



IMMIGRATION UPDATE - JUNE 21, 2023

Posted on June 21, 2023 by Cyrus Mehta

Headlines:

[DHS Reinstates, Extends TPS Designations for El Salvador, Honduras, Nepal, and Nicaragua](#) – The Department of Homeland Security has rescinded the Trump administration's terminations of the temporary protected status (TPS) designations for El Salvador, Honduras, Nepal, and Nicaragua, and extended TPS for these countries for 18 months.

[USCIS Provides Guidance on EADs Based on Compelling Circumstances](#) – U.S. Citizenship and Immigration Services has released policy guidance on the eligibility criteria for initial and renewal applications for an employment authorization document in compelling circumstances.

[Premium Processing Expanded for Nonimmigrants Seeking a Change to F, M, J Status](#) – U.S. Citizenship and Immigration Services (USCIS) is expanding premium processing for applicants filing Form I-539, Application to Extend/Change Nonimmigrant Status, and seeking a change of status to F-1, F-2, M-1, M-2, J-1, or J-2 nonimmigrant status. Online filing of Form I-907, Request for Premium Processing Service, will also be available for these applicants, USCIS said. This phase of premium processing service is only available for change-of-status requests.

[Labor Dept. Updates H-2A Hourly AEWRs for Certain Non-Range Occupations](#) – Effective July 1, 2023, the Department of Labor's Employment and Training Administration is updating the adverse effect wage rates (AEWRs) under the H-2A temporary agricultural employment program that apply to a limited set of H-2A job opportunities for which the AEWR is determined using the Bureau of Labor Statistics' Occupational Employment and Wage Statistics survey.

[USCIS Updates Policy on Its Role in Adjudicating Waivers and Change-of-Status](#)

[for J Nonimmigrant Exchange Visitors](#) – U.S. Citizenship and Immigration Services (USCIS) has updated policy guidance regarding the nonimmigrant exchange visitor (J) visa classification, including USCIS's role in the adjudication of waivers of the two-year foreign residence requirement and change-of-status requests.

[ICE Online Change-of-Address Tool Is Fully Operational](#) – The new system gives noncitizens the option to update their information online instead of doing so by phone or in person.

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DHS Reinstates, Extends TPS Designations for El Salvador, Honduras, Nepal, and Nicaragua

The Department of Homeland Security (DHS) has rescinded the Trump administration's terminations of the temporary protected status (TPS) designations for El Salvador, Honduras, Nepal, and Nicaragua, and extended TPS for these countries for 18 months.

Upcoming Federal Register notices will explain the eligibility criteria, timelines, and procedures necessary for current beneficiaries to re-register for TPS and renew their employment authorization documents (EADs). Once the notices are published, existing TPS beneficiaries under the four designations will be able to re-register to continue their TPS throughout the 18-month extension, DHS said. Those who arrived in the United States after the continuous residence dates for these designations are not eligible for TPS. Those dates are February 13, 2001 (El Salvador); December 30, 1998 (Honduras and Nicaragua); and June 24, 2015 (Nepal).

Below are details about the date ranges for the extension and re-registration period for each country:

- **El Salvador.** DHS is extending the designation of El Salvador from September 10, 2023, through March 9, 2025. The new extension allows approximately 239,000 current TPS beneficiaries to re-register to retain TPS through March 9, 2025. Existing TPS beneficiaries who wish to extend their status through that date must re-register during the 60-day re-registration period from July 12, 2023, through September 10, 2023.

- DHS is extending the designation of Honduras for TPS from January 6, 2024, through July 5, 2025. The new extension allows approximately 76,000 existing TPS beneficiaries to re-register to retain TPS through July 5, 2025. Existing TPS beneficiaries who wish to extend their status through that date must re-register during the 60-day re-registration period from November 6, 2023, through January 5, 2024.
- DHS is extending the designation of Nepal for TPS from December 25, 2023, through June 24, 2025. The new extension allows approximately 14,500 existing TPS beneficiaries to re-register to retain TPS through June 24, 2025. Existing TPS beneficiaries who wish to extend their status through that date must re-register during the 60-day re-registration period from October 24, 2023, through December 23, 2023.
- DHS is extending the designation of Nicaragua for TPS January 6, 2024, through July 5, 2025. The new extension allows approximately 4,000 current TPS beneficiaries to re-register to retain TPS through July 5, 2025. Existing TPS beneficiaries who wish to extend their status through that date must re-register during the 60-day re-registration period from November 6, 2023, through January 5, 2024.

Details:

- DHS news release (June 13, 2023).
<https://www.dhs.gov/news/2023/06/13/dhs-rescinds-prior-administrations-termination-temporary-protected-status>

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USCIS Provides Guidance on EADs Based on Compelling Circumstances

U.S. Citizenship and Immigration Services (USCIS) has released policy guidance on the eligibility criteria for initial and renewal applications for an Employment Authorization Document (EAD) in compelling circumstances. An applicant must meet the following eligibility requirements to be eligible for an initial EAD based on compelling circumstances:

- The principal applicant is the principal beneficiary of an approved Form I-140, Immigrant Petition for Alien Workers, in either the first, second, or third employment-based preference category;
- The principal applicant is in valid E-3, H-1B, H-1B1, O-1, or L-1

nonimmigrant status or an authorized grace period when they file the Form I-765, Application for Employment Authorization;

- The principal applicant has not filed an adjustment of status application;
- An immigrant visa is not available to the principal applicant based on the applicant's priority date according to the relevant Final Action Date in the Department of State's Visa Bulletin in effect when they file Form I-765;
- The applicant and dependents provide biometrics as required;
- The applicant and dependents have not been convicted of a felony or two or more misdemeanors; and
- USCIS determines, as a matter of discretion, that the principal applicant demonstrates compelling circumstances that justify the issuance of employment authorization.

