

## IMMIGRATION INSIDER

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[DHS to Supplement H-2B Cap With Nearly 65,000 Additional Visas for FY 2025](#) – The Department of Homeland Security, in consultation with the Department of Labor, expects to make available an additional 64,716 H-2B temporary nonagricultural worker visas for fiscal year 2025, on top of the congressionally mandated 66,000 H-2B visas that are available each fiscal year.

[OFLC Releases Data From Employers and H-2B Foreign Labor Recruiter List](#) – The Department of Labor's Office of Foreign Labor Certification has released data and selected program statistics for the fourth quarter of fiscal year 2024, along with the foreign labor recruiters list for the H-2B program.

[USCIS Updates Guidance on Advance Parole in Extensive FAQ for DACA Recipients](#) – U.S. Citizenship and Immigration Services has updated its extensive list of frequently asked questions and answers on Deferred Action for Childhood Arrivals and the use of advance parole.

[DOJ Reaches Agreement With Staffing Company to Resolve Immigration-Related Discrimination Claim](#) – The agreement resolves the Department of Justice's determination that Express Employment Professionals "discriminated against a worker because of her immigration status by refusing to continue to honor her valid document that showed her permission to work in the United States."

[DOS Releases Visa Bulletin for December](#) – The bulletin includes information on final action dates for employment-based visa preference cases, dates for filing of employment-based visa applications, diversity visa (DV) updates for December, and DV category rank cut-offs for January 2025, among other things.

[DOS Brings Exchange Program Alumni Entrepreneurs to United States for Creative Economy Residency](#) – This year's Institute included artists and their community partners from Iraq, Mexico, Nigeria, Türkiye, and Ukraine for an intensive two-week exchange program in the United States.

[Immigration Medical Exam Documentation Valid Indefinitely for Certain Afghan Nationals](#) – U.S. Citizenship and Immigration Services has updated guidance to reflect that immigration medical examination documentation for certain Afghan nationals who arrived in the United States during Operation Allies Welcome is valid indefinitely.

[What Should Employers and Investors Expect in the Second Trump Term?](#) – Former President Donald Trump's election to a second term in the White House is sure to reshape immigration law and enforcement. What should employers expect, and how can they prepare?

[Biden Administration's 'Parole in Place' Program Struck Down by Federal Judge](#) – The judge determined that the Biden administration lacked statutory authority for the program.

[USCIS Updates SAVE ICA v38 Draft](#) – U.S. Citizenship and Immigration Services (USCIS) has updated the draft SAVE Interface Control Agreement (ICA) v38. USCIS said that registered web services agencies can use this draft for planning purposes and to familiarize developers but that it may still be modified.

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## DHS Publishes Temporary Final Rule to Supplement H-2B Cap With Nearly 65,000 Additional Visas for FY 2025

The Department of Homeland Security (DHS), in consultation with the Department of Labor (DOL), will [publish](#) a temporary final rule on December 2, 2024, [making available](#) an additional 64,716 H-2B temporary nonagricultural worker visas for fiscal year 2025. This followed an [announcement](#) on November 15, 2024.

The temporary rule provides effective dates for the various allocations. The rule allocates 20,000 visas for workers from Guatemala, El Salvador, Honduras, Haiti, Colombia, Ecuador, and Costa Rica, and 44,716 supplemental visas for returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years. "The regulation would allocate the supplemental visas for returning workers between the first half and second half of the fiscal year to account for the need for additional seasonal and other temporary workers over the course of the year, with a portion of the second half allocation reserved to meet the demand for workers during the peak summer season," DOL said.

The rule notes that these visas "will be available only to businesses that are suffering or will suffer impending irreparable harm, as attested by the employer. In addition, DHS is again providing temporary portability flexibility." The rule provides details on what employers must do to qualify for the FY 2025 supplemental caps.

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## DHS Publishes Notice Designating Lebanon for TPS and Providing Special Student Relief

On November 27, 2024, the Department of Homeland Security published a [Federal Register notice](#) designating Lebanon for Temporary Protected Status (TPS) for 18 months. DHS initially [announced](#) the designation on October 17, 2024. The new notice provides information about how to register for TPS under this designation.

The designation allows an estimated 11,000 Lebanese nationals (and individuals having no nationality who last habitually resided in Lebanon) who have been continuously residing in the United States since October 16, 2024, and have been continuously physically present in the United States since November 27, 2024, to apply for TPS if they are otherwise eligible.

Individuals who want to request TPS under Lebanon's designation must submit [Form I-821, Application for Temporary Protected Status](#), during the initial registration period that runs from November 27, 2024, through May 27, 2026. Applicants may also apply for TPS-related Employment Authorization Documents (EADs) and travel authorization. DHS noted that an applicant can request an EAD by submitting [Form I-765, Application for Employment Authorization](#), with Form I-821 or separately.

