American Immigration Council

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ANALYSIS

Curtailing the Ability to Work

Recent Federal Changes to Employment Authorization

The second Trump administration has sharply limited noncitizens' ability to work lawfully, from stripping nearly 1 million noncitizens of Temporary Protected Status (TPS)—and work authorization—to adding bureaucratic hurdles that leave noncitizens mired in application delays or work authorization denials due to technical issues.

Because noncitizens make up over 19 percent of the U.S. labor force, these restrictions reach far beyond immigration policy. They threaten employers and workers across critical sectors already experiencing chronic labor shortages, including agriculture, construction, tourism, and elder care. In Boston, a provider of independent living communities and long-term elder care has fired 60 immigrant workers since January 2025 with the prospect of firing more workers due to the administration's TPS terminations. While in southern Florida, where nearly half of all Haitian TPS recipients live, businesses are facing an "economic crisis" as customers disappear and workers are harder to find.

Over the last year, U.S. Citizenship and Immigration Services (USCIS) has also eliminated safeguards against gaps in employment authorization, proposed sweeping new barriers to work for asylum seekers and people with humanitarian protections, shortened work permit validity periods, and expanded its ability to deny or terminate noncitizens' work authorization.

USCIS has used broad discretionary authority to advance these changes, often invoking national security and public safety while openly seeking to reduce the number of noncitizens eligible to work lawfully. If fully implemented, these policies would make it substantially more difficult for asylum seekers, parolees, deferred action recipients, beneficiaries of Temporary Protected Status (TPS), recipients of Deferred Action for Childhood Arrivals (DACA), and other lawfully present noncitizens to obtain, renew, and keep their work authorization—disrupting workers' livelihoods while increasing compliance challenges for employers.

Taken together, these changes amount to the most significant rollbacks of employment authorization for noncitizens in decades.

This fact sheet summarizes the key actions the Trump administration has taken to restrict access to noncitizens' work authorization.

1. Elimination of automatic extensions of work permits for people who request renewal on time

On October 14, 2026, USCIS finalized a final rule[i] that eliminated automatic work permit extensions for people who were previously eligible for them.[ii] The rule keeps in place an interim final rule[iii] that was announced and implemented on October 30, 2025 without making any changes. By initially issuing this change as an interim final rule, as opposed to a Notice of Proposed Rulemaking (NPRM), USCIS was able to immediately implement it a year before it became final, preventing those impacted from taking steps to lessen the impact.

People who submitted their work permit renewal requests prior to October 30, 2025, are not subject to the rule. However, people who filed starting October 30, 2025 are, and face potential gaps in their lawful ability to work. The final rule estimates that, during an 18-month window starting May 2027, 20,000-33,000 work permits may lapse while awaiting USCIS to process renewals.[iv]

Because of the sudden change in policy in October 2025, applicants who had waited to file their renewals toward the end of their work permit's validity period were left without work authorization. And others, some of

whom filed their renewal requests a few months before their work permits expired, had to contend with USCIS' delayed processing times. In the first three months of the interim rule's implementation (October-December 2025), the number of work permit renewal requests pending for longer than 6 months doubled compared to the prior year (33 percent compared to 69 percent).[v] USCIS' most recently published data shows very little progress in addressing these processing delays as 62% of these requests remain pending beyond 6 months.[vi]

This rule represents a dramatic shift from prior agency policy. Since November 2016, USCIS has provided noncitizens renewing their work permits an automatic extension period of up to 180 days beyond the work permit's expiration date to prevent them from losing their employment authorization while the agency processed their work permit renewals. During the Biden administration, this period was extended to 540 days amid persistent and extended USCIS processing backlogs. This rule not only rolled back the Biden-era automatic 540-day extension policy, but it also eliminated the pre-Biden 180-day period established in 2016.

This rule means that, today, the U.S. government offers many noncitizens who have lawful work authorization little certainty or stability for employment as they wait months for their authorization to be renewed.

Status: This rule was finalized on October 14, 2026. It was initially issued as an interim final rule and became effective on October 30, 2025, and USCIS received public comments until December 1, 2025. The final rule did not make any changes to the interim rule.

