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News & Types: Immigration Monthly Updates

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By: Julie T. Emerick, Anne C. Miller

Practices: Immigration

CONFIRMATION OF PRESIDENT TRUMP'S NOMINEE FOR USCIS DIRECTOR

On July 15, 2025, the U.S. Senate confirmed Joseph Edlow as the new Director of U.S. Citizenship and Immigration Services (USCIS) by a 52-47 vote. Mr. Edlow previously served as Chief Counsel, and then Deputy Director for Policy and Acting Director at USCIS from July 2019 to January 2021, overlapping with President Trump's first term in office. He served as Assistance Chief Counsel for U.S Immigration and Customs Enforcement (ICE) for more than six years. He earned a law degree from Case Western Reserve University School of Law in 2006 and a Bachelor of Arts degree in Political Science from Brandeis University in 2003.

In his earlier roles with USCIS, Mr. Edlow:

- Increased barriers to immigration benefits;
- Slowed the work authorization process for asylum seekers;
- Increased DACA renewal requirements; and
- Implemented the online registration H-1B lottery system.

During his nomination hearing before the U.S. Senate Committee on the Judiciary on May 21, 2025, Mr. Edlow stated, "at its core, USCIS must be an immigration enforcement agency, an agency that is dedicated to ever evolving and innovative techniques for screening and vetting its applicant pool" and "the adjudication of immigration benefits is inherently an act of enforcement of the immigration laws." He reported that of the 570 USCIS detailed outside the agency, 570 of those staff have been assigned to ICE; that as of May 17, 2025 USCIS has a staff of approximately 20,667 -- downsized by 10% since January 20, 2025; and that as of May 29, 2025, the Fraud Detection and National Security Directorate has 1,679 permanent employees.

In his new role, Mr. Edlow has promised to:

- Focus on screening and vetting applicants for immigration benefits;
- Eliminate post-graduate work programs (OPT/STEM OPT) for foreign students;
- Remove temporary protections that were expanded under the Biden Administration;
- Increase biometrics tracking;
- Expand fraud detection (especially within the H-1B program); and

- Reduce backlogs for asylum and green card applications.

IMMIGRATION FEE UPDATES FROM THE ONE BIG BEAUTIFUL BILL ACT

On Friday, July 4, 2025, the President signed into law the One Big Beautiful Bill Act ("OBBBA") which increased or introduced new filing fees for many U.S. immigration matters. Fees for immigration processing may increase by regulation or annually for inflation and, for most applications, are not waivable.

Some of the new fees include:

- **Asylum**: Individuals applying for asylum will now have to pay an application fee or $100.00. Additionally, a $100.00 annual fee to keep the application open while it is pending review will be needed. Asylum applicants will now have to pay a fee of $550.00 when applying for initial employment authorization and a fee of $275.00 when applying to renew the employment authorization. A motion to reopen based on an underlying asylum application is also now subject to a fee.
- **ESTA**: The fee to apply for the ESTA Visa Waiver Program will increase from $21.00 to $40.00.
- **I-94 Processing**: The I-94 fee will increase from $6.00 to $24.00. Typically, this fee is included in the price of an airline ticket, and the airline pays this fee for the passenger to the Department of Homeland Security. For individuals requesting a Form I-94 when applying for an immigration benefit at a land border, such as a Canadian TN, U.S. Customs & Border Protection (CBP) collects this fee.
- **TPS**: The fee for individuals applying for Temporary Protected Status (TPS) will increase from $50.00 to $500.00.
- **Visas**: *A Visa Integrity Fee* of $250.00 will be imposed for nonimmigrant visa issuance. Clarification is needed whether this fee will be collected by the Department of State (DOS) during the visa interview, by USCIS when a nonimmigrant petition is filed, or by CBP. OBBBA does allow the DHS to reimburse this fee after visa expiration if the noncitizen shows compliance with visa requirements or leaves the U.S. within 5 days of admission period, or the noncitizen was granted an extension of their status or adjusted status to Permanent Resident.
- **Individuals removed *in Absentia***: Noncitizens in deportation/removal proceedings who do not attend their hearing and are ordered deported *in Absentia* will be required to pay a $5,000.00 fee. This fee is not a bond, and this fee would be collected if the individual is subsequently arrested by Immigration and Customs Enforcement (ICE).
- **Inadmissible noncitizens apprehended between ports of entry**: A noncitizen who is inadmissible and apprehended between posts of entry, meaning in the United States, will be required to pay a $5,000.00 fee.

These fees will be used to fund DHS efforts to combat illegal immigration, including conducting enforcement and deportation efforts, hiring and training DHS staff.