The Federal Register notice explains the eligibility criteria, timelines, and procedures necessary to apply for TPS and for an EAD. On October 17, 2024, U.S. Citizenship and Immigration Services also posted a Federal Register notice establishing procedures for Lebanese nationals covered by President Biden's July 26, 2024, grant of Deferred Enforced Departure (DED) to apply for EADs that will be valid through January 25, 2026.

Accompanying the announcement is a [Special Student Relief notice](#) for F-1 nonimmigrant students whose country of citizenship is Lebanon, which enables eligible students to request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain F-1 status through the TPS designation period. The notice covers eligible Lebanese F-1 nonimmigrant students beginning November 27, 2024, and ending May 27, 2026.

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## DOJ Reaches Agreements to Resolve Immigration-Related Discrimination Claims

The Department of Justice (DOJ) secured agreements in late November with a restaurant group and a trailer manufacturer to resolve immigration-related discrimination claims.

### Restaurant Group

On November 26, 2024, DOJ [announced](#) that it secured an [agreement](#) with Anna Maria Oyster Bar Inc., a restaurant group based in Bradenton, Florida. The agreement resolves DOJ's determination that the restaurant group "routinely discriminated against lawful permanent residents when checking their permission to work in the United States."

DOJ explained that after conducting an investigation based on a worker's complaint, the Civil Rights Division's Immigrant and Employee Rights Section (IER) concluded that Anna Maria Oyster Bar had required a specific document—a Permanent Resident Card (green card)—from a worker to prove her citizenship status, even though she had already presented sufficient proof of her permission to work. IER also found that "the restaurant group's treatment of this worker was part of a larger practice of requesting documents issued by the Department of Homeland Security, typically Permanent Resident Cards, from lawful permanent residents to prove their citizenship status."

Under the terms of the settlement, Anna Maria Oyster Bar will pay a civil penalty of \$12,684 to the United States, train its employees on the Immigration and Nationality Act's (INA) requirements, revise its employment policies and be subject to DOJ monitoring.

### Trailer Manufacturer

On November 25, 2024, DOJ [announced](#) that it secured a [settlement agreement](#) with Great Dane LLC (Great Dane) resolving DOJ's determination that Great Dane's plant in Wayne, Nebraska, violated the INA. For example, DOJ determined that even though the worker who filed the initial complaint provided sufficient information and documents to prove his permission to work (his state ID and unrestricted Social Security card), the company nevertheless wanted him to provide additional information from a Permanent Resident Card.

Under the terms of the settlement, DOJ said, the company will pay \$218,000 in civil penalties to the United States and establish a backpay fund of \$218,000 "to compensate victims of the company's discriminatory practices, including those whom it failed to hire or who lost work because they could not comply with the company's discriminatory document demands." The agreement also requires Great Dane to train its personnel on the INA's anti-discrimination requirements, revise its employment policies, and be subject to DOJ monitoring and reporting requirements.

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## OFLC Confirms Permanent Online System Is No Longer Available

On December 1, 2024, the Department of Labor's Office of Foreign Labor Certification (OFLC) [confirmed](#) that the legacy Permanent Online System, which provided public access to permanent labor certification applications and final determinations, is fully decommissioned and no longer available.

OFLC explained that the Foreign Labor Application Gateway (FLAG) System has been implemented to replace the legacy Permanent Online System, improve service, and modernize the administration of foreign labor certification programs. Pending applications will continue to be processed, but new users will be redirected to the FLAG System.

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## Courts in Kentucky and Mississippi Issue Orders on Implementation of Farmworker Protection Final Rule

On November 27, 2024, the Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) [announced](#) court orders issued on November 25, 2024, by the Eastern District of Kentucky and Southern District of Mississippi associated with implementation of the 2024 Farmworker Protection Final Rule.

A preliminary injunction in the Kentucky case, *Barton v. U.S. DOL*, enjoins and restrains DOL from implementing, enacting, enforcing, or taking any action in any manner to enforce certain provisions of the final rule. In the Mississippi case, a decision in *International Fresh Produce Association v. U.S. DOL* stays the effective date of certain regulations in the Farmworker Protection Rule nationwide until the conclusion of proceedings in the case, including any appellate proceedings.

DOL said it will issue "additional information and guidance on its ongoing compliance and implementation of these orders as soon as possible." Until that additional guidance is published, "as of November 27, 2024, employers (or an employer's authorized attorney or agent) will be directed on the Foreign Labor Application Gateway (FLAG) System to prepare and submit H-2A job orders and Applications for Temporary Employment Certification using the forms applicable under the version of [20 CFR part 655, subpart B](#) in effect on June 27, 2024," DOL [said](#) [scroll to November 27, 2024].

