



September 27, 2023

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Policy Alert

SUBJECT: Employment Authorization Document Validity Period for Certain Categories

Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the [USCIS Policy Manual](#) regarding maximum validity periods for Employment Authorization Documents (EADs, Form I-766) issued to refugees and asylees, noncitizens paroled as refugees, noncitizens granted withholding of removal, noncitizens with pending applications for asylum or withholding of removal, noncitizens with pending applications for adjustment of status under INA 245, and noncitizens seeking suspension of deportation or cancellation of removal.¹ USCIS is also clarifying that the Arrival/Departure Record (Form I-94) may be used as evidence of both status and employment authorization for certain EAD categories that are employment authorized incident to status or parole.²

Background

A noncitizen must obtain employment authorization in order to work in the United States legally. While certain classes of noncitizens are authorized to engage in employment through their immigration status, commonly referred to as employment authorization incident to status, other classes of noncitizens are authorized to engage in employment only if they apply for and are granted such authorization by USCIS.³ In certain cases, USCIS may issue an EAD to serve as evidence of employment authorization. USCIS has the discretion to assign the validity period for EADs issued to noncitizens in both of these categories of employment authorization.⁴

¹ Specifically, noncitizens seeking suspension of deportation under former INA 244, cancellation of removal under INA 240A, or relief under the Nicaraguan Adjustment and Central American Relief Act (NACARA) and whose applications have been properly filed with USCIS or the Executive Office of Immigration Review (EOIR).

² Certain Afghan and Ukrainian parolees are employment authorized incident to parole as a matter of policy, which aligns with the spirit of legislation that provides that these parolees “shall be eligible for . . . other benefits available to refugees” See Section 2502(b) of the Extending Government Funding and Delivering Emergency Assistance Act, [Pub. L. 117-43](#), 135 Stat. 344, 377 (September 30, 2021), amended by Section 1501 of Division M of the Consolidated Appropriations Act of 2023, [Pub. L. 117-328](#), 136 Stat. 4459, 5189 (December 29, 2022), and Section 401(b) of the Additional Ukraine Supplemental Appropriations Act, [Pub. L. 117-128](#), 136 Stat. 1211, 1218 (May 21, 2022).

³ See [8 CFR 274a.12\(a\)](#) and [8 CFR 274a.12\(c\)](#).

⁴ See [8 CFR 274a.12\(a\)](#) (“USCIS may, in its discretion, determine the validity period assigned to any document issued evidencing an alien's authorization to work in the United States.”). See [8 CFR 274a.12\(c\)](#) (“USCIS, in its discretion, may establish a specific validity period for an employment authorization document, which may include any period when an administrative appeal or judicial review of an application or petition is pending.”).

Currently, USCIS policy guidance provides for a maximum 2-year validity period for EADs issued to asylees and refugees, noncitizens granted withholding of deportation or removal, noncitizens with pending applications for asylum or withholding of removal, and noncitizens with pending applications for adjustment of status under INA 245; and a maximum 1-year validity period for noncitizens paroled as refugees and noncitizens seeking suspension of deportation or cancellation of removal. In the interest of reducing the burden on both USCIS and the public, USCIS is revising its guidelines to increase the maximum EAD validity periods for these categories up to 5 years.

This update addresses certain EAD-related stakeholder feedback USCIS received in response to a Request for Public Input (RPI).⁵ Specifically, the RPI feedback suggested increasing maximum EAD validity period guidelines for certain categories. USCIS has determined that it is appropriate to issue revised guidance that increases the maximum EAD validity periods for the categories mentioned above. The increase in the EAD validity period will reduce the frequency with which affected noncitizens must file an Application for Employment Authorization ([Form I-765](#)) with USCIS if they wish to renew their EAD.

This update also includes other clarifications related to employment authorization, including clarifying that the Form I-94 can be used as both evidence of status and employment authorization for certain noncitizens who are employment authorized incident to status or circumstance. The update also explains that certain Afghan parolees and certain Ukrainian parolees are employment authorized incident to parole.

