CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - SEPTEMBER 10, 2026

Posted on September 10, 2026 by Cyrus Mehta

Headlines:

District Court Judge Rules Against Trump in Birthright Citizenship Case – A U.S. district judge in Maryland ruled against President Trump's latest executive order attempting to limit birthright citizenship.

U.S. District Judge Rules in Favor of *Stanford Daily* on Free Speech for F-1 Students – A U.S. district judge ruled in favor of a student newspaper in a case challenging the Trump administration's actions against free speech by noncitizen students in the United States.

DHS Issues Interim Final Rule on Children Born in United States to Foreign Government Employees – The Department of Homeland Security plans to issue an interim final rule, effective September 4, 2026, to allow certain children born in the United States to foreign government employees who are not U.S. citizens to register as lawful permanent residents.

USCIS Says It Will Follow Court Order on Diversity Visa Adjustment Applications – U.S. Citizenship and Immigration Services (USCIS) is now ordered, "to the extent practicable and in good faith, to take all reasonable steps during the remainder of the Diversity Visa fiscal year to resume ordinary adjudication of plaintiffs' pending adjustment of status applications without applying" a USCIS memo that placed a hold on Diversity Visa adjustment applications.

Lawsuit Challenges 'Arbitrary Mandatory Form Changes' Issued Without Warning – The American Immigration Lawyers Association (AILA) and immigration law firm Benach Pitney Reilly sued the Trump administration for "implementing substantive form changes again, without warning, that will harm potentially thousands of AILA members and their clients."

Canada Attracts Researchers From U.S. Universities – According to reports of a Canada-bound "brain drain" from the United States, 21 Canadian universities have taken advantage of Trump administration pressures on scientific research and funding at top U.S. universities by hiring at least 48 researchers from them.

Firm in the News

Details:

District Court Judge Rules Against Trump in Birthright Citizenship Case

On September 2, 2026, in *CASA, Inc., v. Trump*, a U.S. district judge in Maryland ruled against President Trump's latest Executive Order 14418, issued August 6, 2026, that once again attempts to limit birthright citizenship.

The court said that the order "is almost certainly unconstitutional as applied to the certified class for the simple reason that the Supreme Court … already decided that the children in the class are citizens at birth. This Court must, once again, preliminarily enjoin enforcement of the President's most recent attempt to strip the right to citizenship from them."

The court noted that "ince his second term in office began on January 20, 2025, the President has tried, through Executive Order, to upend our country's longstanding tradition of birthright citizenship and eliminate, for large swaths of Americans, the right to citizenship by birth, a right enshrined in the Citizenship Clause of the Fourteenth Amendment."

Back to Top

U.S. District Judge Rules in Favor of *Stanford Daily* on Free Speech for F-1 Students

On August 28, 2026, in *Stanford Daily Publishing Corporation v. Rubio*, a U.S. district judge ruled in favor of the student newspaper *Stanford Daily* in a case challenging the Trump administration's actions against free speech by noncitizen students in the United States "who express opinions the government wants to suppress."

The plaintiffs alleged, the court said, that since March 2025, the Trump administration changed the U.S. government's "immigration policy and pattern of enforcement by arresting, detaining, and deporting students with F-1 visas when those students use their freedom of speech to express opinions that the

government does not like—such as expressing support or empathy for Palestinian people, or criticizing Israel's actions regarding Palestine or the conflict in Gaza." The plaintiffs argued that these actions violated the First and Fifth Amendments to the U.S. Constitution. The court said, "Stated plainly, in the United States, freedom of speech belongs to the people. It is not the government's to take."

The *Stanford Daily* noted that it was "one of three plaintiffs in the lawsuit, alongside two anonymous students not affiliated with Stanford, though one later departed the case. The plaintiffs were represented pro bono by the Foundation for Individual Rights and Expression (FIRE)."

Back to Top

DHS Issues Interim Final Rule on Children Born in United States to Foreign Government Employees

The Department of Homeland Security (DHS) announced that it plans to issue an interim final rule, effective September 4, 2026, to allow certain children born in the United States to foreign government employees who are not U.S. citizens to register as lawful permanent residents.

DHS said the rule amends existing regulations that allow children born in the United States to foreign diplomatic officers to register as lawful permanent residents. The rule extends that opportunity to eligible children when neither parent is a U.S. citizen and at least one parent is a foreign government employee at the time of the child's birth.

The interim final rule replaces the term "foreign diplomatic officer" with the broader term "foreign government employee." Under the rule, DHS explained, "foreign government employee" includes "foreign diplomatic officers accredited to the United States, certain foreign embassy or consulate employees who are nationals of that foreign country, persons employed by a foreign government in an official capacity, and persons employed by an international organization that possesses international-organization immunity."

