



## IMMIGRATION UPDATE - FEBRUARY 18, 2025

*Posted on February 18, 2025 by Cyrus Mehta*

### Headlines:

**[March Visa Bulletin Announces Retrogression of EB-4 Category, Religious Workers Expiration](#)** – The bulletin announces retrogression of the final action date in the EB-4/SR categories.

**[OFLC Announces Deletion of Older Records in FLAG System](#)** – Records more than five years old will be deleted from the Foreign Labor Access Gateway System beginning on March 20, 2025.

**[DOS Releases Employer Guidance on I-9 Reverification Process for Venezuelan TPS Beneficiaries](#)** – The Department of Homeland Security released guidance for employers on completing the Form I-9 work authorization verification form for Venezuelan TPS beneficiaries.

**[DOS Requests Public Comments on Passport Application Changes; Lawsuit Filed](#)** – The Department of State updated the application form to replace "gender" with "sex" and to request the applicant's "biological sex at birth, male 'M' or female 'F'." A lawsuit challenging a related executive order (EO) and the passport changes argues that the EO is "transparently unlawful and unconstitutional."

**[EOIR Issues 'Core Policy Values' Memo](#)** – The memo states that more guidance on the values of its "core mission" of "integrity, impartiality, and the decisional independence of its adjudicators" will be forthcoming and includes various admonishments against how the EOIR was managed before the current administration.

**[EOIR Rescinds 2021 Memo, Resetting Default Filing Deadline in Non-Detained Cases to 30 Days Before Calendar Hearing](#)** – The Executive Office for Immigration Review rescinded a 2021 memorandum that set a default filing

deadline in non-detained cases of 15 days before individual calendar hearings.

### **Details:**

## **March Visa Bulletin Announces Retrogression of EB-4 Category, Religious Workers Expiration**

The Department of State's Visa Office has released the [Visa Bulletin for March 2025](#). Among other things, the bulletin announces retrogression of the final action date in the EB-4/SR categories, and warns that it may be necessary to make them "Unavailable" in "the coming months, possibly as soon as April. If the categories become "Unavailable," EB-4/SR visa numbers will be available on October 1, 2025, with the start of fiscal year 2026, the bulletin states.

The bulletin also notes the March 14, 2025, expiration date for the employment fourth preference "Certain Religious Workers" (SR) category. "No SR visas may be issued overseas, or final action taken on adjustment of status cases, after midnight March 13, 2025. Visas issued prior to that date will be valid only until March 13, 2025, and all individuals seeking admission in the non-minister special immigrant category must be admitted (repeat, admitted) into the United States no later than midnight March 13, 2025," the bulletin states.

The bulletin also lists, among other things, the diversity visa category rank cut-offs that will apply in March and April.

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## **OFLC Announces Deletion of Older Records in FLAG System**

On February 14, 2025, the Department of Labor's Office of Foreign Labor Certification (OFLC) [announced](#) that records more than five years old will be deleted from the Foreign Labor Access Gateway (FLAG) System beginning on March 20, 2025.

OFLC explained that deletions of eligible case records will be based on the final determination date recorded in the FLAG System for each case. For example, cases with a final determination date of March 21, 2020, will be deleted on March 21, 2025. OFLC advises stakeholders to download before the deadline any records they would like to retain that are older than five years from the determination date.

OFLC said the following programs will be affected by this implementation:

- Prevailing Wage Determinations (PWD)
- Permanent Labor Certification Applications (PERM)
- Temporary Labor Certification Applications (H-2A, H-2B, CW-1 visas)
- Temporary Labor Condition Applications (H-1B, H-1B1, and E-3 visas)

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## **DOS Releases Employer Guidance on I-9 Reverification Process for Venezuelan TPS Beneficiaries**

On February 5, 2025, the Department of Homeland Security released [guidance for employers](#) on completing the Form I-9 work authorization verification form for Venezuelan TPS beneficiaries.