Previously, the United States District Court for the Southern District of Georgia issued a preliminary injunction in *Kansas U.S. DOL* prohibiting DOL from enforcing the rule in certain states and with respect to certain entities. The affected states include Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The entities include Miles Berry Farm and members of the Georgia Fruit and Vegetable Growers Association as of August 26, 2024. On August 28, 2024 and again on September 10, 2024, the Employment and Training Administration issued related [announcements](#) [scroll to November 27, 2024].

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## DHS Removed or Returned More Individuals in FY 2024 Than Any Year Since FY 2010

On November 18, 2024, the Department of Homeland Security (DHS) [said](#) that it has removed or returned more individuals in FY 2024 than any year since FY 2010. From the implementation of President Biden's Proclamation on June 4, 2024 (which temporarily suspended the entry of certain noncitizens across the southern border), through the end of October 2024, DHS has operated more than 640 international repatriation flights to more than 155 countries, including the People's Republic of China (PRC), Colombia, Ecuador, Peru, Egypt, Mauritania, Senegal, Uzbekistan, and India. Efforts to expand removal flights continue, the agency said, noting that there has also been a more than 55 percent decrease in "Border Patrol encounters" since the proclamation was issued.

Meanwhile, DHS announced that on November 16, 2024, U.S. Immigration and Customs Enforcement conducted the third large-frame charter removal flight in less than six months to the PRC of Chinese nationals with no lawful basis to remain in the United States.

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## USCIS Announces New Classes of Admission for LPR Status and Work Authorization for Surviving Spouses and Children of Certain U.S. Government Employees Abroad

On November 25, 2024, U.S. Citizenship and Immigration Services (USCIS) [announced](#) multiple new classes of admission (COAs) for the surviving spouses and children of certain deceased employees of the U.S. government (USG) abroad. Individuals with these COAs are lawful permanent residents and are authorized to work incident to status.

The previous and current COAs include:

- SS1—Surviving spouse or child of deceased USG employee (Arrival)
- SS2—Spouse of SS1 surviving spouse (Arrival)
- SS3—Child of SS1 surviving spouse or child (Arrival)
- SS6—Surviving spouse or child of deceased USG employee (Adjustment)
- SS7—Spouse of SS6 (Adjustment)
- SS8—Child of SS6 unrelated to deceased USG employee (Adjustment)
- GS1—Certain surviving spouses or children of USG Significant Immigrant Visa employee under the Grateful Act (an individual with a GV1 COA) (Arrival)
- GS2—Current spouse of GS1 (if any) (Arrival)
- GS3—Unmarried child of GS1 (if any) (Arrival)
- GS6—Certain surviving spouses or children of GV1 eligible person (Adjustment)
- GS7—Current surviving spouse of GS1/GS6 (if any) (Adjustment)
- GS8—Unmarried child of GS1/GS6 (if any) (Adjustment)

Systematic Alien Verification for Entitlements (SAVE) will provide an initial verification response of "Lawful Permanent Resident—Employment Authorized" for these classes of admission, USCIS said.

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## **Planned Trump Mass Deportations Could Heavily Impact U.S. Farming**

According to reports, the Trump administration's plans to deport millions of undocumented migrants currently in the United States could severely impact U.S. agriculture, among other industries, and thus reduce the U.S. food supply and raise grocery prices.

For example, in an ABC News report, [Mass Deportations Could Upend Agriculture Industry](#), correspondent Martha Raddatz interviewed farm owners in California's Central Valley, which produces 25 percent of the U.S. food supply. According to the report, the Department of Agriculture has estimated that about half of U.S. farmworkers do not have legal status. In the Central Valley, that constitutes more than 330,000 workers, according to estimates.

One farmer, Joe Del Bosque, said that his farm's labor supply was already stretched thin and that they cannot afford a labor shortage. He noted that when there have been labor shortages, crops have been unharvested and lost. Mr. Del Bosque said that U.S. citizens do not want to perform that type of work in "extreme conditions" like 100+-degree heat and dust. He said California grows about 50 percent of the fruits, vegetables, and nuts for the entire country.

The head of a farmers and farmworkers trade association in the Fresno area, Manuel Cunha, Jr., said that California pays some of the highest wages in the nation for farm work, but U.S. citizens still will not apply, so higher pay is not the issue. He attributed U.S. citizens' unwillingness to perform farm work to the toughness of the work: "It ain't gonna happen. They're not going to get up at 4 or 5 a.m. in the morning, drive to the field, and pick fruit." He also distinguished between undocumented migrants who are criminals and those who are otherwise law-abiding and in some cases have been working in the United States for decades without incident.

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## ACLU SoCal Files Suit to Obtain Info on ICE Air Operations Program in Light of Trump Mass Deportation Plans

On November 18, 2024, the American Civil Liberties Union (ACLU) SoCal, joined by Mayer Brown LLP, filed a [lawsuit](#) in Los Angeles, California, to obtain information on U.S. Immigration and Customs Enforcement's (ICE) Air Operations (IAO) [program](#) following an unsuccessful Freedom of Information Act (FOIA) request submitted in August 2024.