2. Proposed restrictions on work authorization for asylum applicants

On February 23, 2026, USCIS issued a NPRM that would impose several restrictions on the processing and issuance of work permits to applicants for asylum.[vii]

As of August 5, 2026, this NPRM has not been finalized and is not in effect. However, the issuance of a final rule is expected in the future after USCIS considers public comments.

The proposed rule aims to implement several changes to asylum application-based work permits, including:

- **Pausing the processing of first-time work permit requests.** The proposed rule would prohibit USCIS from accepting initial asylum-based work permit applications whenever affirmative asylum application processing times exceed an average of 180 days. In practice, this processing pause would be imposed immediately. USCIS notes in the NPRM that in FY 2024 the average processing time for affirmative asylum applications exceeded 1,287 days. The agency estimates that reaching the 180-day threshold—which would trigger an end to the processing pause—could take between approximately 14 and 173 years based on FY 2024 asylum application backlogs. In other words, if this rule goes into effect as proposed, USCIS will indefinitely pause initial work permit requests for all asylum applicants, and new asylum applicants will not be able to work legally for years into the future.

- **Increasing the time asylum applicants must wait before applying for work authorization.** Currently, asylum seekers must wait 150 days after the filing of their asylum applications before they can apply for work authorization.[viii] The proposed rule would extend this "waiting period" to 365 days—more than twice as long—before asylum applicants would be eligible to apply for a work permit. This would mean that thousands of asylum seekers residing in the United States would have no way to pursue lawful employment for at least an entire year after filing their asylum application—a process which itself takes several months.

- **Extending the cap on USCIS' processing times for asylum applicants' first work permit.** Currently, USCIS must process first-time work authorization requests by asylum applicants within 30 days after the asylum application has been pending for 150 days. A class action lawsuit filed in 2015 by the American Immigration Council, the Northwest Immigrant Rights Project, and others, requires USCIS to adhere to its 30-day initial processing time given that in the past the agency did not. However, the proposed rule would extend this 30-day period to 180 days. As a practical matter, this change—coupled with the increased waiting period—would mean that asylum applicants could wait at least 18 months before obtaining work authorization. This increases the risk of asylum applicants not being able to support themselves and their families while they wait for USCIS to process their applications.

- **Expanding the reasons for USCIS to consider asylum applicants ineligible for work authorization.** The proposed rule would significantly broaden the circumstances under which asylum applicants are ineligible for employment authorization. First, individuals who file for asylum more than one year after entering the United States would generally be barred from obtaining a work permit, unless an asylum officer or immigration judge determines they qualify for a statutory exception or they entered as an unaccompanied child.

  The proposal also expands criminal-related bars to employment authorization.[ix] USCIS proposes denying work permits whenever there is "reason to believe" an applicant may be barred from asylum based on a particularly serious crime or a serious nonpolitical crime committed abroad, even before those issues are formally adjudicated. By imposing substantive and complex analyses related to asylum eligibility into the work authorization process, it is likely that asylum applicants will face longer processing times that could lead to employment gaps. Asylum applicants will also be subjected to multiple, possibly inconsistent, assessments of the same criteria in at least two different application processes.

  In addition, individuals who entered the United States at a place other than a port of entry on or after the rule's effective date would generally be ineligible for a work permit unless they (1) expressed an intent to seek asylum or a fear of persecution or torture within 48 hours of entry, (2) established good cause for their manner of entry or attempted entry, or (3) are unaccompanied children. Not only does this proposed change introduce more complexity, but it also imposes a new bar that directly conflicts with current law that allows any person to apply for asylum regardless of their manner of entry.[x]

- **Expanding the reasons USCIS can deny work authorization requests.** The proposed rule would deny a work permit if an asylum applicant missed a biometrics appointment, an asylum interview, or immigration court hearing, unless the absence was based on exceptional circumstances. Current rules do not automatically deny work permits for applicant-caused delays. Instead, such delays may lengthen the process for first-time applicants and affect renewals if they lead to the termination or denial of the underlying asylum application.

