



News & Types: Immigration Monthly Updates

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## LITIGATION UPDATE: H-1B \$100,000 FEE

In September 2025, a Presidential Proclamation imposed a \$100,000 fee on certain H-1B petitions. The Administration stated that the measure was intended to deter perceived abuses of the H-1B program and protect U.S. workers from displacement in specialized occupations. Since then, there has been ongoing federal litigation in various states regarding the legality of the \$100,000 fee.

On June 8, 2026, the U.S. District Court for the District of Massachusetts struck down the fee, holding that the executive branch lacked authority to impose it because it functioned as a tax that had not been authorized by Congress. The lawsuit was filed by a coalition of states led by California, which argued that the fee exceeded the President's legal authority.

However, the Administration promptly appealed the decision and sought a stay of the ruling and on June 12, 2026, the court issued an administrative stay, temporarily pausing the June 8 decision while the government seeks further relief from the U.S. Court of Appeals for the First Circuit. The stay remains in effect pending the First Circuit's consideration of the government's anticipated motion for a stay pending appeal. The administrative stay does not address the merits of the case but preserves the status quo while appellate proceedings move forward.

As a result, the \$100,000 fee remains in effect for now. Employers filing affected H-1B petitions should therefore continue to anticipate the fee and should seek counsel before making any business decisions based on the federal litigation.

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## JULY 2026 VISA BULLETIN

The U.S. Department of State (DOS) has released the July 2026 Visa Bulletin, which shows some movement from the previous month.

Who becomes eligible to be approved for Permanent Resident status (a "Green Card") or have their Immigrant Visa interview scheduled at a U.S. Consular Post?

For employment-based immigration foreign nationals falling under the list below, who have applied for AOS and have submitted all the required documentation including the Medical Examination (Form I-693), become

eligible to have USCIS complete the processing of their application in June 2026. Similarly, foreign nationals falling under the list below who will complete the Immigrant Visa processing at a U.S. Consular Post and who have submitted all the required documentation become eligible to have their interview scheduled in July 2026.

#### First Preference (EB-1)

- All countries (except China and India): Current (*no change from June 2026*)
- China: Priority date before December 1, 2023 (*no change from June 2026*)
- India: Priority date before December 1, 2023 (*no change from June 2026*)

#### Second Preference (EB-2)

- All countries except China and India: Current (*no change from June 2026*)
- China: Priority date before January 1, 2022 (*no change from June 2026*)
- India: Priority date before January 15, 2015 (*no change from June 2026*)

#### Third Preference (EB-3)

- All countries except China, India, and the Philippines: Current (*no change from June 2026*)
- China: Priority date before January 1, 2022 (*advanced from June 15, 2021*)
- India: Priority date before January 15, 2015 (*advanced from November 15, 2013*)
- Philippines: Current (*advanced from January 1, 2024*)

#### Who may apply for Adjustment of Status (AOS) during July 2026?

USCIS will be relying on “Final Action Dates” to determine who is eligible apply for permanent resident status in the United States through a process called Adjustment of Status (AOS). This means that the priority dates below will govern who is eligible to file for AOS in July 2026.

#### First Preference (EB-1)

- All countries except China and India: Current (*no change from June 2026*)
- China: Priority date before June 1, 2023 (*advanced from April 1, 2023*)
- India: Priority date before October 15, 2022 (*retrogressed from December 15, 2022*)

#### Second Preference (EB-2)

- All countries except China and India: Current (*no change from June 2026*)
- China: Priority date before September 1, 2021 (*no change from June 2026*)
- India: Unavailable – The EB-2 Immigrant Visa has been met for this year (*Additional information is contained in the article below.*)

#### Third Preference (EB-3)

- All countries except China, India, and the Philippines: Priority date before August 1, 2024 (*advanced from June 1, 2024*)
- China: Priority date before December 22, 2021 (*advanced from August 1, 2021*)
- India: Priority date before January 1, 2014 (*advanced from December 14, 2013*)

- Philippines: Priority date before August 1, 2023 (*no change from June 2026*)

For more detail on how priority dates work, please see our client advisory “Understanding When Your Priority Date is “Current” to File (and Be Approved) for a Green Card.”

## **DEPARTMENT OF STATE ANNOUNCES EB-2 INDIA VISA NUMBERS EXHAUSTED FOR FY 2026**

The DOS has announced that all available EB-2 immigrant visa numbers for applicants chargeable to India have been exhausted for Fiscal Year 2026. As a result, U.S. consulates may not issue additional EB-2 immigrant visas to Indian nationals through September 30, 2026.

The exhaustion of visa numbers also affects adjustment of status applicants in the United States. While USCIS may continue to accept eligible filings, it cannot approve EB-2 India adjustment applications until additional visa numbers become available. Pending cases will remain on hold until visa numbers are restored.

New employment-based visa numbers will become available at the start of Fiscal Year 2027 on October 1, 2026. This announcement reflects the continued high demand in the EB-2 India category and serves as a reminder of the significant immigrant visa backlog facing Indian nationals.

### **SUMMER VISA APPLICANTS MAY FACE DELAYS**

As the summer travel season begins, individuals seeking visas to travel to the United States should anticipate potential delays in processing. U.S. consular posts must balance competing priorities, the foremost of which is providing services to U.S. citizens abroad who require assistance. In addition, consular posts may adjust visa appointment availability and reprioritize services when U.S. government officials or dignitaries are visiting the host country.