President-elect Trump [plans](#) to [declare a national emergency](#) so he can use the U.S. military, including the National Guard and other U.S. troops, to support his mass deportation plans. Kyle Virgien, senior staff attorney for the ACLU's national prison project, [said](#), "For months, the ACLU has been preparing for the possibility of a mass detention and deportation program, and FOIA litigation has been a central part of our roadmap. A second Trump administration underscores the urgency of our litigation."

In its suit, ACLU SoCal said that President-elect Trump's "stated plan to arrest noncitizens on a vast scale and operate around-the-clock deportation flights using [IAO] has rendered the public's interest in the matter all the greater." Specifically, the lawsuit "seeks disclosure of records related to [IAO] from the period of January 1, 2023 through the present, including, but not limited to, contracts for operating removal flights and ground transportation to removal flights, and internal policies and procedures for staging, staffing, and handling flights, including those with unaccompanied children."

IAO is ICE's primary air transportation division. IAO "facilitates the transfer and removal of noncitizens via commercial airlines and chartered flights in support of ICE field offices and Department of Homeland Security (DHS) initiatives." ACLU SoCal noted that "ICE continues to withhold from the public key information about the millions of taxpayer dollars that it funnels to private third parties to operate [IAO] with little public oversight or transparency." The suit notes that "[o]ver the past few decades, the institutional infrastructure behind these flights has shifted from a government-run operation by the U.S. Marshals Service on government planes, to a sprawling and opaque network of flights on privately-owned aircraft chartered by [IAO]. Despite the critical role these flights play in the removal system—in many instances, serving as the mechanism for deportation—[IAO] remains shrouded in secrecy." ACLU SoCal said that the information sought "will shed critical light on ICE's removal processes and help to inform the public of the risks that would result if [IAO's] capacity is further built out."

ACLU SoCal is a nonprofit affiliate of the national ACLU Foundation and has more than 120,000 members.

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## DHS Announces Countries Eligible for H-2A and H-2B Nonimmigrant Worker Programs

The Department of Homeland Security (DHS), in consultation with the Department of State (DOS), has [announced](#) the [list of countries](#) whose nationals are eligible to participate in the H-2A and H-2B nonimmigrant worker visa programs for the next 12 months.

The announcement adds Belize to the list of countries eligible to participate in those programs and does not remove any country previously designated as eligible. (Mongolia and the Philippines are eligible to participate in the H-2B program but not the H-2A program. Paraguay is eligible to participate in the H-2A program but not the H-2B program.)

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## **DOL Recovers \$1.4 Million in Back Pay and Damages From General Dynamics Subsidiary for Wage Violations**

On November 19, 2024, the Department of Labor's (DOL) Wage and Hour Division (WHD) announced that it has [recovered](#) more than \$1.4 million in back pay and damages from a General Dynamics subsidiary, National Steel and Shipbuilding Co. (NASSCO), in San Diego, California, on behalf of 36 Mexican engineer employees. NASSCO paid the employees in Mexican pesos at a rate below the federal minimum wage.

NASSCO brought the engineers into the United States via the L-1B visa program from a General Dynamics subsidiary in Mexicali, Mexico, to install power plants, engines and machinery; complete structures; and finish and furnish ship interiors.

According to DOL, NASSCO "paid the engineers in pesos at Mexican pay rates to work an average of 42 hours or more weekly." WHD also determined that NASSCO "wrongfully treated the traveling workers' per diem and lodging costs as wages and did not maintain accurate time records for them. Investigators found that NASSCO owed the 36 engineers \$719,135 in unpaid minimum and overtime wages, plus an equal amount in liquidated damages."

DOL noted that NASSCO, which is headquartered in San Diego, operates shipyards in Norfolk, Virginia; and Bremerton, Washington; and Mayport in Jacksonville, Florida. Its parent company, General Dynamics, is an aerospace and defense contractor employing more than 100,000 people worldwide that generated \$42.3 billion in revenue in 2023.

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## **President-Elect Trump Names Future Officials for DHS and Border**

President-elect Donald Trump has named several future cabinet and administration officials, including, among others, [Secretary of Homeland Security: Kristi Noem](#) and ["Border Czar" Thomas Homan](#). He also nominated [Sen. Marco Rubio](#) (R-Fla.) for Secretary of State. As of press time, the Secretary of Labor had not yet been nominated.

Ms. Noem, who is governor of South Dakota, is expected to be vetted by the Senate as part of the nomination process. Mr. Homan is a former acting director of U.S. Immigration and Customs Enforcement under the previous Trump administration. His duties and his relationship to DHS are unclear, since "border czar" does not appear to be a cabinet position. Mr. Trump said on his Truth Social platform that Mr. Homan will be "in charge of our Nation's Borders ("The Border Czar"), including, but not limited to, the Southern Border, the Northern Border, all Maritime, and Aviation Security." It is possible he may serve in an advisory role. Mr. Rubio is expected to leave his Senate seat if confirmed as Secretary of State.