  USCIS also proposes to be able to deny work permits for eligible asylum applicants at its discretion. Previously, work permit applications were subject to automatic authorization if the asylum applicant met pre-existing criteria.[xi] Removing that safeguard would add uncertainty and allow USCIS to deny work permits for any reason instead of based on the stated eligibility criteria.

  Lastly, the proposed rule would end work authorization for asylum applicants seeking federal court review after an asylum denial. Current rules allow asylum applicants to remain eligible for work authorization while pursuing federal court appeals after an administrative denial. This change could have broad impact: at the end of FY 2025, nearly 2.5 million asylum applications were pending in immigration court, and recent reports show denial rates are rising. This impact could be more significant if paired with the Department of Justice's proposed rule from earlier this year that would effectively eliminate administrative appeals and require direct appeals to federal court.[xii]

Status: USCIS accepted public comments on this proposed rule until April 24, 2026. USCIS is currently reviewing these comments and is expected to issue a final rule in the future.

3. Proposed new standards for discretionary work authorization

On June 5, 2026, USCIS issued a notice of proposed rulemaking (NPRM) that imposes several restrictions on the processing and issuance of "discretionary" work permits.[xiii] Discretionary work permits are those that the agency can choose to issue, but that Congress has not required through statute. While the NPRM largely focuses on work authorization requests for applicants granted parole, deferred action, and with final orders of removal, it also has implications for other discretionary work authorization requests, including survivors of certain serious crimes and human trafficking, and recipients of Deferred Action for Childhood Arrivals (DACA).

Below, this fact sheet lays out the proposed changes to most discretionary work permits and then discusses those related to parole, deferred action, and for people with final orders of removal.

Proposed changes that would affect most discretionary work permit applicants

Some common discretionary work authorization categories include people with pending adjustment of status applications, H-4 spouses of certain H-1B specialty occupation workers, and international students seeking optional practical training. The following changes impact most applicants with discretionary employment authorization:

- **Applicants may only receive work permits if USCIS believes they warrant "a favorable exercise of discretion."** This proposed rule adds an additional discretionary analysis to employment authorization requests. Specifically, USCIS must determine whether an applicant who meets the threshold qualifications for a work permit in a discretionary work permit category "warrants a favorable exercise of discretion."

  In other words, USCIS is replacing eligibility criteria with unspecified or subjective standards in determining which work permit applications it approves. While USCIS states there is "no exhaustive list of factors an officer must consider,"[xiv] the agency notes that it "will consider each [noncitizen's] entire criminal history" in determining if it will favorably exercise its discretion.[xv]

- **Applicants will be required to submit biometrics in person for each request.** If finalized, this proposed rule would require applicants to appear in person to submit biometrics, which usually include photographs, fingerprints and signatures, for all requests. This information will be used to verify the applicant's identity, check or update their criminal history, and produce the work permit, which includes a photograph of the noncitizen.

  In the past, USCIS only required some applicants to submit biometrics and reused previously captured photographs and fingerprints on certain applications, including work permits. In fact, USCIS previously began implementing automated background checks and identity verification systems for certain work permit applications to reduce in-person biometrics appointments for these requestors. By requiring applicants to go to a USCIS Application Support Center to take their biometrics in person, this change will have the effect of increasing the amount of time applicants and the agency must dedicate to this process.

- **Applicants will be subject to extremely broad criminal record ineligibility bars.**[xvi] Currently, most work permit categories are not subject to automatic denials based on criminal histories.[xvii] If finalized, however, the proposed rule states that "USCIS will generally not approve an application for initial or renewal of employment authorization" for[xviii]:
  - Applicants who have been arrested, charged, indicted, or convicted for "any criminal act"—not just serious crimes. This includes minor offenses and dismissed charges.
  - Applicants who have admitted to committing a "violent or dangerous" crime, even if they were never formally arrested, charged, or indicted.
  - Applicants where USCIS has determined there is evidence of gang participation or terrorism membership.

