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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - MAY 19, 2025

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Headlines:

Supreme Court Keeps Block on Trump Administration's Use of Alien Enemies Act to Deport Venezuelans, Sends Case Back to Fifth Circuit – The U.S. Supreme Court sent a case back to the U.S. Court of Appeals for the Fifth Circuit to determine whether the Trump administration can summarily deport a group of Venezuelan detainees under the Alien Enemies Act. The Supreme Court also determined that the lower federal court should rule on how much notice the federal government must provide to allow the migrants to challenge the government's plans to deport them.

DHS Terminates TPS for Afghanistan – The Temporary Protected Status designation for the country expires on May 20, 2025, and the termination will take effect July 14, 2025. The decision affects an estimated 9,000 Afghans in the United States.

DV-2026 Entrant Status Check Access Opens – Diversity Visa lottery (DV-2026) entrants may enter their confirmation information at the Electronic Diversity Visa Program website to check the status of their applications until "at least September 30, 2026."

Advocates Object to Alien Registration Form and Process Under Interim Final Rule – The American Immigration Lawyers Association said that the interim final rule violates the U.S. Constitution, the Administrative Procedure Act, and the Paperwork Reduction Act; exceeds U.S. Citizenship and Immigration Services' authority; and is inconsistent with statutory requirements. AILA also had many objections to the related Form G-325R (Biographic Information).

Details:

Back to Top

Supreme Court Keeps Block on Trump Administration's Use of Alien Enemies Act to Deport Venezuelans, Sends Case Back to Fifth Circuit

On May 16, 2025, in a 7-2 decision, the U.S. Supreme Court sent a case back to the U.S. Court of Appeals for the Fifth Circuit to determine whether the Trump administration can summarily deport a group of Venezuelan detainees under the Alien Enemies Act. The Supreme Court also determined that the lower federal court should rule on how much notice the federal government must provide to allow the migrants to challenge the government's plans to deport them.

Referring to circumstances such as the case of Kilmar Armando Abrego Garcia, a Maryland man who was deported by mistake and subsequently left in a Salvadoran prison despite a Supreme Court order to facilitate his return to the United States, the Supreme Court noted in this case that "notice roughly 24 hours before removal, devoid of information about how to exercise due process rights to contest that removal, surely does not pass muster."

Lee Gelernt, a lawyer for the American Civil Liberties Union, said the decision "means that more individuals will not secretly be sent to a brutal prison in El Salvador," and that the administration's use of the Alien Enemies Act, a wartime law, "during peacetime, without due process, raises issues of far-reaching importance."

Back to Top

DHS Terminates TPS for Afghanistan

On May 12, 2025, the Department of Homeland Security (DHS) announced the termination of Temporary Protected Status (TPS) for Afghanistan. The TPS designation for the country expires on May 20, 2025, and the termination will take effect July 14, 2025. The decision affects an estimated 9,000 Afghans in the United States.

Afghanistan was initially designated for TPS on May 20, 2022, based on ongoing armed conflict and extraordinary and temporary conditions. On September 25, 2023, DHS extended and newly designated Afghanistan for a period of 18 months, beginning November 21, 2023, and ending May 20, 2025. The new DHS statement said that DHS Secretary Kristi Noem "determined that, overall, there

are notable improvements in the security and economic situation such that requiring the return of Afghan nationals to Afghanistan does not pose a threat to their personal safety due to ongoing-armed conflict or extraordinary and temporary conditions. She further determined that permitting Afghan nationals to remain temporarily in the United States is contrary to the national interest of the United States."

In April, Christian leaders and nonprofits reportedly lobbied the Trump administration to carve out an exception for Afghan Christians who they warned may face persecution if returned to the Taliban-controlled country. The administration has been silent on any policy on that front, but in response to questions about what those fearing death or torture if returned to Afghanistan should do, Karoline Leavitt, White House Press Secretary, said, "If there are individuals here who came in through the Biden administration who want to claim asylum, there is a legal process to do that, and those cases will be adjudicated by a judge on a case-by-case basis."

Back to Top

DV-2026 Entrant Status Check Access Opens

The Department of State (DOS) announced that as of May 3, 2025, Diversity Visa lottery (DV-2026) entrants may enter their confirmation information at the Electronic Diversity Visa Program website to check the status of their applications until "at least September 30, 2026." The DV-2026 registration period opened on October 2, 2024, and closed on November 7, 2024. DOS said that DV-2026 entrants "should keep their confirmation number until at least September 30, 2026."

DV-2025 Entrants have until September 30, 2025, to check the status of their entry through the website. DOS noted that it will not send a letter or an email to let applicants know if they have been selected; they must check their status online using their confirmation number. DOS has released a website for retrieving a confirmation number if it has been lost. DOS has also released instructions and additional information for applicants who have been selected.

DOS has also released an infographic on the DV-2026 process. Those needing help can email the Kentucky Consular Center (KCC) at kccdv@state.gov and include their name, birth date, and case number, DOS said.

In related news, the Department of State's Visa Bulletin for June 2025 notes that the DV-2025 annual limit has been reduced to approximately 52,000:

The stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually allocated diversity visas will be made available for use under the NACARA program. Visa numbers made available to NACARA applicants in FY 2024 will result in reduction of the DV-2025 annual limit to approximately 54,850. Section 5104 of the National Defense Authorization Act (NDAA) for Fiscal Year 2024 amended the NACARA's provisions on the DV program such that the number of visas made available under the NDAA each fiscal year will be deducted from the 55,000 DVs annually allocated. These amendments will further reduce the DV-2025 annual limit to approximately 52,000.

Back to Top

Advocates Object to Alien Registration Form and Process Under Interim Final Rule

On May 12, 2025, the American Immigration Lawyers Association (AILA) published comments on a U.S. Citizenship and Immigration Services (USCIS) interim final rule, "Alien Registration Form and Evidence of Registration," published March 12, 2025, and the related Form G-325R (Biographic Information). Among other things, AILA asserts that:

- The interim final rule violates the U.S. Constitution, the Administrative Procedure Act, and the Paperwork Reduction Act; exceeds the agency's authority; and is inconsistent with the statutory requirements.
- The requirement on Form G-325R to list all addresses over a five-year period is unduly burdensome and goes far beyond the kind of information that is referenced in the Immigration and Nationality Act.
- The only drop-down selections provided by the form are "Entered Without Inspection (EWI)" or leaving the section blank. There is no clear instruction on how to complete the form if the registrant did not enter EWI.
- Similarly, the G-325R asks for the registrant's current I-94 number, which is confusing because someone who has been issued an I-94 is normally viewed as having already complied with the registration requirement.
- Another confusing section of the form asks for the date of immigration status expiration in month, day, and year format. With several

nonimmigrant statuses, such as F-1, J-1, and M-1, individuals are present in the U.S. for the duration of status (D/S).

- Further confusing is the selection of immigration status on the form. In the dropdown menu used to select one's status, it is unclear whether all potential immigration status options are made available.
- The form contains ambiguous questions that lack instructions clarifying how much information should be provided for each.
- In certain portions of the form, it is unclear which questions are required fields, and which fields are optional.
- Form G-325R's requirement for full disclosure of all arrests, charges, and convictions—regardless of age, expungement, or relevance—raises significant legal and due process concerns.
- The rule skips the usual notice-and-comment process and, thus, there has been no opportunity to suggest clarifications to the form, resulting in unnecessary practical complications.

AILA therefore recommends that both the interim final rule and Form G-325R be withdrawn.

Back to Top