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## **President-Elect Trump Names Picks for Secretary of Labor, Attorney General**

Continuing his rapid-fire announcements of cabinet picks, President-elect Donald Trump named [Rep. Lori Chavez-DeRemer \(R-Ore.\)](#) as his choice for Secretary of Labor on November 22, 2024. She is described as "[moderate](#)" and "union-friendly," although reactions were mixed. She served on the House of Representatives' Education and the Workforce Committee, among other assignments. Rep. Chavez-DeRemer was [favored](#) by the head of the Teamsters Union, Sean O'Brien, but the AFL-CIO [scored](#) her at only 10 percent for her legislative record in 2023. The Senate is expected to consider her nomination in January after the new Congress convenes.

President-elect Trump has also named his picks for various other key positions. Most recently, he named



[Pam Bondi](#) for Attorney General, heading the Department of Justice, after Matt Gaetz, who was Trump's first pick for Attorney General, withdrew following a [swirl of controversy](#). Ms. Bondi, formerly Florida's Attorney General, has also served as a defense lawyer and legal advisor on Trump's legal team and headed legal activities for the America First Policy Institute.

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## [DOL Proposes to Amend H-2B Regulations for Employer-Provided Wage Surveys](#)

The Department of Labor (DOL) [proposes](#) to amend its regulations for employer-provided wage surveys for the H-2B temporary labor certification program. The regulations were published in 2015 in the Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program Final Rule.

DOL proposes to amend the regulations consistent with recent federal litigation by clarifying existing requirements for employer-provided surveys for the H-2B program. DOL also proposes to add new requirements and eliminate Form ETA-9165, Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OEWS Survey.

Comments are due by January 17, 2025.

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## [DHS to Supplement H-2B Cap With Nearly 65,000 Additional Visas for FY 2025](#)

On November 15, 2024, the Department of Homeland Security (DHS), in consultation with the Department of Labor (DOL), [announced](#) that it expects to make available an additional 64,716 H-2B temporary nonagricultural worker visas for fiscal year 2025, on top of the congressionally mandated 66,000 H-2B visas that are available each fiscal year, as it has done in years past.

"The supplemental visa allocation will help address the need for seasonal and temporary workers in areas where too few U.S. workers are available, willing and qualified to do the temporary work and address the labor needs of American businesses," including in hospitality and tourism, landscaping, seafood processing, and other industries, DOL said.

The H-2B supplemental rule would include an allocation of 20,000 visas for workers from Guatemala, El Salvador, Honduras, Haiti, Colombia, Ecuador, and Costa Rica, and a separate allocation of 44,716 supplemental visas for returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years. "The regulation would allocate the supplemental visas for returning workers between the first half and second half of the fiscal year to account for the need for additional seasonal and other temporary workers over the course of the year, with a portion of the second half allocation reserved to meet the demand for workers during the peak summer season," DOL said.

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## [OFLC Releases Data From Employers and H-2B Foreign Labor Recruiter List](#)

The Department of Labor's Office of Foreign Labor Certification (OFLC) has released data and selected program statistics for the fourth quarter of fiscal year 2024, along with the foreign labor recruiters list for the H-2B program. The releases include:

- A comprehensive set of [public disclosure data](#) 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. OFLC noted that it recently implemented the revised form ETA-9089. As a result, there will be two distinct PERM disclosure data files. These

files will each have their own record layout documents. The public disclosure files include all final determinations OFLC issued for these programs during the October 1, 2023, through September 30, 2024, reporting period.

- [Selected program statistics](#) for the fourth quarter of fiscal year 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](#), and related [frequently asked questions](#). The list contains the name and location of persons or entities identified on Appendix C of the Form ETA-9142B that were hired by, or working for, the recruiter 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 application. The H-2B Foreign Labor Recruiter List includes only those names and locations associated with H-2B applications that were processed or issued a final decision during the October 1, 2023, through September 30, 2024.

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### [USCIS Updates Guidance on Advance Parole in Extensive FAQ for DACA Recipients](#)

U.S. Citizenship and Immigration Services (USCIS) has updated its extensive list of [frequently asked questions and answers \(FAQ\)](#) on Deferred Action for Childhood Arrivals (DACA) and the use of advance parole. Generally, USCIS said, it will issue an advance parole document if the DACA recipient wants to travel outside the United States for:

- Humanitarian purposes, including to obtain medical treatment, attend funeral services for a family member, or visit an ailing relative;
- Educational purposes, such as semester abroad programs and academic research. Travel for educational purposes means travel affiliated with an institution that provides education as its primary purpose. A DACA recipient does not need to be enrolled in the institution with which the program is affiliated but must be enrolled in the program they will be traveling with; or
- Employment purposes, such as overseas assignments, interviews, conferences, trainings, consular appointments for an employer-sponsored nonimmigrant visa, or meetings with clients overseas.

