also on X (formerly Twitter): @ABILImmigration.

Disclaimer/Reminder

This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

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