The guidance provides a non-exhaustive list of situations that could lead to a finding that compelling circumstances exist, including serious illness and disability, employer dispute or retaliation, other substantial harm to the applicant, or significant disruption to the employer. The guidance also provides details on evidence an applicant could submit to demonstrate one of these compelling circumstances.

Details:

- USCIS alert (June 14, 2023).
<https://www.uscis.gov/newsroom/alerts/uscis-provides-guidance-on-employment-authorization-documents-based-on-compelling-circumstances>

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Premium Processing Expanded for Nonimmigrants Seeking a Change to F, M, J Status

U.S. Citizenship and Immigration Services (USCIS) is expanding premium processing for applicants filing [Form I-539, Application to Extend/Change Nonimmigrant Status](#), and seeking a change of status to [F-1, F-2, M-1, M-2, J-1, or J-2 nonimmigrant status](#). Online filing of [Form I-907, Request for Premium Processing Service](#), will also be available for these applicants, USCIS said. This phase of premium processing service is only available for change-of-status requests. Premium processing is not available for individuals seeking an extension of stay in M-1 or M-2 status.

The premium processing expansion for certain Form I-539 applicants will occur in phases, the agency said. Nonimmigrants requesting premium processing should not file before these dates:

- **Beginning June 13**, USCIS now accepts Form I-907 requests, filed via paper form or online, for applicants seeking a change of status to F-1, F-2, M-1, M-2, J-1, or J-2 status, who have a **pending** Form I-539.
- **Beginning June 26**, USCIS will accept Form I-907 requests, filed either via paper form or online, for applicants seeking a change of status to F-1, F-2, M-1, M-2, J-1, or J-2 status, **when filed together with Form I-539**.

Applicants must submit Form I-907 the same way they submit Form I-539. For example, those who mailed a paper Form I-539 to USCIS must mail a paper Form I-907; those who submitted Form I-539 online must submit Form I-907 online. Also, applicants must submit their biometrics before premium processing can begin for these specific categories. USCIS said it may reject an applicant's Form I-907 and/or Form I-539 if submitted with another benefit request, including multiple Forms I-907 requests filed together.

Details:

- USCIS alert (June 12, 2023).
<https://www.uscis.gov/newsroom/alerts/uscis-expands-premium-processing-for-applicants-seeking-to-change-into-f-m-or-j-nonimmigrant-status>

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Labor Dept. Updates H-2A Hourly AEWRs for Certain Non-Range Occupations

Effective July 1, 2023, the Department of Labor's Employment and Training Administration is updating the adverse effect wage rates (AEWRs) under the H-2A temporary agricultural employment program that apply to a limited set of H-2A job opportunities for which the AEWR is determined using the Bureau of Labor Statistics' Occupational Employment and Wage Statistics survey.

The Office of Foreign Labor Certification (OFLC) expects to publish additional information on its website on June 30, 2023, regarding the information provided in the Federal Register notice.

Details:

- ETA notice, 88 Fed. Reg. 39482 (June 16, 2023).

<https://www.govinfo.gov/content/pkg/FR-2023-06-16/pdf/2023-12896.pdf>

- OFLC notice, <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to June 16, 2023).

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USCIS Updates Policy on Its Role in Adjudicating Waivers and Change-of-Status for J Nonimmigrant Exchange Visitors

U.S. Citizenship and Immigration Services (USCIS) has updated policy guidance regarding the nonimmigrant exchange visitor (J) visa classification, including USCIS's role in the adjudication of waivers of the two-year foreign residence requirement and change-of-status requests. The guidance:

- Provides general information about the exchange visitor (J) visa classification and explains USCIS's role in adjudicating change-of-status requests and applications for employment authorization for J-2 family members.
- Explains the INA § 212(e) foreign residence requirement and provides information about USCIS's adjudication of available waivers, including for foreign medical graduates.

Details:

- USCIS Policy Alert, PA-2023-17 (June 8, 2023).
<https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230608-ExchangeVisitors.pdf>

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ICE Online Change-of-Address Tool Is Fully Operational

U.S. Immigration and Customs Enforcement (ICE)'s [online change-of-address form](#) for noncitizens is now fully operational, ICE announced on June 13, 2023. The new system gives noncitizens the option to update their information online instead of doing so by phone or in person. ICE said it "will enable noncitizens to comply with their immigration obligations more easily and improve the accuracy of address information reported to ICE by utilizing address autofill to ensure U.S. Postal Service standardization."

After successfully entering a valid mailing address, if the noncitizen is in

removal proceedings, the online form shows the noncitizen information on how to also change their address with the immigration court as required, using the Executive Office for Immigration Review's (EOIR) [Form EOIR-33, Change of Address/Contact Information](#), which may be submitted by mail, in person at the immigration court, or online through EOIR's Respondent Access. The EOIR-33 is available in English, Spanish, Chinese, Haitian Creole, Portuguese, and Punjabi.

ICE's news release includes additional details about how the system processes requests and handles aspects like Notices to Appear and noncitizens in removal proceedings.

Details:

- ICE news release (June 13, 2023).
<https://www.ice.gov/news/releases/ice-online-change-address-tool-noncitizens-fully-operational>

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