Travel for vacation is not a valid basis for advance parole, USCIS said.

The FAQ also includes a summary of DACA-related court decisions, and examples of documents to submit to demonstrate that the applicant meets the threshold criteria for DACA.

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### [DOJ Reaches Agreement With Staffing Company to Resolve Immigration-Related Discrimination Claim](#)

On November 15, 2024, the Department of Justice (DOJ) [announced](#) that it has reached a [settlement agreement](#) with Key Fortune, Inc., doing business as Express Employment Professionals (Express), a staffing company in Rancho Cucamonga, California. The agreement resolves DOJ's determination that Express "discriminated against a worker because of her immigration status by refusing to continue to honor her valid document that showed her permission to work in the United States." DOJ said the agreement also resolves the agency's determination "that Express refused to place her on an assignment until she presented a specific document showing her future permission to work."

Under the terms of the settlement, Express will pay a civil penalty of \$2,200 to the United States and pay the worker backpay of \$1,748.45 plus interest, less any tax withholding required by law. The agreement also requires the company to train its personnel on the anti-discrimination requirements, review its employment policies, and be subject to departmental monitoring.

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## [DOS Releases Visa Bulletin for December](#)

The Department of State (DOS) has released the [Visa Bulletin for December 2024](#).

The bulletin includes information on final action dates for employment-based visa preference cases, dates for filing of employment-based visa applications, diversity visa (DV) updates for December, and DV category rank cut-offs for January 2025, among other things.

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## [DOS Brings Exchange Program Alumni Entrepreneurs to United States for Creative Economy Residency](#)

On November 15, 2024, the Department of State (DOS) [announced](#) that as part of its [Global Music Diplomacy Initiative](#), which "elevates music as a platform for promoting peace and democracy," DOS hosted the OneBeat Institute's "Resilient Futures" residency from October 27 to November 7, 2024. This year's Institute included [five teams of OneBeat alumni and their community partners](#) from Iraq, Mexico, Nigeria, Türkiye, and Ukraine for an intensive two-week exchange program in the United States. "Through project-specific mentorship and strategic support, these creative leaders refined their vision, developed curricula, crafted business and multi-year plans —advancing their capacity to enrich the creative economies in their home countries," DOS said.

The visiting exchange program alumni included composers, curators, musicians, graffiti artists, and filmmakers. They began with a weeklong residency in upstate New York, where they "presented unique entrepreneurial music and civic projects, engaged in organizational and creative exercises, and met with guest artists and advisors." The program continued in New York City, where they "deepened their collaboration by engaging in peer-to-peer learning and receiving professional mentorship from U.S.-based leaders across business, arts, culture, technology, and education sectors."

Launched in 2012, OneBeat began as an annual U.S.-based residency and tour program, bringing together early-career musicians from around the world to collaboratively create, perform original music, and develop innovative strategies for arts-driven civic and social engagement. Over the past 12 years, OneBeat has expanded from a single annual residency into a dynamic array of year-round initiatives, including global residencies and tours, a virtual residency, an artist-industry incubation program, a podcast, and an alumni micro-grant accelerator program.

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## [Immigration Medical Exam Documentation Valid Indefinitely for Certain Afghan Nationals](#)

U.S. Citizenship and Immigration Services (USCIS) [announced](#) in a [policy alert](#) that it has updated guidance in its [Policy Manual](#) to reflect that immigration medical examination documentation for certain Afghan nationals who arrived in the United States during Operation Allies Welcome (OAW) is valid indefinitely. USCIS said this means that those who arrived in the United States during OAW and meet certain conditions will not have to repeat an immigration medical examination when they apply to adjust their status to lawful permanent residence.

This updated guidance is effective as of November 13, 2024, and applies to any Form I-485, Application

to Register Permanent Residence or Adjust Status, that is pending or filed on or after that date.

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## New Publications and Items of Interest

**New fact sheet on LPR employee rights:** The Department of Justice's Civil Rights Division has released a new fact sheet, [Lawful Permanent Residents' Employment Rights Under the Immigration and Nationality Act](#). The fact sheet explains the protections permanent residents have from employment discrimination based on citizenship, immigration status, and national origin in hiring, firing, recruitment, and when proving permission to work in the United States for an employer. The fact sheet also explains that permanent resident employees are protected against retaliation if they talk with the Civil Rights Division's Immigrant and Employee Rights Section (IER) about a work problem, file a complaint with IER, take part in an investigation, or speak up to protect their rights or someone else's rights.

**Webinar on anti-discrimination for H-2A and H-2B filers:** The Department of Labor, in conjunction with the Equal Employment Opportunity Commission (EEOC), will host a [webinar](#) on Monday, December 9, 2024, from 1 to 2:30 p.m. ET for the H-2A and H-2B filing communities. The webinar will discuss the importance of compliance with program requirements and responsibilities under federal law, including anti-discrimination laws enforced by the EEOC. The EEOC will provide an overview of anti-discrimination laws, examples of unlawful fact patterns, and information on how to refer suspected federal law violations and program noncompliance to the appropriate enforcement agencies.