This guidance, contained in Volumes 3 and 10 of the Policy Manual, is effective immediately, and applies to Applications for Employment Authorization ([Form I-765](#)) that are pending or are filed on or after September 27, 2023.⁶ The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Updates the maximum validity period for initial and renewal EADs from 2 years to 5 years for those admitted as refugees,⁷ granted asylum,⁸ and granted withholding of deportation or removal.⁹
- Updates the maximum validity period for initial and renewal EADs from 2 years to 5 years for those with pending applications for asylum or withholding of removal¹⁰ and those with pending applications for adjustment of status under INA 245.¹¹

⁵ See [86 FR 20398](#) (Apr. 19, 2021).

⁶ EADs issued before that date are not affected. USCIS will continue to issue replacement EADs with the same validity periods as the original EAD. Applicants file for a replacement EAD if their card has been lost, stolen, mutilated, or when the previously issued card contains erroneous information, such as a misspelled name.

⁷ See [8 CFR 274.12\(a\)\(3\)](#).

⁸ See [8 CFR 274.12\(a\)\(5\)](#).

⁹ See [8 CFR 274.12\(a\)\(10\)](#).

¹⁰ See [8 CFR 274a.12\(c\)\(8\)](#).

¹¹ See [8 CFR 274a.12\(c\)\(9\)](#).

- Updates the maximum validity period for initial and renewal EADs from 1 year to 5 years for those with pending applications for suspension of deportation or cancellation of removal.¹²
- Updates the maximum validity period for initial and renewal EADs from 1 year to the end date of the authorized parole period, not to exceed 5 years, for those paroled as refugees.¹³
- Lists the categories of noncitizens with employment authorization incident to status whose Form I-94 is evidence of employment authorization as well as of their immigration status.
- Explains that certain Afghan parolees and certain Ukrainian parolees are employment authorized incident to their parole.

Summary of Changes

Affected Section: Volume 3 > Part F > Chapter 1 > Section B, Background

- Revises the last paragraph in the section, including the first footnote in that paragraph.

Affected Section: Volume 10 > Part A > Chapter 2 > Section A, Authorized to Work for Any Employer Based on Status or Circumstances

- Adds subsection headings to separate the existing list into two categories.
- Adds paragraph under new Subsection 1 (Noncitizens Who Must Apply for Documentation of Employment Authorization) and adds “certain Afghan parolees and certain Ukrainian parolees” with new footnote to the Subsection 1 list.
- Adds paragraphs under new Subsection 2 (Noncitizens Who Do Not Need to Apply for Documentation of Employment Authorization), and adds several paragraphs under a new italicized heading, “Documentation DHS Issues as Evidence of Employment Authorization.”
- Adds new footnotes and other minor technical revisions.

Affected Section: Volume 10 > Part A > Chapter 2 > Section C, Noncitizens Required to Apply for Employment Authorization

- Provides minor technical revisions to the first paragraph and list.
- Revises footnote relating to parolees in list.

Affected Section: Volume 10 > Part A > Chapter 4 > Section C, Decision

¹² See [8 CFR 274a.12\(c\)\(10\)](#).

¹³ See [8 CFR 274.12\(a\)\(4\)](#).

- In Subsection 1 (Approval), updates the first chart to reflect the new maximum validity periods for the (a)(3), (a)(4), (a)(5), and (a)(10) categories.
- In Subsection 1 (Approval), updates the second chart to reflect the new maximum validity periods for the (c)(8), (c)(9), and (c)(10) categories.
- Makes a minor technical revision to the second chart, revises a footnote related to the parole category in the chart, adds a new footnote to the (c)(9) category, and adds additional information to the footnote for the (c)(10) category.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 3: Humanitarian Protection and Parole, Part F, Parolees, Chapter 1, Purpose and Background [[3 USCIS-PM F.1](#)].

Volume 10: Employment Authorization, Part A, Employment Authorization Policies and Procedures, Chapter 2, Eligibility Requirements [[10 USCIS-PM A.2](#)] and Chapter 4, Adjudications [[10 USCIS-PM A.4](#)].