A new fund with an appropriation of $3.5 Billion is the "Bridging Immigration-related Deficits Experienced Nationwide (BIDEN)" which will make grants available to States, State agencies, and units of local governments to cover expenditures and resources to help fight illegal immigration.

DOS EXPANDS GUIDANCE ON IMMEDIATE VISA REVOCATIONS

On April 25, 2025, new provisions in the DOS Foreign Affairs Manual (FAM) were published to expand visa revocations.

Section 221(i) of the Immigration and Nationality Act (INA) gives the DOS discretionary authority to revoke a visa at any time. The DOS may revoke a visa upon receipt of derogatory information (such as an arrest) without a conviction and can even revoke the nonimmigrant visa of an individual physically present in the United States.

According to the FAM, a consular officer is *required* to "prudentially revoke" a nonimmigrant visa for any DUI arrests following issuance of a visa.

A new FAM section indicates revocation procedures to be followed for Immediate Visa Revocation upon the written request of the DHS "*in extraordinary cases where a visa holder poses a significant security threat to the United States, and the Department of Homeland Security has no other basis for removal*."

This includes both visa holders at a port of entry and visa holders with status inside the U.S. Revocation at the port of entry makes it possible for the CBP to deny admission on the basis that the foreign national lacks a valid visa. Revocation of visas for foreign nationals in the U.S. allows for DHS to move forward with removal proceedings. The section specifies heightened scrutiny is needed for visa holders physically present in the U.S. where the revocation will be the sole basis of removal by DHS since these revocations may be subject to judicial review.

In the case of an individual subject to an enforcement action by DHS, DHS headquarters must outline the facts of the case in a memo to DOS, including the nature of the security threat and enforcement interest to establish that immediate revocation is essential for removal.

DOS usually will not reinstate a prior visa unless the visa was revoked because of DOS error (e.g., they mistakenly revoked the visa of someone with the same name). To refute the basis of the revocation, or present new information, the individual must submit a new application and appear at an interview.

NEW E-VERIFY TOOL FOR EMPLOYERS TO CHECK ON REVOKED EADS

On June 20, 2025, DHS announced that it is revoking Employment Authorization Documents (EADs) for certain individuals. This action primarily affects those who are authorized to work under Temporary Protected Status (TPS) or through the Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV) Parole Program.

DHS has said that it is directly notifying affected individuals using the email or mailing address listed on their employment authorization applications.

To assist employers, DHS has introduced a new tool within E-Verify called the Status Change Report. This report identifies employees whose EADs have been revoked and includes key details such as the revocation date, E-Verify case number, and the employee's Alien Registration Number (A-Number). As of July 15, 2025,

the Status Change Report has been modified to provide the document number of the revoked document in question.

To access the Status Change Report, employers should log into their E-Verify account, navigate to the "Reports" tab, and select the report from the available options. DHS recommends that employers log into E-Verify regularly and generate this report.

If an employee appears in the Status Change Report, the employer should compare the "Card#" field on the EAD used to complete the Form I-9 to the revoked document number in the report. If the number is the same, then the employer must promptly complete Form I-9, Supplement B to reverify that employee's work authorization. Employees must present valid, unexpired documentation from List A or List C of the I-9's Lists of Acceptable Documents. **A revoked EAD, even if facially unexpired, cannot be accepted**. Importantly, employers should not create a new E-Verify case during the reverification process. Reverification should be completed within a reasonable amount of time.

CHANGES TO TPS DESIGNATIONS

Under the current Administration, TPS has undergone major changes, marked by significant efforts to end protection for nationals from several countries. While there has been litigation to slow these efforts, it is expected that the courts will likely rule in favor of the Administration. It is important for employers to remain updated on any changes in TPS work authorization by regularly checking "I-9 Central." Additionally, employers can verify the current state of TPS designations on the USCIS website.

H.R. 875 CREATES CONCERNS FOR THOSE CAUGHT DRIVING UNDER THE INFLUENCE

The "Jeremy and Angel Seay and Sergeant Brandon Mendoza Protect Our Communities from DUIs Act of 2025" would amend the INA to deny a non-U.S. national a visa and/or admission to the United States if convicted or admitting to having committed the acts which constitute the elements of the offense of driving while intoxicated or impaired ("DUI") by alcohol or drugs, including marijuana. Additionally, any non-U.S. national who is convicted of a misdemeanor or felony DUI offense would be deportable. This bill, H.R. 875, was introduced in Congress on January 31, 2025. H.R. 875 passed out of the House and as of June 27, 2025, is pending review by the Senate's Judiciary Committee.