The notice explains that employment authorization documents (EADs) with a Category Code of A12 or C19 and a Card Expires date of March 10, 2024, or September 9, 2022, associated with the 2021 TPS designation of Venezuela expire on March 10, 2025. "Employers must reverify 2021 TPS Venezuela beneficiaries who presented these EADs before they start work on March 11, 2025. Beneficiaries of the 2023 TPS Venezuela designation who presented an EAD with a Category Code of A12 or C19 and an expiration date of April 2, 2025, must be reverified before they start work on April 3, 2025," the notice states.

DHS noted that it [terminated](#) the 2023 designation of Venezuela for temporary protected status (TPS). TPS and related benefits associated with the 2023 designation will end on April 7, 2025. That termination does not apply to the 2021 designation of Venezuela for TPS, which remains in effect until September 10, 2025.

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## **DOS Requests Public Comments on Passport Application Changes; Lawsuit Filed**

On February 14, 2025, the Department of State (DOS) [published](#) a 30-day notice requesting public comments until March 17, 2025, on changes to the Application for a U.S. Passport (Form DS-11). Among other things, to comply with [Executive Order \(EO\) 14168](#), DOS updated the form to replace the term "gender" with "sex" and to request the applicant's "biological sex at birth, male 'M' or female 'F'."

DOS said it also made "plain language changes" and revised the Acts or

Conditions statement on the form to add an applicant statement "affirming that he or she is not required to register as a sex offender."

On February 11, 2025, DOS [said](#) the agency "will no longer issue U.S. passports or Consular Reports of Birth Abroad (CRBAs) with an X marker. We will only issue passports with an M or F sex marker that match the customer's biological sex at birth." Passports with "X" for a person's gender (sex) will remain valid until expiration.

On February 7, 2025, a [lawsuit](#) was filed in U.S. District Court in Massachusetts by seven people challenging the executive order and the passport changes. The complaint argues that the EO is "transparently unlawful and unconstitutional. It also is unmoored from scientific and medical reality: Transgender people, intersex people, and people who do not identify as either (or exclusively) male or female exist." Plaintiffs seek a declaration that the passport policy and the EO as applied to passports are unconstitutional, a declaration that the passport policy violates the Administrative Procedure Act, and a permanent injunction. "Declaratory and injunctive relief are needed to remedy the many constitutional and statutory violations the Passport Policy inflicts. Relief is needed on a class-wide basis to prevent class-wide harm to the hundreds of thousands, if not millions, of transgender, nonbinary, and intersex people in the United States who need a passport they can use without suffering harm," the complaint states.

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### **EOIR Issues 'Core Policy Values' Memo**

On January 27, 2025, the Department of Justice's Executive Office for Immigration Review (EOIR) issued a memorandum, [EOIR's Core Policy Values](#). The memo states that more guidance on the values of its "core mission" of "integrity, impartiality, and the decisional independence of its adjudicators" will be forthcoming but that EOIR's "primary policy-formulating principle going forward will be to restore these values as the pillars of all of its activities."

The memo includes various admonishments against how the EOIR was managed before the current administration and advises that EOIR employees "should not read policies obtusely or ridiculously, and all policies should be read with a modicum of common sense," among other things.

The memo also states that "EOIR has reconstructed the Policy Manual as it was in effect as of January 2021 and will update it, as appropriate, once it is available online. To that point, the policies contained in the Policy Manual as of January 2021 are re-established as EOIR policies."

A [list of EOIR memoranda](#) is available on EOIR's website.

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### **EOIR Rescinds 2021 Memo, Resetting Default Filing Deadline in Non-Detained Cases to 30 Days Before Calendar Hearing**

On February 14, 2025, the Department of Justice's Executive Office for Immigration Review [rescinded](#) a 2021 memorandum that set a default filing deadline in non-detained cases of 15 days before individual calendar hearings. The rescission returns the default filing deadline in such cases to 30 days.

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