The rule also clarifies categories that are not included, such as "personal employees or attendants of foreign officials, certain employees of state-owned enterprises, third-country nationals working for foreign governments, certain contractors, and foreign government employees visiting the United States in a

personal capacity."

DHS said that given the injunction in *CASA, Inc., v. Trump*, it will not implement the rule "specifically to any member of the certified class, or otherwise conflict with the preliminary injunction, unless and until the government obtains relief from the injunction. If the government obtains timely relief from the injunction, DHS will implement the rule accordingly."

Back to Top

USCIS Says It Will Follow Court Order on Diversity Visa Adjustment Applications

According to reports, on August 28, 2026, the U.S. District Court for the Northern District of California issued an order in *Medani v. Trump* that temporarily vacated PM-602-0193 pending further litigation. That memorandum, issued by U.S. Citizenship and Immigration Services (USCIS) on December 19, 2025, placed a "hold" on Diversity Visa (DV)-related adjustment of status applications and ordered a comprehensive review of related policies, procedures, and screening and vetting processes. USCIS is now ordered, "to the extent practicable and in good faith, to take all reasonable steps during the remainder of the Diversity Visa fiscal year to resume ordinary adjudication of plaintiffs' pending adjustment of status applications without applying" the memo.

USCIS noted that the court granted in part the plaintiff's motion for class certification. With respect to USCIS, the court certified the following subclass: "all selectees and derivative beneficiaries under the FY-2026 Diversity Visa Program who are subject to the USCIS DV Hold imposed by Policy Memorandum PM-602-0193."

USCIS said it "strongly disagrees with the Court's order but will follow its terms pending possible further judicial review."

Back to Top

Lawsuit Challenges 'Arbitrary Mandatory Form Changes' Issued Without Warning

On September 3, 2026, the American Immigration Lawyers Association (AILA) and immigration law firm Benach Pitney Reilly sued the Trump administration for "implementing substantive form changes again, without warning, that will harm potentially thousands of AILA members and their clients." The lawsuit was

filed in the U.S. District Court of the District of Columbia.

In a press release, AILA alleged that late on August 31, 2026, "U.S. Citizenship and Immigration Services (USCIS) announced that as of that day, new editions of the forms I-864 , I-864A, and I-864EZ would be required without exception—potentially leading to the rejection of countless applications. In violation of the Administrative Procedures Act (APA), the Paperwork Reduction Act (PRA), and longstanding agency practice, no notice was given and no grace period was implemented; USCIS only informed the public of these changes via the 'Forms Update Alert' after 4:30 p.m. Eastern Time on the day they would take effect. To make matters even more alarming, form errors on the USCIS website created additional barriers to compliance."

The USCIS I-864 webpage, updated on September 4, 2026, now states that "USCIS is providing a 30-day grace period during which we will accept the 10/17/24 edition of Form I-864. Beginning Oct. 1, 2026, we will only accept the 08/24/26 edition of Form I-864. USCIS will not process any 10/17/24 edition of Form I-864 postmarked or electronically submitted on or after Oct. 1, 2026."

Back to Top

Canada Attracts Researchers From U.S. Universities

According to reports of a Canada-bound "brain drain" from the United States, 21 Canadian universities have taken advantage of Trump administration pressures on scientific research and funding at top U.S. universities by hiring at least 48 researchers from them. The hirings are funded, in part, by heavy Canadian government investment in research and innovation projects.

One scientist, Phillip Zamore, chair of the RNA Therapeutics Institute at the University of Massachusetts, will join the medical faculty at McGill University in Montréal. He said, "I used to live in the country that I thought was the most enthusiastic about the prospects for science improving the human condition, of any country in the world. And I woke up one day and that wasn't true anymore."

Back to Top

Firm in the News

Cyrus Mehta was quoted by *Law360* in Circuit Split Raises Stakes for Timing of Detention Review. Mr. Mehta commented on recent court rulings that may

render the immigration court system ineffective for seeking release on bond, which he said means that any detained noncitizen who wants to challenge the constitutionality of their detention could be made to wait "a year or two, or longer" if forced through the petition-for-review process. Mr. Mehta, who is a member of Palestinian green-card holder Mohsen Mahdawi's legal team, said that “very day that you’re detained, if there’s a constitutional violation, is very problematic.”

Mr. Mehta, who is Editor-in-Chief of the *American Immigration Lawyers Association Law Journal*, and members of the journal’s Editorial Board participated in a video roundtable discussion on the Supreme Court’s recent decisions in *Trump v. Barbara* and *Blanche v. Lau* and their implications for immigration law and practice.

Back to Top