



IMMIGRATION UPDATE - JANUARY 13, 2025

Posted on January 13, 2025 by Cyrus Mehta

Headlines:

[USCIS Updates O-1 Guidance on Extraordinary Ability Evidence](#) – U.S. Citizenship and Immigration Services updated its policy guidance, effective immediately, to clarify how it evaluates evidence to determine eligibility for O-1A nonimmigrants of extraordinary ability, including adding examples of evidence for individuals in critical and emerging technologies.

[Cap Reached for Additional H-2B Returning Worker Visas; Petitioners Encouraged to File Under Country-Specific Allocations While Visas Remain Available](#) – U.S. Citizenship and Immigration Services has received enough petitions to reach the cap for the additional 20,716 H-2B visas made available for returning workers for the first half of fiscal year 2025.

[DHS Extends TPS for El Salvador, Sudan, Ukraine, and Venezuela](#) – The Department of Homeland Security (DHS) announced the extension of Temporary Protected Status for El Salvador, Sudan, Ukraine, and Venezuela. The extensions are effective for 18 months.

[OFLC Publishes List of Randomized H-2B Applications](#) – The Department of Labor's Office of Foreign Labor Certification announced that it has published the assignment groups for 8,759 H-2B applications covering 149,953 worker positions with a work start date of April 1, 2025.

[Edakunni Settlement Agreement on Concurrent Adjudication Expires on January 2](#) – A settlement agreement in *Edakunni v. Mayorkas*, effective for two years, is set to expire on January 25, 2025.

[Romania Added to Visa Waiver Program](#) – U.S. Customs and Border Protection anticipates that the Electronic System for Travel Authorization online and mobile applications will be updated on or around March 31, 2025, to allow

most citizens and nationals of Romania to apply to travel to the United States under the Visa Waiver Program.

[DHS Releases Statement on Immigration Safety and Enforcement During Los Angeles Area Fires](#) – The Department of Homeland Security released a statement related to immigration enforcement in "protected areas" during the emergency response to the devastating fires in the Los Angeles area.

Details:

USCIS Updates O-1 Guidance on Extraordinary Ability Evidence

On January 8, 2025, U.S. Citizenship and Immigration Services (USCIS) [updated its policy guidance](#), effective immediately, to clarify how it evaluates evidence to determine eligibility for O-1A nonimmigrants of extraordinary ability, including adding examples of evidence for individuals in critical and emerging technologies. The updated guidance aligns with President Biden's Executive Order from October 2023, aimed at enhancing pathways for individuals working in artificial intelligence and other critical technologies.

The guidance:

- Explains that a separate legal entity owned by the beneficiary, such as a corporation or limited liability company, may file a petition on the beneficiary's behalf.
- Provides clarifying guidance regarding evidentiary criteria for O-1A and O-1B nonimmigrants.
- Adds examples of relevant evidence that may be submitted by an interested U.S. government agency.
- Provides an example of an occupational change within a technological field.
- Clarifies the circumstances under which USCIS limits an extension of stay to 1 year.

Practitioners have [noted](#) that the flexibility offered with this guidance may particularly benefit for entrepreneurs, startup founders, and self-employed individuals working in areas of extraordinary ability. The clarification of O-1 extension circumstances may also benefit those working in research and development as their projects progress and extend to subsequent phases.

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Cap Reached for Additional H-2B Returning Worker Visas; Petitioners Encouraged to File Under Country-Specific Allocations While Visas Remain Available

On January 10, 2025, U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it has received enough petitions to reach the cap for the additional 20,716 H-2B visas [made available](#) for returning workers for the first half of fiscal year 2025 with start dates on or before March 31, 2025. January 7, 2025, was the final receipt date for petitions requesting supplemental H-2B visas under this allocation.

USCIS said it is still accepting petitions for H-2B nonimmigrant workers with start dates on or before March 31, 2025, for the additional 20,000 visas allotted for nationals of Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, and Honduras (country-specific allocation), as well as those who are exempt from the congressionally mandated cap.

