



IMMIGRATION UPDATE - AUGUST 17, 2026

Posted on August 17, 2026 by Cyrus Mehta

Headlines:

[DHS Considers Elimination of 60-Day Grace Period Following Termination of Sponsored Employment](#) – If the proposed rule is finalized as anticipated, employees who are terminated early from their positions and their family members may need to leave the United States immediately and (if they wish) apply for new status from abroad at a U.S. embassy or consular post. The text of the rule is not yet available.

[USCIS to Publish Revised Applications for Extension/Change of Nonimmigrant Status and Work Authorization](#) – The publication date and edition date for both forms is 09/15/26. U.S. Citizenship and Immigration Services (USCIS) said that it will reject older forms starting on September 15, 2026. Because there will be no grace period, USCIS released “preview versions” of the forms and instructions.

[Overruling Precedent, BIA Now Says Leaving United States Temporarily Under Advance Parole Constitutes ‘Departure’](#) – The Board of Immigration Appeals has ruled that the term “departure” under the Immigration and Nationality Act does not include an exception for persons who leave the United States temporarily with a grant of advance parole.

[DHS Issues Interim Rule on Mandatory Electronic Filing](#) – The interim final rule will allow U.S. Citizenship and Immigration Services to require mandatory electronic filing of certain benefit requests.

[E-Verify Status Change Report Expands](#) – The E-Verify Status Change Report has expanded in scope. Previously, the report only identified parolee (category C11) Employment Authorization Documents (EADs) that were invalidated. It now identifies employees with asylum or Temporary Protected Status-related

EADs that have been invalidated.

[DOS Establishes New Birth Tourism Prevention Task Force](#) – The Department of State has established a Birth Tourism Prevention Task Force to “the activities of visa holders worldwide to identify instances of birth tourism, take action to revoke visas of those who engage in or facilitate it, and dismantle the networks that profit from this abuse.”

[DOS Issues Guidance on Fixed Period of Admission for Sponsors of J Nonimmigrant Exchange Visitors](#) – Pursuant to a final rule establishing a fixed period of admission, effective September 15, 2026, for exchange visitors, international students, and others, the Department of State issued guidance for J exchange visitor sponsors.

[Firm in the News](#)

Details:

DHS Considers Elimination of 60-Day Grace Period Following Termination of Sponsored Employment

The Department of Homeland Security (DHS) [plans to propose](#) a new rule that would eliminate the 60-day grace period currently available to noncitizen workers following termination of sponsored employment.

The 60-day grace period [was added in 2017](#) and applies to H-1B, H-1B1, L-1, O-1, TN, E-1, E-2, and E-3 workers as well as their dependents. Currently, when an employer terminates a temporary worker in one of these categories before the end of the authorized period of stay, the worker may generally remain in valid status for up to 60 days. During this [grace period](#), the individual may seek sponsorship with another employer, change to a new status, or arrange to leave the United States without concerns about being out of status. A grace period enables individuals to make other arrangements following an unexpected termination as well, including addressing a spouse's employment or a child's schooling.

If the rule is finalized as anticipated, employees who are terminated early from their positions and their family members may need to leave the United States immediately and (if they wish) apply for new status from abroad at a U.S. embassy or consular post. Where practical, employers may wish to consider

providing advance notice of termination to give affected employees time to make arrangements or seek sponsorship from another employer. For H-1B employees, in certain circumstances involving employer-initiated termination, the employer must offer to pay the reasonable cost of the employee's return transportation abroad.

The text of the proposed rule is not yet publicly available. The Office of Management and Budget is reviewing the rule before its expected publication in the Federal Register. The proposed rule is expected to be subject to a public notice-and-comment period before it becomes final.

[Back to Top](#)

USCIS to Publish Revised Applications for Extension/Change of Nonimmigrant Status and Work Authorization

On August 14, 2026, U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it will publish revised editions of Form I-539, Application to Extend/Change Nonimmigrant Status, and Form I-765, Application for Employment Authorization.

USCIS said the forms “have been revised to align with the recently published Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media [final rule](#).”

The publication date and edition date for both forms is 09/15/26. USCIS said that it will reject older forms starting on September 15, 2026. Because there will be no grace period, USCIS released “preview versions” of the forms and instructions on the [Form I-539](#) and [Form I-765](#) webpages.

[Back to Top](#)

Overruling Precedent, BIA Now Says Leaving United States Temporarily Under Advance Parole Constitutes ‘Departure’

Overruling *Matter of Arrabally and Yerrabelly*—a 2012 precedent decision [holding](#) that a person who leaves the United States temporarily with a grant of advance parole does not thereby make a “departure” under the Immigration and Nationality Act and thus does not trigger the 3- or 10-year bars to reentry into the United States—the Board of Immigration Appeals [ruled](#) on August 13,

2026, in *Matter of Delcarmen-Lara* that the term “departure” under the INA does not include an exception for such persons.

Jeff Joseph, President of the American Immigration Lawyers Association, [commented](#), “This ruling flip-flops on 14 years of well-settled law and policy. This decision punishes people for following the rules and jeopardizes people who have well-established lives in the U.S., including Dreamers protected by the Deferred Action for Childhood Arrivals (DACA) program, people with Temporary Protected Status (TPS), and the immediate family of U.S. citizens with pending applications for their green cards. The new decision puts people at risk of being barred from the United States and separated from family for years if they leave and then try to re-enter—even if they have paid for and been granted permission to travel. ... With *Arrabally* now gone, those affected will not be able to leave the country to see their families, attend funerals, or for education or employment purposes.”