  The proposed rule includes one narrow exception. USCIS states that it could approve a discretionary work permit for such an applicant if the Department of Homeland Security determines that there are significant countervailing public interests. USCIS only provides one example in the NPRM of such a public interest, which is if the noncitizen is present in the United States to assist with law enforcement activity. Otherwise, the applicant is left to wonder how else they can meet this exception.

- **Applicants will be subject to new events that automatically terminate their work authorization.** Currently, discretionary work authorization terminates in three circumstances: (1) when the work permit expires; (2) when removal proceedings are commenced against the noncitizen; and (3) when the noncitizen is granted voluntary departure. Under the proposed rule, two additional "triggering" events can cause a person to automatically lose their work authorization. This includes when: (1) a final order of removal is issued by an immigration judge or agency even if the individual is not subject to immediate removal; and (2) when the underlying status or application that forms the basis for the work permit is denied or terminated. The NPRM does not explain whether or how noncitizens can

contest a termination or if an appeal of the denial or termination of the underlying status or application will be considered before the termination of their work authorization takes effect. While the NPRM states that "notice" of a triggering event will result in the automatic termination, it does not explain if that same notice will provide information about the termination of work authorization. This lack of clarity is concerning because workers and employers may not know if a termination has taken place, which can lead to unauthorized employment and potential legal consequences.

Proposed changes that would affect work permits based on parole, deferred action, and removal orders

USCIS has also proposed changes affecting specific humanitarian work permit categories: parolees, deferred action recipients (other than DACA), and people released from immigration detention under orders of supervision. Those include:

Work Permit Category	Proposed Eligibility Changes
Granted Parole under 8 C.F.R. § 274.12(c)(11)	• Must demonstrate economic necessity; USCIS states it will publish new guidance on required documentation in the future[xix] • Must show they "warrant a favorable exercise of discretion" • Must have a current or prospective employer that participates in E-Verify to request renewal
Granted Deferred Action under 8 C.F.R. § 274.12(c)(14) (other than DACA, (c)(33), and bona fide T visa applicants, (c)(40))	• Though requestors must already demonstrate economic necessity, USCIS states it will publish new guidance on required documentation in the future • Must show they "warrant a favorable exercise of discretion" • Must have a current or prospective employer that participates in E-Verify to request renewal • Limit work permits to one -year or less
People with final removal orders who cannot be removed because no country will accept them and are on an "Order of Supervision" with ICE under 8 C.F.R. § 274.12(c)(18)	• Severely narrows eligibility to only those whose removal is determined by DHS to be "impracticable" because *all* countries from which DHS has requested travel documents have failed to issue them. Currently, USCIS issues work authorization if the noncitizen cannot be removed in a timely manner • Though requestors must already demonstrate economic necessity, USCIS states it will publish new guidance on required documentation in the future • Must show they "warrant a favorable exercise of discretion" • Must have a current or prospective employer that participates in E-Verify to request renewal • Limit work permits to one -year or less • Work permit is automatically terminated when: DHS or the noncitizen obtains a travel document necessary for their removal or, if applicable, the material support to law enforcement investigation or prosecution is completed

Status: The administration accepted public comments in response to this proposed rule until August 4, 2026. USCIS is currently reviewing comments and is expected to issue a final rule in the future.

4. Other policies restricting access to work authorization

USCIS has also taken several other actions that limit access to work authorization, including rescinding statuses that eliminate lawful employment eligibility and changes that require more frequent work permit renewals, increasing burdens on workers and employers.

Terminating temporary statuses that provide work authorization

Since January 2025, the Trump administration has moved to abruptly end many programs that provide noncitizens with temporary permission to live and work in the United States, including ending parole programs established under the Biden administration, which provided permission to enter the United States for humanitarian reasons. About 1.5 million noncitizens were paroled into the United States under these programs.[xx]

The Trump administration has also taken steps to terminate nearly all Temporary Protected Status (TPS) designations, which is a status that provides temporary protections from removal to nationals of designated countries experiencing problems that make it difficult or unsafe to return. In March 2025, nearly 1.3 million individuals had TPS with a total of 17 country designations. Currently, only four of those designations remain but have expiration dates in the second half of 2026.

