



# IMMIGRATION UPDATE - FEBRUARY 09, 2026

*Posted on February 9, 2026 by Cyrus Mehta*

Headlines:

**[District Court Grants Stay of DHS Secretary Noem's Decision to End Haitian TPS; Appeal Likely](#)** – A district court granted plaintiffs a stay of Secretary Noem's decision to end Haitian Temporary Protected Status pending the outcome of litigation.

**[Congress Scraps Visas for Afghans Who Helped the United States](#)** – Congress has approved a package of spending bills that does not authorize any new visas for the Special Immigrant Visa program for Afghans who worked with the United States during the war against the Taliban, effectively killing the program.

**[Fifth Circuit Upholds Trump Administration's Policy of Detention Without Release on Bond](#)** – The U.S. Court of Appeals for the Fifth Circuit upheld the Trump administration's policy of mandatory detention of thousands of people without the possibility of release on bond for those caught up in the administration's immigration sweeps in Texas and Louisiana.

**[Texas Governor Freezes New H-1B Visas for State Agencies and Universities, Launches Investigation](#)** – Texas Governor Greg Abbott announced an immediate freeze on new H-1B visas by all state agencies and universities and an investigation into "H-1B visa abuse."

**[Group Files Complaint Against 'Gold Card' Program](#)** – A group, including the American Association of University Professors and others, filed a lawsuit challenging the Trump administration's "Gold Card" visa program.

Details:

## **District Court Grants Stay of DHS Secretary Noem's Decision to End Haitian TPS; Appeal Likely**

Following a January 28, 2026, [ruling](#) by the U.S. Court of Appeals for the Ninth Circuit that Homeland Security Secretary Kristi Noem exceeded her statutory authority in her partial vacatur of Haiti's Temporary Protected Status (TPS) designation, on February 2, 2026, a district court granted plaintiffs—five Haitian TPS beneficiaries—a [stay](#) of Secretary Noem's decision to end Haitian TPS pending the outcome of litigation.

The court found plaintiffs' assertion that Secretary Noem preordained her termination decision and did so because of hostility to nonwhite immigrants "substantially likely." Quoting Secretary Noem's [statements](#) to the effect that Haiti and certain other "damn" countries have been "flooding our nation with killers, leeches, and entitlement junkies," the court noted that plaintiffs in this case include a neuroscientist, a software engineer, a laboratory assistant, a college economics major, and a full-time registered nurse—far from fitting Secretary Noem's description. The court also observed that Secretary Noem made the decision to cancel Haitian TPS without consulting with appropriate agencies and ignoring Congress's requirement that she review conditions in Haiti after such consultations. The court noted that she also downplayed the danger to Haitians of returning to Haiti while the Department of State updated its travel advisory in July 2025 warning U.S. travelers not to go to Haiti due to security risks including "kidnapping, crime, terrorist activity, civil unrest, and limited health care."

The Trump administration is [expected to appeal](#) the decision.

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## **Congress Scraps Visas for Afghans Who Helped the United States**

Last year, after an Afghan national shot two National Guard members in Washington, DC, killing one, President Trump paused the Special Immigrant Visa (SIV) program that provided a legal pathway to residence in the United States for Afghans who had worked with the U.S. government and U.S. troops during the long war against the Taliban. Congress has now approved a package of spending bills that [does not authorize any new visas](#) for the program, effectively killing it.

"They're just slamming the door shut," [said](#) Sen. Jeanne Shaheen (D-NH), the top Democrat on the Senate's Committee on Foreign Relations. "Stranding vetted SIV applicants or sending Afghan families back into the hands of the Taliban isn't about security; it's a betrayal of the promises we made to those who risked their lives for the United States."

It is unclear if or when visa issuances might be resumed for those with pending applications under the program.

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## **Fifth Circuit Upholds Trump Administration's Policy of Detention Without Release on Bond**

On February 6, 2026, despite numerous rulings by lower courts across the United States, the U.S. Court of Appeals for the Fifth Circuit [upheld](#) the Trump administration's policy of mandatory detention of thousands of people in the court's jurisdiction (Texas and Louisiana) without the possibility of release on bond for those caught up in the administration's immigration sweeps.

