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

IMMIGRATION UPDATE - NOVEMBER 16, 2026

Posted on November 16, 2026 by Cyrus Mehta

Headlines:

BIA Bars Adjustment of Status for Admission of Controlled Substance Use Without Conviction or Explanation of Elements of the Offense – A recent Board of Immigration Appeals decision changes how admission of the elements of a crime can affect admissibility and thus has potential broad impact.

DOL Releases Prevailing Wage Processing Times, Other Data – The Department of Labor has released prevailing wage determination processing times as of October 2026.

Details:

BIA Bars Adjustment of Status for Admission of Controlled Substance Use Without Conviction or Explanation of Elements of the Offense

In *Matter of Mendez Maldonado*, the Board of Immigration Appeals (BIA) ruled that a Mexican native and citizen was ineligible for adjustment of status to permanent residence and was inadmissible because he admitted under oath to having possessed and used cocaine in Arizona, which constituted admission of a crime relating to a controlled substance. The decision to find Mr. Maldonado inadmissible based on his admission of a controlled substance violation, without requiring a conviction or an explanation of the elements of the offense, changes how admission of the elements of a crime can affect admissibility and thus has potential broad impact. Practitioners recommend advance preparation.

On appeal, Mr. Maldonado argued that his admission of cocaine possession and use was invalid because he was not provided with a definition or the essential elements of the offense before his admission, as required under Matter of K-, 7 I&N Dec. 594, 597 (BIA 1957). The BIA said, among other things,

that if *Matter of K-* is interpreted to require that a precise legal definition, including the essential elements of the crime, be provided before an admission, "such a rule exceeds what is required under the plain language of the statute to obtain a valid admission for immigration purposes" and was "not necessary to ensure fairness in removal proceedings." If the admission is voluntary and the person "receives a fair hearing, there is no denial of due process," the BIA held.

Back to Top

DOL Releases Prevailing Wage Processing Times, Other Data

The Department of Labor has released prevailing wage determination processing times as of October 2026. The data show that over the last 180 days ending October 31, 2026, the average processing time for analyst review of a PERM petition (the first step in most employment-related green card petitions) is about a year.

The data include various other categories, such as applications received for a requested date of need from October 1, 2026, through March 31, 2027. The data show that from July through September 2026, a total of 3,779 petitions (68,648) workers were issued a final decision with positions certified for Fiscal Year 2027's first-half visa cap.

Back to Top