The termination of these programs also terminated applicants' employment authorization. Nonetheless, some people who entered with parole or received TPS in the past may have been able to remain in the authorized workforce because they were eligible for other kinds of immigration statuses. For example, some may have applied for asylum, which is a more durable status. However, as explained above, the asylum application process is also facing severe restrictions.

Despite the administration's efforts to terminate TPS, several court orders had allowed some TPS beneficiaries to continue receiving protections including work authorization, while the lawsuits made their way through the judicial process. However, in June 2025, the U.S. Supreme Court in *Mullin v. Doe* held that the TPS statute[xxi] barred federal courts from reviewing TPS designations, extensions, or terminations.[xxii] While it left open the possibility of constitutional challenges, the Court made it more difficult to succeed on anti-discrimination arguments, on which some of the current lawsuits based their challenges. Generally, *Mullin v. Doe's* holding will make it difficult for courts to issue orders that continue TPS protections while the lawsuits are pending and may require them to rescind orders that had allowed TPS holders to continue receiving protections from deportation and work authorization.

These terminations, and the Supreme Court's decision, have created mass confusion for employers and fear among TPS holders, many of whom have been in the United States for decades. Some states will be impacted more than others. For example, nearly half of all Haitian TPS holders live in Florida and make up a significant portion of the state's healthcare workforce. Other states with significant TPS populations include California, Texas, New York, Virginia, and Maryland. Employers, concerned about losing significant portions of their staff, requested that the Trump administration provide temporary extensions or a transition period.

USCIS added to the confusion. While lower courts continued to assess how the Supreme Court's decision affected pending TPS cases, USCIS issued public notices to employers and chose dates on which certain TPS-based work permits preserved by lower court orders expired. Some of these notices had been issued on these USCIS created expiration dates themselves and during the period before the Supreme Court's decision was generally understood to take effect.[xxiii] As a result, some employers had already begun firing TPS employees, even though those workers remained legally authorized to work.

Reduced work permit validity periods

In December 2025, USCIS implemented a new policy that reduced the maximum validity period of work permits from five years to 18 months in several work authorization categories, meaning many work permits are now only valid for 30 percent as long. This change applies to both initial and renewal work permits that were pending on or filed after December 5, 2025, for these categories. Work permits that were already issued, however, remain valid through their longer expiration dates. According to USCIS, the change was implemented to allow for more frequent vetting of noncitizens applying for work authorization.

In practice, this means workers will have to renew their work permits over three times as often and at a higher cost. For example, before the change, a green card applicant would have paid $260 in work permit fees to avoid

lapses in employment authorization; under an 18-month work permit, that cost rises to $780.[xxiv] Asylum applicants face even steeper costs because of higher fees enacted last year through the One Big Beautiful Bill Act: under a five-year validity period, they would pay $795, compared with $2,385 under an 18-month validity period.[xxv]

Other work permit validity periods were also impacted by Congress. Through the One Big Beautiful Bill Act, a funding bill enacted in July 2025, TPS and parole-based work permits have a maximum validity period of 1 year, or less if the end date of authorized parole period or duration of TPS is earlier. The OBBBA also increased fees for these categories. Previously, TPS holders usually received 18-month work permits, which is the maximum period a designation can last under the law. However, with a 1-year work permit, TPS holders could pay over $1,600 more in a 5-year period.[xxvi] Nevertheless, the OBBBA provisions may require TPS holders to request work permits even more frequently. This is because if TPS is designated for 18 months, the TPS holder would need two work permits per 18-month designation—one for the first year, and one for the last 6 months. As a result, a TPS holder would need to request a work permit up to seven times in a five-year period.

Beyond higher fees, the shortening of work permit validity periods also increases the risk of employment gaps, as more frequent renewals may strain USCIS capacity and could increase already lengthy processing times.