H.R. 875 is named in honor of Jeremy and Angel Seay of Alabama who were killed by a drunk driver on June 13, 2009, and Sergeant Brandon Mendoza, a Mesa, Arizona police officer, who died in May 2014 when his vehicle was crashed by a driver whose blood alcohol was "three times the legal limit". Each person driving under the influence was a non-citizen in the United States illegally.

Under current law, a non-citizen with a DUI arrest or conviction is not necessarily denied a visa and/or admission to the United States or subject to deportation. However, when applying for the visa the individual must show the conviction or arrest and may be ordered to be assessed by a U.S. government-approved panel physician. The panel physician must decide whether a Class A or Class B condition exists under the regulations of the Department of Health and Human Services. Class A conditions include drug abuse, drug

addiction, or physical or mental disorder with associated harmful behavior. A Class B condition can include a physical or mental health condition, disease, or disability of a serious degree or permanent in nature.

Non-citizens in the United States with a DUI arrest or conviction may have their visa prudentially revoked by the DOS. This revocation automatically cancels the individual's visa for travel. The individual may apply for a new visa at a U.S. Consular Post and as part of the processing the visa applicant will need to be assessed by a U.S. government-approved panel physician.

A non-U.S. national who is denied the visa, may apply for a discretionary waiver to have the visa issued.

Under current law, a misdemeanor DUI conviction does not make a non-citizen deportable but a conviction where a sentence of one year or longer may be imposed is basis for deportation. A drug abuser or addict is also deportable.

While the Senate Judiciary Committee has not scheduled a date to review this bill, it is expected that if approved by the Senate, President Trump will sign it.

Additional information about the bill will be contained in future Masuda Funai Business Immigration Updates if it is enacted.

TREND WATCH - NEW INTERPRETATION TO THE 60-DAY GRACE PERIOD – END OF DISCRETION?

Under the immigration regulations in place since January 17, 2017, noncitizens in the United States as a treaty trader (E-1), treaty investor (E-2), Australian worker (E-3), specialty occupation worker (H-1B), intracompany transferee (L-1), person of extraordinary ability in science, arts, education, business or athletics or extraordinary achievement in the motion picture or television industry (O-1), or USMCA professional (TN) whose employment is voluntarily or involuntarily terminated continue to maintain status for up to 60 consecutive days or to the expiration date of the immigration status if expiring sooner.

During this 60-day grace period the individual is not authorized to work but can apply to change immigration status; apply for adjustment of status if eligible; apply for a work document (EAD) under compelling circumstances, if eligible; or file a nonfrivolous petition for an employer change. The 60-day grace period has some limitations, including:

- The 60-day grace period may not offer protection if the underlying immigration petition is revoked before a new employer petition or application is filed.
- The 60-day grace period is not guaranteed but is at the discretion of USCIS. As stated in the applicable regulation, "DHS may eliminate or shorten this 60-day period as a matter of discretion."

There have been reports that the current Administration has been less favorable in exercising discretion for the 60-day grace period, particularly when the prior employer has requested to withdraw the petition. Once the USCIS processes the withdrawal request, it is treated as an automatic revocation. It has been reported that in certain cases, USCIS is now determining that from the date of revocation, the individual does not have immigration status, even though he/she is still in the 60-day grace period. Additionally, in some of these cases,

DHS has placed individuals into deportation proceedings when denying the application requesting the immigration benefit based upon the 60-day grace period. Therefore, employers and individuals have to be reminded that the 60-day grace period is not guaranteed and be aware of the potential consequences if the 60-day grace period is not granted by the USCIS in its discretion.

AUGUST 2025 VISA BULLETIN UPDATE

The DOS recently issued the August 2025 Visa Bulletin. During August, noncitizens in the employment-based classifications as noted below become eligible to concurrently file for an *employment-based* immigrant classification or, if approved for an *employment-based* immigrant classification can apply for permanent resident status through adjustment of status ("AOS"). During August, noncitizens in the employment-based classifications as noted below who have their AOS application pending or who will complete the Immigrant Visa processing at a U.S. Consular Post become eligible to have their AOS application approved or their interview scheduled in August 2025. USCIS advised that is using the "Final Action" date chart to determine eligibility for filing applications for adjustment of status in August.

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **November 15, 2022**, no change since July 2025.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **February 15, 2022**, no change since April 2025.

Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **September 1, 2023**, a retrogression from October 15, 2023 in July 2025 – this is a sign that EB-2 visas for FY-2025 have been allocated and will not be available until the next fiscal year (which commences on October 1, 2025).
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **December 15, 2020**, no change since July 2025.

- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **January 1, 2013**, no change since April 2025.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **April 1, 2023**, no change since July 2025.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **December 1, 2020**, no change since July 2025.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **May 22, 2013**, an advancement of 30 days.

Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.