USCIS encourages petitioners whose H-2B workers with start dates on or before March 31, 2025, were not accepted for the 20,716 returning worker allocation to file under the country-specific allocation while visas remain available. As of January 7, 2025, USCIS had received petitions requesting 3,678 workers under the 20,000 visas set aside for nationals of Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, and Honduras.

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DHS Extends TPS for El Salvador, Sudan, Ukraine, and Venezuela

On January 10, 2025, the Department of Homeland Security (DHS) announced the extension of Temporary Protected Status (TPS) for [El Salvador](#), [Sudan](#), [Ukraine](#), and [Venezuela](#).

El Salvador: The TPS extension is effective for 18 months, from March 10, 2025, to September 9, 2026. It allows approximately 232,000 current beneficiaries to re-register for TPS if they continue to meet eligibility requirements, U.S. Citizenship and Immigration Services (USCIS) said. Re-registration is limited to individuals who previously registered for and were granted TPS under El Salvador's prior designation. USCIS will continue to process pending applications filed under previous TPS designations for El Salvador. Individuals with a pending Form I-821 or a related Form I-765, starting when the Federal Register notice is published, do not need to file either application again. If

USCIS approves a pending Form I-821 or Form I-765 filed under the previous designation of TPS for El Salvador, USCIS will grant the individual TPS through September 9, 2026, and issue an Employment Authorization Document (EAD) valid through the same date. A [Federal Register](#) notice provides information about how to re-register for TPS under this extension.

Sudan: The TPS extension is effective for 18 months. It allows approximately 1,900 current eligible beneficiaries to re-register for TPS if they continue to meet eligibility requirements. Re-registration is limited to individuals who previously registered for TPS under Sudan's designation. This includes nationals of Sudan (and individuals without nationality who last resided in Sudan) who have been continuously residing in the United States since at least August 16, 2023, with or without lawful immigration status. Both initial applicants and re-registering current beneficiaries who have a pending Form I-821 or Form I-765 do not need to file either application again. If USCIS approves an individual's pending Form I-821, USCIS will grant them TPS through October 19, 2026. Similarly, if USCIS approves a pending TPS-related Form I-765, USCIS will issue the individual a new EAD valid through the same date.

Ukraine: The TPS extension is effective for 18 months. It allows approximately 103,700 current eligible beneficiaries to re-register for TPS if they continue to meet eligibility requirements. Re-registration is limited to individuals who previously registered for TPS under Ukraine's designation. This includes nationals of Ukraine (and individuals without nationality who last resided in Ukraine) who have been continuously residing in the United States since at least August 16, 2023, with or without lawful immigration status. Both initial applicants and re-registering current beneficiaries who have a pending Form I-821 or Form I-765 do not need to file either application again. If USCIS approves an individual's pending Form I-821, USCIS will grant them TPS through October 19, 2026. Similarly, if USCIS approves a pending TPS-related Form I-765, USCIS will issue the individual a new EAD that will be valid through the same date.

Venezuela: The TPS extension is effective for 18 months. Individuals may be eligible if they have continuously resided in the United States on or before July 31, 2023. Venezuelan nationals who arrived in the United States after July 31, 2023, are not eligible for TPS. The TPS extension allows approximately 600,000 eligible current beneficiaries to retain TPS through October 2, 2026, if they re-register and continue to meet TPS eligibility requirements. Venezuelan

nationals who registered for TPS under the 2021 Venezuela TPS designation are also eligible to re-register for TPS under this extension, as they meet the same eligibility requirements. Venezuelan TPS beneficiaries must timely re-register during the re-registration period that runs from the date of publication of the Federal Register notice to September 10, 2025, to ensure they keep their TPS and work authorization. DHS recognizes that not all re-registrants may receive a new EAD before their current EAD expires and is automatically extending through April 2, 2026, the validity of certain EADs previously issued. Both initial applicants and re-registering current beneficiaries who have a pending Form I-821 or Form I-765 under Venezuela 2023 do not need to file either application again. If USCIS approves an individual's pending Form I-821, USCIS will grant them TPS through October 2, 2026. Similarly, if USCIS approves a pending TPS-related Form I-765, USCIS will issue the individual a new EAD that will be valid through the same date.