Stricter rules leading to employment authorization terminations

On April 29, 2026, USCIS issued an Interim Final Rule[xxvii] that affects several employment authorization provisions enacted in the One Big Beautiful Bill Act, a funding bill signed into law in July 2025. The law created a $100 annual asylum fee to be paid while the application is pending. The interim rule went into effect on May 29, 2026, but is subject to litigation.[xxviii] Some portions of the rule impacting work authorization were temporarily paused on July 21, 2026.[xxix]

The interim rule establishes severe consequences for asylum applicants for not paying it. Most relevant, if the fee isn't paid online within 30 days after a notice is issued, the noncitizen's asylum application will be entirely rejected, and the commensurate employment authorization will also be terminated.

The interim rule does not include a process to appeal or a grace period and turns an applicant's failure to pay an annual fee into a filing defect that leads to the rejection of an asylum application that may have been pending with USCIS for years. Similarly, in July 2026, the Board of Immigration Appeals, which sets binding precedent on the immigration courts, issued an opinion holding that if a noncitizen doesn't pay the annual asylum fee after the immigration judge sets an appropriate deadline, the judge can deny the asylum application.[xxx]

These consequences, in combination with the NPRM mentioned above that imposes restrictions on work authorization for asylum applicants, has the effect of raising the stakes for asylum applicants at a time when USCIS is proposing to restrict their access to work authorization. Based on USCIS' own lower estimates for reducing asylum application processing times to 180 days on average, these policies could require new asylum applicants to pay the agency at least $1,400 ($100 a year over 14 years) before they are allowed to work lawfully and earn money in the United States.

Immigration application adjudication pauses

USCIS has also implemented a series of adjudication pauses that have impacted thousands of workers' ability to prove their employment eligibility. In December 2025, USCIS paused the processing of all immigration benefits, including work authorization requests, for nationals of 39 countries, and directed its officers to treat country-specific concerns from those 39 countries as significant negative discretionary factors while adjudicating immigration benefit applications.

For months, workers' applications were stuck with little to no recourse. On June 5, 2026, *Dorcas International Institute of Rhode Island v. USCIS*, a district court vacated the adjudication pause policies and declared them unlawful so USCIS could no longer apply them.[xxxi] On June 12, 2026, USCIS announced that it would abide by the court's order. However, USCIS has appealed the district court's decision, and the issue continues to be litigated.[xxxii] About a month later, a California district court enjoined the adjudication pause policies as applied to employment authorization requests filed by the plaintiffs in the lawsuit, and required USCIS to resume processing them.[xxxiii]