[Back to Top](#)

DHS Issues Interim Rule on Mandatory Electronic Filing

On August 10, 2026, the Department of Homeland Security [announced](#) an [interim final rule](#), effective August 11, 2026, to allow U.S. Citizenship and Immigration Services (USCIS) to require mandatory electronic filing (e-filing) of certain benefit requests. The rule provides a framework for the process USCIS will follow to require a benefit request to be e-filed and how a waiver of the e-filing requirement for individuals unable to file electronically may be requested. USCIS said the rule “is intended to increase digital intake and processing to move USCIS and requestors from a mostly paper process to an electronic process.”

Comments must be received by October 13, 2026.

[Back to Top](#)

E-Verify Status Change Report Expands

On August 11, 2026, E-Verify [announced](#) that the E-Verify Status Change Report has expanded in scope. Previously, the report only identified parolee (category C11) Employment Authorization Documents (EADs) that were invalidated. It now identifies employees with asylum or Temporary Protected Status (TPS)-related EADs that have been invalidated.

In addition to the C11 category, the expanded report now includes the C08 (asylum applicant with a pending asylum application), C09 (adjustment of status applicant under INA Section 245), A12 (granted Temporary Protected Status), and C19 (TPS applicant) categories. The new report also identifies EADs based on a pending Adjustment of Status (AOS) application that have been invalidated.

Immigration attorneys [recommend](#) that before taking any HR action, employers should:

1. Review the employee's Form I-9 and identify the document(s) used to establish work authorization. If the employee relied on a document other than a flagged EAD, or holds a separate basis for authorization, the employee's appearance on the report might not mean they are not work-authorized.
2. For A12 and C19 TPS EADs, confirm the current status of the relevant country's termination before treating the document as invalid. Some countries' TPS designations remain subject to litigation, and an invalidation flag may not resolve those questions on its own.
3. If reverification is warranted, use Form I-9, Supplement B, and give the employee a programmatically consistent opportunity to present alternative evidence of continuing work authorization.

For employers reverifying an employee's work authorization on the Form I-9, E-Verify provided the following [guidance](#):

- E-Verify employers with an employee whose EAD is included in the Status Change Report must reverify that employee's Form I-9 using Supplement B.
- The employee must provide unexpired documentation from List A or List C on the Lists of Acceptable Documents. Do not reverify identity documents (List B). During this process, you must allow employees to choose which acceptable documentation to present for reverification.
- Do not create a new E-Verify case.

E-Verify also recently [updated its related guidance](#) for employers on invalidated EADs.

[Back to Top](#)

DOS Establishes New Birth Tourism Prevention Task Force

Pursuant to recent executive orders, the Department of State (DOS) [announced](#) on August 12, 2026, that it has established a Birth Tourism Prevention Task Force to “the activities of visa holders worldwide to identify instances of birth tourism, take action to revoke visas of those who engage in or facilitate it, and dismantle the networks that profit from this abuse.”

DOS said the Task Force analyzes and connects information held across DOS, the Department of Homeland Security, and other federal agencies. Among other things, DOS said it is “addressing birth tourism on a global scale, examining travel histories of individuals from all around the world.” As part of this effort, DOS said, the Task Force has revoked more than 600 visas, noting that DOS “generally revokes visas when there are indications of a potential ineligibility.”

The executive orders include [Continuing to Protect the Meaning and Value of American Citizenship](#) and [Ending Birth Tourism](#), both signed on August 6, 2026.

[Back to Top](#)

DOS Issues Guidance on Fixed Period of Admission for Sponsors of J Nonimmigrant Exchange Visitors

On August 10, 2026, pursuant to a [final rule](#) establishing a fixed period of admission for exchange visitors (J-1 nonimmigrants), international students (F-1 nonimmigrants), and others, the Department of State (DOS) issued guidance for J exchange visitor sponsors with respect to completion of Form DS-2019 and maintaining accurate Student and Exchange Visitor Information System records.

Among other things, [Guidance Directive: 2026-01, Final Rule Establishing a Fixed Time Period of Admission for Exchange Visitors \(J Nonimmigrants\)](#) states:

Effective September 15, 2026, all new and continuing exchange visitors who enter the United States or change to J status on or after that date will receive an Admit Until Date (AUD). The AUD marks the last day the exchange visitor is authorized to remain in the United States in J status; this period cannot exceed four years. Exchange visitors who need additional time beyond their AUD to complete program objectives must apply to for an extension of stay via the Form I-539 Application to Extend/Change Nonimmigrant Status or depart the

United States and apply for admission at a U.S. port of entry with a valid Form DS-2019 and U.S. visa.

The guidance states that it must be followed for new exchange visitors and for those continuing their program on or after the effective date (September 15, 2026). For exchange visitors on a program authorized before September 15, 2026, the guidance advises sponsors to review the Program End Date in SEVIS to confirm that it reflects the date the exchange visitor is expected to complete the program. If the Program End Date does not reflect that date, sponsors must add an Expected Completion Date in Field 4, following the requirements set forth in the guidance.

[Back to Top](#)

Firm in the News

Cyrus Mehta was quoted by the *New Republic* in [ICE's Airport Crackdowns Are Designed to Spread Fear](#). "I think the public doesn't understand that immigration is kind of very gray and very paradoxical, because you could still be amenable to detention and being placed in removal even though you're authorized to stay here. That's the paradox," Mr. Mehta said, adding that "I don't know whether they have any parameters." He noted that "the goal of this administration is to just create fear, panic, confusion, and there is this general hostility towards noncitizens, and even if you're a citizen, there's still hostility."

Mr. Mehta was quoted by the *Times of India* in [Immigration Attorneys Warn Indian Diaspora to Exercise Caution While Travelling Domestically](#). Regarding H-1B status, he said, "If the underlying H-1B status has lapsed, and the person has a pending adjustment application, they could be amenable to detention and placed in removal technically."

[Back to Top](#)