



USCIS EXPANDS THE I-601A TO BENEFIT ALL FAMILY CATEGORIES, EMPLOYMENT PETITIONS, GREEN CARD LOTTERY WINNERS AND INDIVIDUALS WHO HAVE BEEN ORDERED DEPORTED

U.S. Citizenship and Immigration Services (USCIS) announced a final rule expanding the existing provisional waiver process to allow certain individuals who are family members of U.S. citizens and lawful permanent residents (LPRs), and who are statutorily eligible for immigrant visas, to easily navigate the immigration process. The provisional waiver process promotes family unity

by reducing the time that eligible individuals are separated from their family members while they complete immigration processing abroad, while also improving administrative efficiency.

This final rule builds on a process established in 2013 to support family unity.

18-MONTH REDESIGNATION AND EXTENSION OF TEMPORARY PROTECTED STATUS FOR SYRIA

Current TPS beneficiaries must re-register from August 1 to Sept. 30, 2016.

Syrian nationals and persons, without nationality, habitually residing in Syria who have continuously resided in the US since August 1, 2016 and continuously present since October 1, 2016 can obtain TPS by registering from August 1 to January 30, 2017



Under that process, certain immediate relatives of U.S. citizens can apply for provisional waivers of the unlawful presence ground of inadmissibility, not based on the extreme hardship their U.S. citizen spouses or parents would suffer if the waiver were granted. The rule announced on July 29, 2016, which is in effect on Aug. 29, 2016, expands eligibility for the provisional waiver process to all individuals who are statutorily eligible for the waiver of the unlawful presence ground of inadmissibility. USCIS expects to update its Policy Manual to provide guidance on how USCIS makes “extreme hardship” determinations in the coming weeks.

Until now, only immediate relatives of U.S. citizens were eligible to seek such provisional waivers before departing the United States for the processing of their immigrant visas. Those eligible for the provisional waiver process under the 2013 rule are only a subset of those eligible for the waiver under the statute. This regulation expands eligibility for the process to all individuals who are statutorily eligible for the waiver.

To qualify for a provisional waiver, applicants must establish that their U.S. citizen or lawful permanent resident spouses or parents would experience “extreme hardship” if the applicants are not allowed to return to the United States.

The final rule also makes changes to Form I-601A, Application for Provisional Unlawful Presence Waiver. These changes will go into effect along with the final rule. The updated form has been already posted on USCIS’ website at uscis.gov/i-601a on August 29, 2016.

EB-5, PETITION FOR ENTREPRENEUR, USCIS PROCESSING TIMES

Form I-526 (Immigrant Petition by Alien Entrepreneur)

16.7 months (.1 month
increase from previous
month!)

Form I-829 (Petition by Entrepreneur to Remove Conditions)

21.3 months (1.2 month
increase from previous
month!)

Form I-924 (Application for Regional Center)

10.2 months (.3 month
increase from previous month)



I-9 INVESTIGATIONS ARE ON THE RISE AND THE DEPARTMENT OF JUSTICE HAS INCREASED FINES

Every U.S. employer must file a Form I-9 upon hiring a new employee. It is a deceptively simple form used to verify a new hire's eligibility to work in the United States. While appearing to be simple, employers often make mistakes when completing a Form I-9 and leave themselves open to fines and penalties for non-compliance, in addition to potentially running afoul of anti-discrimination provisions. Effective August 1st, 2016, the Department of Justice (DOJ) is raising penalties for Form I-9 non-compliance and penalties for violations on certain visa categories. Fines for mistakes or omissions on the Form I-9 will increase by 96%, so now it is more

important than ever for employers to ensure their Form I-9s are fully in compliance before it is too late.

Changes to note include:

I-9 Verification Paperwork Violations

Maximum Penalty increase from **\$1,100 to \$2,156**

Minimum Penalty increase from **\$110 to \$216**

H-1B Program Violations

\$1,782 maximum penalty for minor violations (ex. LCA misrepresentation)

\$7,251 maximum penalty for major violations (e.g. working conditions)

\$50,578 maximum penalty for displacing a US worker



USCIS PROPOSES RULE TO WELCOME INTERNATIONAL ENTREPRENEURS

U.S. Citizenship and Immigration Services (USCIS) is proposing a new rule, which would allow certain international entrepreneurs to be considered for parole (temporary permission to be in the United States) so that they may start or scale their businesses here in the United States.

“America’s economy has long benefitted from the contributions of immigrant entrepreneurs, from Main Street to Silicon Valley,” said Director León Rodríguez. “This proposed rule, when finalized, will help our economy grow by expanding immigration options for foreign entrepreneurs who meet certain criteria for creating jobs, attracting investment and generating revenue in the U.S.”

The proposed rule would allow the Department of Homeland Security (DHS) to use its existing discretionary statutory parole authority for entrepreneurs of startup entities whose stay in the United States would provide a significant public benefit through the substantial and demonstrated potential for rapid business growth and job creation. Under this proposed rule, DHS may parole, on a case-by-case basis, eligible entrepreneurs of startup enterprises:

- Who have a significant ownership interest in the startup (at least 15 percent) and have an active and central role to its operations;
- Whose startup was formed in the United States within the past three years; and
- Whose startup has substantial and demonstrated potential for rapid business growth and job creation, as evidenced by:
 - Receiving significant investment of capital (at least \$345,000) from certain qualified U.S. investors with established records of successful investments;
 - Receiving significant awards or grants (at least \$100,000) from certain federal, state or local government entities; or
 - Partially satisfying one or both of the above criteria in addition to other reliable and compelling evidence of the startup entity’s substantial potential for rapid growth and job creation.

Under the proposed rule, entrepreneurs may be granted an initial stay of up to two years to oversee and grow their startup entity in the United States. A subsequent request for re-parole (for up to three additional years) would be considered only if the entrepreneur and the startup entity continue to provide a significant public benefit as evidenced by substantial increases in capital investment, revenue or job creation.

The notice of proposed rulemaking in the Federal Register invites public comment for 45 days, after which USCIS will address the comments received. The proposed rule does not take effect with the publication of the notice of proposed rulemaking. It will take effect on the date indicated in the final rule when a final rule is published in the Federal Register.

For more information, or if you believe that you, a friend or colleague may be able to benefit from these recent announcements, please contact:



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