Endnotes

[i] Removal of Automatic Extension of Employment Authorization Documents, 91 Fed. Reg. 65306 (Oct. 14, 2026), https://www.federalregister.gov/documents/2026/10/14/2026-20955/removal-of-automatic-extensions-for-certain-employment-authorization-documents.
[ii] Many categories of work authorization requests were eligible for the 540-day automatic extension of their timely renewed work permit, including: noncitizens granted refugee status, asylum, withholding of deportation or removal, Temporary Protected Status (TPS); spouses of noncitizens granted nonimmigrant visas under the E-1/2/3 Treaty Trader/Investor/Australian Specialty Worker visa category, L-2 spouses of L–1 Intracompany Transferees, and H-4 spouses of certain H-1B Specialty Occupation workers; applicants for asylum and withholding of deportation or removal, some applicants for adjustment of status to lawful permanent resident, suspension of deportation or cancellation of removal, TPS and approved Violence Against Women Act (VAWA) self-petitioners. For a full list, see Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, 48803-04 (Oct. 30, 2025).
[iii] Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799 (Oct. 30, 2025), https://www.federalregister.gov/documents/2025/10/30/2025-19702/removal-of-the-automatic-extension-of-employment-authorization-documents.
[iv] Removal of Automatic Extension of Employment Authorization Documents, 91 Fed. Reg. 65306, 65354 (Oct. 14, 2026), https://www.federalregister.gov/documents/2026/10/14/2026-20955/removal-of-automatic-extensions-for-certain-employment-authorization-documents.
[v] See U.S. Citizenship and Immigration Services, "Form I-765, Application for Employment Authorization Counts of Pending Applications by Days Pending and by Filing Type for All Eligibility Categories and (c)(8) Pending Asylum Category (Fiscal Year 2025, Quarter 1), April 30, 2025, https://www.uscis.gov/sites/default/files/document/data/i765_p_allcat_c08_fy2025_q1.xlsx; *and* U.S. Citizenship and Immigration Services, "Form I-765, Application for Employment Authorization Counts of Pending Applications by Days Pending and by Filing Type for All Eligibility Categories and (c)(8) Pending Asylum Category (Fiscal Year 2026, Quarter 1), June 12, 2026, https://www.uscis.gov/sites/default/files/document/reports/i765_p_allcat_c08_fy2026_q1_v1.xlsx.
[vi] See U.S. Citizenship and Immigration Services, "Form I-765, Application for Employment Authorization Counts of Pending Applications by Days Pending and by Filing Type for All Eligibility Categories and (c)(8) Pending Asylum Category (Fiscal Year 2026, Quarter 3), June 30, 2026, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2026_q3_v1.xlsx.
[vii] Employment Authorization Reform for Asylum Applicants, 91 Fed. Reg. 8616 (Feb. 23, 2026), https://www.federalregister.gov/documents/2026/02/23/2026-03595/employment-authorization-reform-for-asylum-applicants.
[viii] Currently, asylum applicants must wait an additional 30 days (or 180 days total from the date of filing their asylum application) before they can be issued a work permit. See 8 CFR 208.7(a)(1)(i), (v).
[ix] Currently, asylum applicants are ineligible for work authorization if they've been convicted of an aggravated felony. See 8 CFR 208.7(a)(1).
[x] See 8 U.S.C. § 1158(a)(1).
[xi] See 8 U.S.C. § 274a.13(a)(1)("The approval of applications filed under 8 CFR 274a.12(c), except for 8 CFR 274a.12(c)(8), are within the discretion of USCIS.").
[xii] This rule is currently blocked by a district court order. See American Immigration Council, "Challenging the Trump Administration's Regulation Gutting Appellate Review at the Board of Immigration Appeals," accessed July 15, 2026, https://www.americanimmigrationcouncil.org/litigation/board-immigration-appeals/.
[xiii] Clarification of Discretionary Employment Authorization for Certain Aliens, 91 Fed Reg. 34352 (June 5, 2026), https://www.govinfo.gov/content/pkg/FR-2026-06-05/pdf/2026-11285.pdf.
[xiv] 91 Fed. Reg. at 34384.
[xv] 91 Fed. Reg. at 34385.
[xvi] USCIS states that these categorical eligibility bars will apply to all discretionary employment authorization requests under 8 C.F.R. § 274.12(c), except applicants for asylum under (c)(8), applicants for Temporary Protected Status under (c)(19), applicants for legalization based on INA section 210 under (c)(20), applicants for legalization based on INA section 245A under (c)(22) and applicants for adjustment of status based on section 1104 of the LIFE Act under (c)(24). See Clarification of Discretionary Employment Authorization for Certain Aliens, 91 Fed. Reg. at 34408 ("These proposed changes will not only affect the (c)(11), (c)(14), and (c)(18) populations, but all discretionary [Employment Authorization Document] populations, excluding (c)(8),

(c)(19), (c)(20), (c)(22), and (c)(24)" (footnotes omitted)). However, the proposed text of the relevant regulation, 8 C.F.R.§ 274a.13(a)(1)(iv), does not include these exceptions. See ibid at 34478.

[xvii] One exception is 8 C.F.R. § 208.7(a)(1) which bars asylum applicants from receiving work authorization if they've been convicted of an aggravated felony.

[xviii] 91 Fed. Reg. at 34384.

[xix] This requirement already exists for work authorization under deferred action (c)(14) and orders of supervision (c)(18) categories.

[xx] Muzaffar Chishti and Kathleen Bush-Joseph, "With 'Shock and Awe,' the Second Trump Term Opens with a Bid to Strongly Reshape Immigration," Migration Policy Institute, January 23, 2025, https://www.migrationpolicy.org/journal/policy-beat/shock-and-awe-second-trump-term-opens-bid-strongly-reshape-immigration.

[xxi] 8 U.S.C. § 1254a(b)(5)(A).

