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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - MAY 26, 2026

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Headlines:

New USCIS Policy Limits Adjustment of Status – The new memo signals a major policy shift toward restrictive adjudication. U.S. Citizenship and Immigration Services said that it views immigrant visa processing at a U.S. consulate abroad as the default route to a green card for most people, with adjustment applications filed inside the U.S. treated as a discretionary option.

DHS Announces Ebola-Related Flight Arrival Restrictions for DRC, Uganda, and South Sudan; CDC Implements Public Health Measures; DOS Pauses Visa Services – The Department of Homeland Security announced immediate restrictions on flights arriving in the United States carrying persons who have recently traveled from, or were otherwise present within, the Democratic Republic of the Congo, Uganda, or South Sudan. Flights carrying such persons must arrive only at Washington-Dulles International Airport and must undergo public health measures.

Work Authorization Extended for Certain Salvadoran TPS Recipients – The validity of Employment Authorization Documents with category codes A12 or C19 that expired on March 9, 2025, for TPS El Salvador recipients has been automatically extended through July 22, 2026.

Firm in the News

Details:

New USCIS Policy Limits Adjustment of Status

On May 22, 2026, U.S. Citizenship and Immigration Services (USCIS) announced a new policy memorandum, issued May 21, 2026, that addresses how officers

should exercise discretion in adjustment of status (AOS) adjudications. USCIS said that it views immigrant visa processing at a U.S. consulate abroad as the default route to a green card for most people, with AOS applications filed inside the U.S. treated as a discretionary option.

What Has Changed

Historically, USCIS officers exercising discretion in adjustment cases followed longstanding agency and Board of Immigration Appeals precedent recognizing that favorable discretion ordinarily should be exercised where applicants establish eligibility and do not present significant adverse factors such as fraud, criminal conduct, or substantial immigration violations.

The new memorandum shifts this framework. It instructs officers to conduct a broader evaluation of each applicant's immigration history. The memo does not mention any positive factors, such as compliance with immigration requirements, U.S. citizen family members, or gainful employment, and stresses that officers must consider negative factors, including any history of status violations or conduct inconsistent with the purpose of the applicant's original nonimmigrant entry. The memorandum also signals that officers may consider why an applicant chose adjustment of status over consular processing as part of the discretionary analysis.

Overall, the new memo signals a major policy shift toward restrictive discretionary adjudication. USCIS specifically emphasized that:

- Temporary visas are intended for limited-duration stays tied to a specific purpose;
- Nonimmigrant status should not serve as a "first step" toward permanent residence;
- Consular processing abroad should become the default path for obtaining immigrant visas; and
- USCIS resources should be focused instead on other agency priorities.

The memo's title, and the accompanying press communications, characterize adjustment of status as an "extraordinary measure" rather than the routine process it has been for most applicants—although the memorandum itself does not go that far.

Potential Impact

Potentially affected groups include:

- Employment-based adjustment applicants;
- H-1B, L-1, TN, O-1, and other temporary workers pursuing permanent residence;
- Family-based adjustment applicants;
- Self-petitioners, including EB-1 extraordinary ability and National Interest Waiver applicants;
- Dependent spouses and children; and
- Individuals relying on concurrent filing strategies.

The memorandum reiterates that pursuing adjustment of status is not inconsistent with maintaining lawful status in recognized dual intent classifications such as H-1B and L-1 categories. USCIS notes, however, that maintenance of lawful status alone does not necessarily warrant a favorable exercise of discretion in every case.

For employers, practical implications may include the need to reassess immigration strategies for sponsored employees, anticipate potential delays or increased Requests for Evidence in pending adjustment cases, and evaluate whether consular processing may be preferable for certain employees depending on their individual circumstances.

The new policy memorandum promises additional guidance on the application of the discretionary standard to specific categories of adjustment applicants. Questions regarding the scope and implementation of this policy may ultimately be addressed through future agency guidance or litigation.