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OFLC Publishes List of Randomized H-2B Applications

On January 6, 2025, the Office of Foreign Labor Certification (OFLC) [announced](#) that it has published the assignment groups for 8,759 H-2B applications covering 149,953 worker positions with a work start date of April 1, 2025.

OFLC said it completed the randomization process on January 4, 2025, and assigned to National Processing Center analysts all H-2B applications placed in Assignment Group A for issuance of Notices of Deficiency or Acceptance. That group includes enough worker positions to reach the H-2B semiannual visa allotment of 33,000.

On January 4, 2025, OFLC notified each employer (and the employer's authorized attorney or agent) informing them about the Assignment Group for their application(s).

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***Edakunni* Settlement Agreement on Concurrent Adjudication Expires on January 25**

A [settlement agreement](#) in *Edakunni v. Mayorkas*, effective for two years, is set to expire on January 25, 2025. Under the agreement, U.S. Citizenship and Immigration Services (USCIS) said it would bundle the adjudication of the Form I-539 (Application to Extend/Change Nonimmigrant Status) and Form I-765

(Application for Employment Authorization) with the underlying Form I-129 (Petition for a Nonimmigrant Worker), where applicable, for H-4 and L-2 derivatives (e.g., dependent spouses) when these forms were properly filed together regardless of whether they were filed under standard or premium processing.

The agreement was seen as a way to [help the spouses of H-1B and L-1 visa holders](#) timely obtain work authorization.

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Romania Added to VWP

On January 10, 2025, the Department of Homeland Security (DHS), in consultation with the Department of State, [announced](#) the designation of Romania as a participating country in the [Visa Waiver Program](#) (VWP).

The U.S. Embassy in Romania [said](#) that U.S. Customs and Border Protection anticipates that the Electronic System for Travel Authorization (ESTA) online and mobile applications will be updated on or around March 31, 2025, to allow most citizens and nationals of Romania to apply to travel to the United States under the VWP for tourism or business purposes for up to 90 days without first obtaining a U.S. visa. The embassy noted that these authorizations are generally valid for two years. Travelers with valid B-1/B-2 visas may continue to use their visas for travel to the United States, and B-1/B-2 visas will remain an option for Romanian citizens. The embassy said that U.S. citizens already can travel visa-free to Romania and stay there for up to 90 days for tourism or business purposes if they have a passport that is valid for at least three months from the date of arrival.

Romania is the 43rd member of the VWP and the fourth country added under DHS Secretary Mayorkas, after [Croatia](#) (2021), [Israel](#) (2023), and [Qatar](#) (2024).

The U.S. Embassy in Romania noted that ESTA applications may be accessed [online](#) or by downloading the “ESTA Mobile” application through the [iOS App Store](#) or the [Google Play](#) store.

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DHS Releases Statement on Immigration Safety and Enforcement During Los

Angeles Area Fires

The Department of Homeland Security (DHS) released the following [statement](#) related to immigration enforcement in "protected areas" during the emergency response to the devastating fires in the Los Angeles area:

During emergency events, works with its federal, state, local, and non-governmental partners to support the needs of the people in the areas that may be impacted.

In such circumstances, U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) remind the public that sites that provide emergency response and relief are considered [protected areas](#). To the fullest extent possible, ICE and CBP do not conduct immigration enforcement activities at protected areas such as along evacuation routes, sites used for sheltering or the distribution of emergency supplies, food or water, or registration sites for disaster-related assistance or the reunification of families and loved ones.

At the request of or local and state authorities, ICE and CBP may help conduct search and rescue, air traffic de-confliction and public safety missions. ICE and CBP provide emergency assistance to individuals regardless of their immigration status. DHS officials do not and will not pose as individuals providing emergency-related information as part of any enforcement activities.

DHS is committed to ensuring that every individual who seeks shelter, aid, or other assistance as a result of a natural disaster or emergency event is able to do so regardless of their immigration status.

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