



IMMIGRATION UPDATE - JUNE 26, 2023

Posted on June 26, 2023 by Cyrus Mehta

Headlines:

[I-9 Verification Flexibilities Ending Soon](#) – Employers will have an additional 30 days to comply with Form I-9 requirements after COVID-19 flexibilities sunset on July 31, 2023.

[DHS Publishes Details of TPS Reinstatement/Extension for El Salvador, Honduras, Nepal, Nicaragua](#) – Following the Department of Homeland Security's (DHS) recent announcement reinstating and extending for 18 months the temporary protected status designations for El Salvador, Honduras, Nepal, and Nicaragua, DHS has provided eligibility criteria, timelines, and procedures.

[Supreme Court Rules Texas and Louisiana Lack Standing to Block Biden Immigration Enforcement Guidelines](#) – The U.S. Supreme Court ruled 8-1 that Texas and Louisiana lacked standing to block Biden administration immigration enforcement guidelines that prioritize national security, public safety, and border security threats over focusing on deporting anyone in the United States without authorization.

Firm in the News

Details:

[Back to Top](#)

I-9 Verification Flexibilities Ending Soon

Employers will have an additional 30 days to comply with Form I-9 requirements after COVID-19 flexibilities sunset on July 31, 2023, according to the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE). These flexibilities were first announced in March 2020 due to the COVID-19 pandemic and subsequently extended several times.

DHS encourages employers who have been using these temporary flexibilities "to plan ahead to ensure that all required physical inspection of identity and employment eligibility documents is completed" by August 30, 2023.

The flexibilities deferred the requirement that employers review employees' identities and employment authorization documents in the employees' physical presence, instead allowing that to occur remotely, with the expectation that physical inspection would occur within three business days after normal operations resumed. ICE said employers could continue to implement the flexibilities "until affected employees undertake non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated, whichever is earlier."

Under the flexibilities, employers could examine the employees' documents remotely (e.g., over video link, fax, or email) and enter "COVID-19" as the reason for the physical examination delay in the Section 2 Additional Information field on the Form I-9 when physical examination took place in the future. Once the employees' documents were physically examined, the employer would add "documents physically examined" with the date of examination to the Section 2 Additional Information field on the Form I-9, or in Section 3, as appropriate.

Details:

- "ICE Updates Form I-9 Requirement to Grant Employers More Time to Comply With Requirements," ICE news release (May 4, 2023).
<https://www.ice.gov/news/releases/ice-updates-form-i-9-requirement-flexibility-grant-employers-more-time-comply>

[Back to Top](#)

DHS Publishes Details of TPS Reinstatement/Extension for El Salvador, Honduras, Nepal, Nicaragua

Following the Department of Homeland Security's (DHS) recent announcement that it was rescinding the Trump administration's terminations of the temporary protected status (TPS) designations for El Salvador, Honduras, Nepal, and Nicaragua, and reinstating and extending TPS for these countries for 18 months, DHS has published notices for each country in the Federal Register providing the eligibility criteria, timelines, and procedures necessary for current beneficiaries to re-register for TPS and renew their employment

authorization documents (EADs).

Re-registration is limited to individuals who previously registered for and were granted TPS under the prior designations of El Salvador, Honduras, Nepal, and Nicaragua. Those who arrived in the United States after the continuous residence dates for these designations are not eligible for TPS, DHS said. The continuous residence dates are February 13, 2001 (El Salvador); December 30, 1998 (Honduras); June 24, 2015 (Nepal); and December 30, 1998 (Nicaragua).

Details:

- DHS news release (June 20, 2023).
<https://www.uscis.gov/newsroom/news-releases/temporary-protected-status-designations-for-el-salvador-honduras-nepal-and-nicaragua-reinstated-and>
- El Salvador, 88 Fed. Reg. 40282 (June 21, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13018.pdf>
- Honduras, 88 Fed. Reg. 40304 (June 21, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13017.pdf>
- Nepal, 88 Fed. Reg. 40317 (June 21, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13019.pdf>
- Nicaragua, 88 Fed. Reg. 40294 (June 21, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13246.pdf>

[Back to Top](#)

Supreme Court Rules Texas and Louisiana Lack Standing to Block Biden Immigration Enforcement Guidelines

On June 23, 2023, the U.S. Supreme Court ruled 8-1 in *U.S. v. Texas* that Texas and Louisiana lacked standing to block Biden administration immigration enforcement guidelines that prioritize national security, public safety, and border security threats over focusing on deporting anyone in the United States without authorization.

Writing for the majority, Justice Kavanaugh said, "The States have brought an extraordinarily unusual lawsuit. They want a federal court to order the Executive Branch to alter its arrest policies so as to make more arrests. Federal courts have not traditionally entertained that kind of lawsuit; indeed, the States cite no precedent for a lawsuit like this." Justice Kavanaugh also said that the

Executive Branch "does not possess the resources necessary to arrest or remove all of the noncitizens covered by" federal law. "For the last 27 years since were enacted in their current form, all five Presidential administrations have determined that resource constraints necessitated prioritization in making immigration arrests." Justice Alito dissented.

Homeland Security Secretary Alejandro Mayorkas said that the Department of Homeland Security (DHS) would reinstate the guidelines, which were paused last summer by the Supreme Court. He said this would "enable DHS to most effectively accomplish its law enforcement mission with the authorities and resources provided by Congress." Texas Gov. Greg Abbott said that Texas would "continue to deploy the National Guard to repel turn back illegal immigrants trying to enter Texas illegally."

Details:

- *S. v. Texas* (June 23, 2023).
https://www.supremecourt.gov/opinions/22pdf/22-58_i425.pdf
- "The Supreme Court Sides With the Biden Administration in a Fight Over Immigration," National Public Radio (June 23, 2023).
<https://www.npr.org/2023/06/23/1182015382/supreme-court-ruling-immigration>
- "Supreme Court Says White House Can Continue to Set Deportation Priorities," Washington Post (June 23, 2023).
<https://www.washingtonpost.com/politics/2023/06/23/supreme-court-immigration-deportation-biden/> (subscription)

[Back to Top](#)

Firm in the News

Cyrus Mehta spoke on a panel entitled "Dual Representation of Spouses and Ethical Pitfalls" at the 2023 AILA Annual Conference in Orlando, Florida on June 24, 2023. The other panelists were Miki Matrician, Craig Dobson and Stanley Walker.

[Back to Top](#)