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DHS Announces Ebola-Related Flight Arrival Restrictions for DRC, Uganda, and South Sudan; CDC Implements Public Health Measures; DOS Pauses Visa Services

On May 21, 2026, U.S. Customs and Border Protection, of the Department of Homeland Security (DHS), announced immediate restrictions on flights arriving in the United States carrying persons who have recently traveled from, or were otherwise present within, the Democratic Republic of the Congo (DRC), Uganda, or South Sudan. DHS said the restrictions were implemented in response to concerns about outbreaks of the “Bundibugyo” strain of the Ebola virus in those countries. The Centers for Disease Control and Prevention (CDC) also

announced related public health measures, and the Department of State (DOS) has paused visa services in those countries. Below are highlights of these developments.

Flight Arrival Restrictions

Initially, affected flights were required to arrive at Washington-Dulles International Airport. CBP has since announced modifications to the list of designated airports. DHS considers a person to have recently traveled from the DRC, Uganda, or South Sudan if that person departed from, or was otherwise present within, the DRC, Uganda, or South Sudan within 21 days of the date of the person's entry or attempted entry into the United States.

Crew and flights carrying only cargo (no passengers or non-crew) are excluded from the arrival restrictions. Also excluded are U.S. citizens, lawful permanent residents, members of the armed forces, and some others. DHS said that the restrictions will continue until cancelled or modified by the Secretary of Homeland Security and notice of such cancellation or modification is published in the Federal Register.

CDC Measures

On May 19, 2026, the CDC released a related statement. The CDC said it would "oordinate with airlines, international partners, and port-of-entry officials to identify and manage travelers who may have been exposed to Ebola virus."

On May 21, 2026, the CDC outlined public health entry screening measures it is implementing at designated airports:

- Travelers who were in DRC, Uganda, or South Sudan in the 21 days before arriving in the United States will be escorted to an area of the airport set aside for screening.
- Travelers will respond to a brief questionnaire that asks about their travel history and symptoms, and collects information so the travelers can be contacted if needed.
- CDC staff will observe these travelers for signs of illness and take travelers' temperatures using non-contact thermometers (thermometers that do not touch the skin).
- Travelers who do not have symptoms but have been in DRC, Uganda, or South Sudan in the past 21 days will be given information on monitoring their health and actions to take if symptoms later appear. These travelers

will continue to their final destinations. Traveler contact information will be shared with state and local health departments for additional follow-up and support.
- Travelers who have a fever or other symptoms will be evaluated by a CDC public health officer.
- If a suspect case is identified, CDC will work with state and local health departments to conduct routine contact investigations to notify passengers.

Visa Services Pause

Effective May 18, 2026, the U.S. Embassies in Juba, South Sudan; Kinshasa, DRC; and Kampala, Uganda have temporarily paused all visa services/operations. The pause includes applications for immigrant visas as well as nonimmigrant visas for tourists, business travelers, students, exchange visitors, and all other nonimmigrant categories.

DOS said that affected visa applicants have been notified, and that the agency will update its website when appointment scheduling resumes and will inform applicants whose appointments were rescheduled. DOS said that the pause does not affect any currently valid visas.

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Work Authorization Extended for Certain Salvadoran TPS Recipients

U.S. Citizenship and Immigration Services recently updated its webpage on Temporary Protected Status (TPS) for El Salvador to note that the validity of Employment Authorization Documents with category codes A12 or C19 that expired on March 9, 2025, for TPS El Salvador recipients has been automatically extended through July 22, 2026.

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Firm in the News

Cyrus Mehta was quoted by *Forbes* in Immigration Service May Significantly Restrict Green Cards in the U.S. *Forbes* quoted Mr. Mehta's comment on X: "While adjustment of status is discretionary under INA 245, it has never been interpreted as an extraordinary form of relief and USCIS is inventing a new standard to deprive noncitizens from getting green cards in the U.S." He said

that interpreting "may" in INA 245(a) as "extraordinary" is a "giant unfaithful leap" and that the Supreme Court decision in *Loper Bright* about deference to federal agencies "should allow a court to strike the USCIS memo as being contrary to the statute and also because there was no notice and comment."

Mr. Mehta was quoted by the *Times of India* in Massive, Absurd: Immigration Experts, Foreign-Born Founder React to New Green Card Rule. The *Times* quoted Mr. Mehta's comment on X: "While adjustment of status is discretionary under INA 245, it has never been interpreted as an extraordinary form of relief and USCIS is inventing a new standard to deprive noncitizens from getting green cards in the U.S."

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