**Redesigned SAVE website:** The [website](#) for Systematic Alien Verification for Entitlements (SAVE) has been redesigned. Updates include streamlined access to the SAVE system, reorganized and simplified content, a redesign of the webinar page, and updated navigation.

**SAVE webinars:** Systematic Alien Verification for Entitlements (SAVE) has updated its [calendar of webinars](#) and added a webinar with a focus on commonly used immigration documents for SAVE.

**E-Verify webinars:** E-Verify 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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**Klasko Immigration Law Partners, LLP**, has published a new client alert: [Election 2024: Immigration Implications for Employers, Employees, and Investors](#).

**Cyrus Mehta** and **Kaitlyn Box** co-authored several new blog posts: [Ethical Obligations of the Attorney to Safeguard Information About a Client's Whereabouts With a Removal Order Under Trump 2.0](#); [Biden's Last and Best Gift to Legal Immigrants: Advancing the Filing Dates in the 2025 January Visa Bulletin to Current](#); and [Saving America by Defending Clients Against Trump's Immigration Policies](#).

**Mr. Mehta** was quoted by *Bloomberg Law* in [Parole Program for U.S. Citizens' Spouses Found Unlawful](#). Even if an appeal of a federal judge's decision to strike down the Biden administration's "parole in place" program for undocumented spouses of U.S. citizens were filed, it would likely be quickly withdrawn by the new administration, he said: "It puts the final nail in the coffin with regards to parole-in-place."

**Mr. Mehta**, **Charles Kuck**, and **Adam Cohen**, of **Siskind Susser PC**, were quoted by the *Times of India* in [The Writing on the Wall is Clear: Tighter H-1B Norms on Anvil, Perhaps With Wage-Hikes and Stiffer Vetting of Applications](#). Mr. Cohen said, "If a wage hike is announced for H-1B workers and allotment is linked to the highest wages, it would badly impact international students. F-1 students typically transition to an H-1B and earn the lowest range of salary in the initial years of their career." Mr. Kuck said, "Prepare for major H-1B changes: a lottery based on wages, higher filing fees, and stricter enforcement against job shops. Expect higher denial rates, longer processing times, no immigration reform, no increase in green card allotments, no changes to the 7% per-country limit, and possibly reduced legal immigration." Mr. Mehta said that the Trump administration "could make it more difficult for employers to renew H-1B visas by requiring artificially high wages and making it harder to prove that the job qualifies as a specialty occupation for H-1B classification."

**Mr. Mehta** and **Greg Siskind**, of **Siskind Susser PC**, were quoted by the *Times of India* in [Citizenship by Birth to be Curtailed by Incoming U.S. President Trump, Will Impact 1 Million Indians in Green Card Queue](#). Mr. Mehta said, "If a child whose parents are in H-1B status is not issued a U.S. birth certificate, they can seek review in federal court and should win. The Trump administration is capable of taking the case to the Supreme Court to test their theory, but even if the Supreme Court has Trump-appointed justices, it does not mean that they will abide by the policies of the Trump administration if they are in direct contradiction to the U.S. Constitution." Mr. Siskind said, "This will certainly be litigated as it violates the 14<sup>th</sup> Amendment. We will have to see if they go so far as to exclude children of people legally in the U.S."

**Cyrus Mehta** and **Stephen Yale-Loehr** were quoted by the *Times of India* in [Indian IT Companies Brace for Tighter Visa Guidelines](#). Mr. Mehta said he could see the Trump administration tightening legal immigration even though their focus so far has been on people coming through the border. "Indian IT firms will be impacted, and we already got a taste of that during the last Trump administration," he said. Mr. Mehta noted that the Trump administration could issue regulations requiring higher wages for H-1B workers that may be well above market wages and could impose even higher filing fees. "The administration can also insist on specific contracts between the IT firm and the client when H-1B workers are placed at client sites, and if they approve the H-1B petition, can limit the validity period [until] the end date of the contract or work order with the third-party client." Mr. Yale-Loehr said that both legal and undocumented immigrants could be hurt by a second Trump administration. "During his first term in office, Donald Trump hurt H-1B workers by restricting who could qualify, slowing down processing times, and issuing more denials. He is likely to do that in his second administration." He also noted that a second Trump administration may try to make it harder for international students to work temporarily in the United States after they graduate. "Moreover, because there are more conservative

judges now than before, litigation to stop such efforts may be less likely to succeed," he said.

**Mr. Yale-Loehr** was quoted by *Newsweek* in [Trump Team Eyes Using State And Local Police For Immigration Enforcement](#). He noted that a potentially applicable 1996 immigration law was not intended to allow local law enforcement to round up anyone suspected of living in the United States without authorization. "It's not geared for local cops to go into a factory and see if they can find some undocumented immigrants to pick up," he said.