The court based its ruling on an expanded definition of "applicants for admission," who can be held without bond while they await decisions in immigration courts, to noncitizens inside the United States, not only those arriving at ports of entry.

Other appeals courts are also expected to decide on similar issues in upcoming weeks.

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## **Texas Governor Freezes New H-1B Visas for State Agencies and Universities, Launches Investigation**

On January 27, 2026, Texas Governor Greg Abbott [announced](#) an immediate freeze on new H-1B visas by all state agencies and universities and an investigation into "H-1B visa abuse."

In a [letter](#) to state agency heads, Gov. Abbott said, "No state agency controlled by a gubernatorially appointed head or public institution of higher education shall, without the written permission of the Texas Workforce Commission, initiate or file any new petition to sponsor a nonimmigrant worker under the federal H-1B visa program until the end of the Texas Legislature's 90th Regular

Session on May 31, 2027." Although the freeze only affects new applications and thus is not expected to affect current H-1B workers in Texas, Gov. Abbott also ordered the state agency and university heads to provide various pieces of information, including the numbers of H-1B visa holders the entity currently sponsors, and job classifications and descriptions, by March 27, 2026.

*Reaction.* Although H-1B workers make up a relatively small percentage of the workforces in Texas agencies and universities, some argue that closing that pathway could have a negative impact on several sectors. Jason Finkelman, an immigration attorney in Austin, Texas, said that researchers, professors, physicians, engineers, and others in Texas will be affected. "Those researchers and professors are just going to go to other U.S. universities. So we're going to lose the talent we need here for universities, which is going to contribute to our downfall as being leaders in ... higher education." He noted that the H-1B visa "is the most regulated visa in our whole immigration system."

Kathleen Campbell Walker, a past president of the American Immigration Lawyers Association, objected to the freeze. Among other things, she noted that Texas medical education institutions rely on foreign physicians "to fill critical shortages in healthcare in rural areas of the state as well as in Health Professional Shortage Areas (HPSAs) and Medically Underserved Areas (MUAs)." Ms. Walker warned that "Texas universities will be severely hampered in the current global race for highly talented educators and researchers as well as for physicians at its medical schools." She noted similar efforts in Florida, Oklahoma, and South Carolina.

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### **Group Files Complaint Against 'Gold Card' Program**

On February 3, 2026, a group including the American Association of University Professors and others filed a lawsuit challenging the Trump administration's "Gold Card" visa program. The complaint asks a U.S. district court for declaratory and injunctive relief against the Departments of Homeland Security, State, and Commerce; U.S. Citizenship and Immigration Services; and the heads of those agencies.

The complaint challenges the creation and implementation of the "Gold Card" program "in contravention of Congress's exclusive authority to regulate immigration and to raise revenue. By giving priority consideration to and

awarding visas to individuals who can pay \$1 million, rather than to highly talented individuals whose admission would benefit the United States, the program runs counter to the laws enacted by Congress."

Plaintiffs note that the payment-linked program also "alters how immigrant classifications, including the EB-1A 'extraordinary ability' and EB-2 'exceptional ability' preference categories, are defined and how applications are processed" and "causes the displacement of statutorily qualified applicants given the limited number of available visas and the preferential treatment of Gold Card applications." By treating a payment to the Commerce Department as evidence of statutory eligibility for EB-1 and EB-2 visas, and expediting consideration of applications from individuals who make the payment, the defendants "both exceed their statutory authority and act contrary to long standing laws and policies designed to attract highly talented individuals to the United States," the complaint states. By conditioning access to the visas on payment, the Gold Card program "allows visas to be bought, and thereby takes visas away from the people to whom federal statute specifies they should be awarded—scientists and engineers, physicians, researchers, and other accomplished individuals whose admission would substantially benefit the United States."

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