[xxii] *Mullin v. Doe*, No. 25-1083, slip op. at 18 (U.S. June 25, 2026).

[xxiii] See, generally Sup. Ct. R. 45.3 ("... The copy of the opinion or order and judgment will be sent 32 days after entry of the judgment, unless the Court or a Justice shortens or extends the time, or unless the parties stipulate that it be issued sooner. . . ."). The "mandate" is "the final step in the Supreme Court, the moment when the court certifies to a lower federal or state court the outcome of the case. Put simply: It is when the court's judgment becomes official." Stephen Wermiel, "The bottom line," SCOTUSBlog, March 23, 2026, https://www.scotusblog.com/2026/03/the-bottom-line/. Nevertheless, the immediate effects of Supreme Court decisions differ based on the federal appellate circuit. See, e.g., *Cox v. Dept. of Justice*, 111 F.4th 198, 209 (2d Cir. 2024) ("A published opinion . . . becomes binding precedent when it is decided. The fact that a mandate has not yet issued means only that jurisdiction over the case has not yet shifted back to the district court; . . .).

[xxiv] See U.S. Citizenship and Immigration Services, "G-1055, Fee Schedule," last updated June 15, 2026, https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf (indicating that a request for work authorization for an applicant with a pending I-485, application for adjustment of status, requires a fee of $260). To maintain continuous employment during a five-year period, a green card applicant would have to file a work permit request 3 times.

[xxv] See U.S. Citizenship and Immigration Services, "G-1055, Fee Schedule," last updated June 15, 2026, https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf (indicating that a work authorization renewal request for an asylum applicant requires a fee of $520 fee plus an additional One Big Beautiful Bill Act fee of $275, for a total of at least $795 if the request is filed by paper). To maintain continuous employment during a five-year period, an asylum applicant would have to file a work permit request 3 times.

[xxvi] See U.S. Citizenship and Immigration Services, "G-1055, Fee Schedule," last updated June 15, 2026, https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf (indicating that a work authorization renewal for TPS holders requires a $520 fee plus an additional One Big Beautiful Bill Act fee of $560). To maintain continuous employment during a five-year period, a TPS holder—assuming they have TPS during the entire period—would have to file a work permit request 5 times instead of 3 under an 18-month work permit.

[xxvii] USCIS Immigration Fees and Related Procedures Required by H.R.1 Reconciliation Bill, 91 Fed. Reg. 22952 (April 29, 2026), https://www.federalregister.gov/documents/2026/04/29/2026-08333/uscis-immigration-fees-and-related-procedures-required-by-hr1-reconciliation-bill.

[xxviii] See *Venez. Ass'n of Mass., et al. v. United States Citizenship and Immigr. Servs.*, No. 26-cv-13038 (D. Mass. July 1, 2026).

[xxix] See U.S. Citizenship and Immigration Services, "Court Issues Administrative Stay of Certain USCIS Policies ," July 23, 2026, https://www.uscis.gov/newsroom/alerts/court-issues-administrative-stay-of-certain-uscis-policies.

[xxx] See *Matter of L-F-R-*, 29 I&N Dec. 787, 792 (BIA 2026) (the Board also held that failure to pay the annual asylum fee within the deadline set by the immigration judge does not impact an application for withholding of removal or protection under the Convention Against Torture, despite those requests being included in the same I-589 form requesting asylum).

[xxxi] *Dorcas Int'l Inst. of R. I. v. U. S. Citizenship and Immigr. Servs.*, No. 26-cv-00132, Mem. & Order, Doc. 28 (D.R.I. June 5, 2026).

[xxxii] *Dorcas Int'l Inst. of R. I. v. U. S. Citizenship and Immigr. Servs.*, No. 26-1703 (1st Cir. June 12, 2026).

[xxxiii] *Hedayati v. Edlow*, No. 26-cv-04054, Order Granting in Part and Denying in Part Plaintiff's Motion for Preliminary Injunction and Denying Without Prejudice Defendant's Motion to Stay Proceedings, Doc. 30 (July 7, 2026).