**Mr. Yale-Loehr** was quoted by the *Boston Globe* in [College Campuses Scramble to Protect Foreign and Undocumented Students Under Trump](#) (subscription required). Most colleges are working "more behind the scenes than in 2017 because they fear that the new administration may put a target on their backs if they do so publicly," he said.

**Mr. Yale-Loehr** moderated a webinar, [Immigration Reform in 2025: What is Possible?](#), on November 20, 2024, at 1 p.m. ET. Mr. Yale-Loehr and a panel of experts from the Cornell Law School immigration law and policy research program discussed what immigration laws and policies might change, both in the lame-duck session after the election and in 2025.

**Mr. Yale-Loehr** spoke on a recent webinar, "Preparing for Change: How the New Administration Could Impact DACA Recipients." The webinar focused on preparing Deferred Action for Childhood Arrivals (DACA) recipients for the potential impact of the new administration, with discussions on available immigration remedies, support and resources, and potential changes to employment-based options. The speakers also addressed the ongoing legal challenges to the DACA program, the importance of renewing DACA status, and the exploration of legal options for undocumented noncitizens. The conversation ended with a discussion on resources available for general educational purposes and the importance of self-care and community support. The [webinar recording](#) and [slides](#) are now available.

**Mr. Yale-Loehr** was quoted by the Canadian Broadcasting Corporation in [Trump Wants to Use a 226-Year-Old Law to Deport Millions of Undocumented Migrants. Can He Do It?](#) He said, "If Trump were to try to use the normal procedures, it would [be to] round up a lot of people and put them into immigration court proceedings. But it would be a long time before they could actually be deported." During those proceedings, an immigration judge would decide whether those individuals were deportable or entitled to some type of relief from deportation, such as asylum, he said. Due to backlogs, "[m]any cases are being scheduled for four or five years from now," Mr. Yale-Loehr noted, adding that if the future President Trump follows current deportation procedures, he would need money to hire more judges and immigration agents, and build more detention centers.

**Mr. Yale-Loehr** was quoted by the *South China Morning Post* in [Trump Names Architects of His Promised Mass Deportation Policy](#). Citing the due process clause of the U.S. Constitution, he said that "people have a right to a hearing before they can be deported. If they have applied for asylum, that means they're in immigration court and they cannot be summarily deported without finding out whether their asylum claim is valid." Mr. Yale-Loehr said that the Trump administration "will have to ask Congress for more money to hire more ICE agents, to create more detention camps, to pay for planes, etc., so you're not going to see a lot of mass deportations on Day One." He also noted that immigration courts are facing massive backlogs: "We already have 3.7 million cases in immigration court."

**Mr. Yale-Loehr** was quoted by *Newsweek* in [Democratic Governor Pledges Deportation Rebellion](#). He said that "so-called sanctuary policies" mean police "will not cooperate with federal immigration officials to turn over immigrants accused of crimes." "Such cities and states may use those policies to prevent mass arrests," he said. The first Trump administration "threatened to deprive so-called sanctuary jurisdictions of federal funding if they failed to cooperate with immigration agents. States and cities fought back, tying up the Trump administration's efforts in litigation. With more conservative judges

now, it is unclear whether such lawsuits will succeed again."

**Mr. Yale-Loehr** was quoted by the *Chronicle of Higher Education* in [What Trump's Threats of Mass Deportation Could Mean for Higher Ed](#) (registration required). He said that although it is important to take Trump's stances seriously, "there's a big difference between rhetoric and due process." According to Mr. Yale-Loehr, there is a current backlog of 3.6 million deportation cases in the immigration courts. "Trump just can't round up students and put them on a plane." He said that college legal clinics could be a resource for concerned students. The article notes that a [project](#) run by Cornell University has counseled nearly 700 Deferred Action for Childhood Arrivals recipients, 60 percent of whom were identified as having a path to a skilled-work visa or other status.

**Mr. Yale-Loehr** was quoted by *Digital Journal* in [Trump Mass Deportation Pledge Faces Legal, Economic Barriers](#). He said, "Rhetoric is one thing. Actual implementation is something else. The Constitution provides due process for everyone in the country, not just U.S. citizens, so Trump cannot just round up people and send them out of the country the next day. There already is a backlog of over 3.6 million cases in our immigration courts."

**Mr. Yale-Loehr** was quoted by *The Appeal* in [Stopping Trump's Anti-Immigrant Agenda Will Be Harder This Time](#). "What scares me about another Trump term on immigration? Everything," he said. "We saw how much Trump hurt immigrants in his first administration: the Muslim travel ban, family separations, increased delays in processing routine cases. He will hurt immigrants even more if he's reelected, with devastating impacts on the U.S. economy, workers, and families."

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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.*

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