With respect to visa processing for foreign nationals, immigrant visa (“IV”) applications for permanent residence are generally prioritized over nonimmigrant visa (“NIV”) applications. Within the IV category, higher priority is often given to cases involving adopted children, applicants at risk of “aging out” of eligibility, certain Special Immigrant Visa classifications, and immediate relatives of U.S. citizens. Other family-based and employment-based immigrant visa categories may experience longer wait times as a result.

Nonimmigrant visa applicants are typically a lower priority overall. Among NIV applicants, U.S. consular posts generally prioritize diplomatic and official visa categories (A, G, NATO), mission-critical and emergency travelers, and students (F and M visas) and exchange visitors (J visas). Applicants seeking employment-based nonimmigrant visas (such as E, H, L, O, P, and TN visas), as well as visitor visas (B-1/B-2), may encounter comparatively longer wait times for interview scheduling and processing.

U.S. consular officers are also required to thoroughly review all visa applications to assess eligibility and identify any potential national security concerns. Applicants who have previously been denied a visa, overstayed a prior admission to the United States, had any encounters with law enforcement worldwide, received a waiver of inadmissibility, or present inconsistencies between their application and interview should expect heightened scrutiny and possible delays or denial.

Additionally, consular officers are required to review an applicant's public social media presence as part of the adjudication process. For individuals applying for employment-based nonimmigrant visas, it is critical that professional profiles (such as LinkedIn) are consistent with the information provided in the underlying immigration petition, including the employer's name, dates of employment, job title, and description of duties.

Applicants for both immigrant and nonimmigrant visas should be prepared to clearly and concisely explain their case during the visa interview. Within a brief period—often under 90 seconds—an applicant should be able to articulate *who* they are, *what* visa they are applying for and the reason for their travel, *where* they are going in the United States, *when* they will travel and how long they plan to stay, and *why* they should be granted a visa to the United States.

Given the high demand for U.S. visas, the DOS has been exploring the possibility of a pilot program that would allow certain applicants to pay a fee for expedited appointment scheduling. If such a program is formally implemented, further updates will be provided in future editions of the Masuda Funai Business Immigration Monthly.

## **THE SLOW DEATH OF TEMPORARY PROTECTED STATUS**

### The Statutory Framework

Temporary Protected Status (“TPS”) was created by Congress in the Immigration Act of 1990 (Pub. L. No. 101-649, 104 Stat. 4978). This law (“INA”) formalized a long-standing humanitarian practice, building upon earlier administrative programs such as “Extended Voluntary Departure”, which dates back to 1960. Authority to administer the program under the INA, originally vested in the Attorney General, is now held by the Secretary of the Department of Homeland Security (“DHS”). TPS may be designated for nationals of a country in three circumstances:

1. Ongoing armed conflict,
2. Environmental disaster or epidemic, where the foreign state requests designation, or
3. Extraordinary and temporary conditions preventing safe return.

Eligible nationals may remain in the United States, are protected from removal, and may obtain employment authorization for the duration of a TPS designation.

### A Temporary Program That Became Long-Term Relief

By statute, TPS designations are granted for periods of 6 to 18 months, subject to renewal. In practice, however, many designations have persisted for decades:

- Somalia (since 1991)
- Sudan (since 1997)
- El Salvador (since 2001)
- Haiti (since 2010)
- South Sudan (since 2011)

- Syria (since 2012)
- Yemen (since 2015)

### The Administration's Shift Toward Termination

The Administration has moved aggressively to terminate or decline renewal of TPS designations, frequently through notices published in the *Federal Register*. Unsurprisingly, each termination has been met with litigation. For a time, TPS beneficiaries from countries including Haiti and Syria successfully obtained court-ordered stays, preserving their status while challenges proceeded through the courts.

### The Supreme Court's Decision

The U.S. Supreme Court has now weighed in issuing its decision on June 25, 2025. In a 6–3 decision, the Supreme Court held that the provision of the INA limiting judicial review of TPS designations, extensions, and terminations is valid and enforceable. The ruling confirms that Congress has vested broad, largely unreviewable discretion in DHS.

The decision held that:

- Challenges to TPS terminations are barred by statute.
- Equal protection claims raised by TPS holders are unlikely to succeed.
- Authority over TPS rests squarely within the Executive Branch.

In stark terms, the Supreme Court recognized that the same authority that allows DHS to create a TPS designation also allows it to terminate one.

### Immediate Consequences

The Supreme Court's decision effectively ends the litigation pathway that has sustained many long-standing TPS programs.

As a result:

- Haiti TPS, in place since the 7.0 magnitude earthquake in 2010 which impacted one-third of Haiti's population, killed more than 200,000 people and displaced more than 1 million, is now ending.
- Syria TPS, tied to a civil war ongoing since 2011, likewise faces termination.
- Other previously enjoined terminations are poised to take effect, including the programs for:
  - Burma (Myanmar)
  - Ethiopia
  - Honduras
  - Nepal
  - Nicaragua
  - Somalia
  - South Sudan
  - Venezuela
  - Yemen

The disappearance of TPS will leave tens of thousands of people, who have called the United States “home”, facing legal uncertainty, loss of work authorization, and potential removal.

#### The TPS Programs That Remain—For Now

As of June 30, 2026, several TPS designations remain in effect:

- El Salvador through September 9, 2026
- Sudan through October 19, 2026
- Ukraine through October 19, 2026
- Lebanon through November 27, 2026

Under the INA, DHS must provide notice of termination, which becomes effective at least 60 days after publication in the Federal Register (or later, depending on prior extension timelines). Given current policy direction and barring legislative intervention, further terminations appear likely.

Additional updates will be provided in future editions of the Masuda Funai Business Immigration Monthly as guidance becomes available.

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