CLINIC

Navigating Changes Under Trump 2.0:

Practical Guidance for Advocates and Programs

Since taking office, the Trump administration has issued a barrage of executive orders, policy actions, memos, and guidance documents regarding immigration and the enforcement of immigration laws. These rapid-fire changes are intended to confuse and overwhelm advocates. This resource summarizes the Department of Homeland Security (DHS), Department of State (DOS), and Office of Management and Budget (OMB) memos and actions issued since the change in administration that have specific, immediate, and direct impact on the work of legal service providers (LSPs) and their clients.

Contents

OMB Memo on the Temporary Pause of Agency Funding 3

ICE Memo on Civil Enforcement in or Near Courthouses 4

ICE Directive Ending Certain Humanitarian Parole Programs 5

ICE Memo on Enforcement Actions Involving Petitioners and Beneficiaries of Victim-Based Benefits 7

ICE Directive on Stays of Removal and Private Immigration Bills 8

DHS Actions on the Expansion of Expedited Removal 9

DHS Notice of Vacatur of TPS for Venezuela 12

DHS Notice of Partial Vacatur of TPS for Haiti 13

DHS Notice Designating Foreign Terrorist Organizations 14

USCIS Memo on the Issuance of Notices to Appear 15

Memorandum for Heads of Executive Departments and Agencies from the Office of Management and Budget (OMB): Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs (*Rescinded*)

This memo, colloquially known as the "federal funding freeze," attempted to pause disbursement of all federal contracts and grants. While this memo was rescinded following litigation challenges, and many disbursements have resumed, some sources of federal funding remain vulnerable to possible pauses or cuts. The memo ordered all federal agencies, to the extent permissible under applicable law, to "temporarily pause all activities related to obligation or disbursement of all Federal financial assistance" to provide time to "complete a comprehensive analysis of all of their Federal financial assistance programs to identify programs, projects, and activities that may be implicated by any of the President's executive orders."

The executive order "Protecting the American People Against Invasion" called for the audit and elimination of federal funding to organizations that provide direct or indirect support or services to removable or undocumented individuals. Litigators filed suit almost immediately, and the D.C. District Court granted an administrative stay on Jan. 28, 2025. Following the administrative stay, the OMB memo was rescinded. But the administration immediately signaled it would continue to pursue funding cuts to programs that do not align with its priorities. For example, the White House Press Secretary clarified that the recission of the memo "is not a rescission of the federal funding freeze."

Since the memo's rescission, the administration continues to seek to terminate funding awards that do not align with its priorities, citing regulations (*e.g.*, 2 CFR § 200.340) that allow for the administration to review awards in some circumstances. Despite the recission of the memo, the administration has cut or attempted to cut certain types of funding, including the U.S. Citizenship and Immigration Services (USCIS) citizenship grant and funding for refugee resettlement and legal access programs. The Trump administration will likely continue to make further efforts to eliminate federal funding for immigration-related services, including funding for LSPs. Funding awarded under the Executive Office for Immigration Review's (EOIR) Office of Legal Access contracts and funding stemming from the Department of Health and Human Services and the Office of Refugee Resettlement for refugee resettlement and legal services are acutely vulnerable to interruptions or cuts.

Impact: Funding cuts to LSP organizations could lead to interruptions in services; where possible, programs can try to avoid this by taking the steps laid out in the program management tips below.

Program Management Tips: Program Managers (PMs) should take steps to assess and diversify funding, engage your board of directors, develop succession plans, review contractual commitments, and communicate with staff.

- Assess your current funding support. You will want to identify all grants that consist of federal funding. This may include funding that does not come directly from federal funding but has its original source in federal funding. For example, many states and funders receive federal funding that they then sub-grant to organizations.

- Begin and/or continue searching for non-federal funding, including through fees-for-service models and fundraising events. It is always wise for your revenue stream to include diverse funding sources. Importantly, seek out funding that could serve to replace your organization's federal funding.
- If you do not charge fees for your services, you may want to consider whether your organization wants to start collecting fees. If you already charge fees, you may want to evaluate your fee schedule. For more information on considering a fees-for-service model and/or increasing your service rates, see Responding to the Trump Administration's Funding Challenges.
- Maintain effective and frequent communication with your organization's board members who engage with the community and other organizations that support immigrants. If you do not have a community connector on your board to help engage in fundraising, consider expanding your board to include a new board member to serve in this role.
- If you anticipate the need to downsize your staff, it will be important to assess your organization and staff's contractual and ethical responsibilities and consider succession planning. For more information, see Considerations Before Deciding to Downsize or Close an Immigration Legal Services Program.
- Whether or not you talk about funding, your staff will likely be nervous about their job security. Most often, ILS staff are in this work because this is where they want to be. Your most devoted staff will respect a leader who is forthcoming and cares. Be as transparent with staff as possible, and they will likely do the same for their leaders. Ensure that your communications recognize the humanity of your staff. Do not cause unnecessary panic but be realistic.

ICE Interim Guidance: Civil Immigration Enforcement in or Near Courthouses

This memo, which encourages Immigration and Customs Enforcement (ICE) to take enforcement action in or near courthouses against certain noncitizens rescinds and supersedes prior guidance that prohibited enforcement in or near courthouses, absent certain circumstances. The guidance instructs that ICE officers and agents should "generally avoid" such enforcement in or near courthouses, or dedicated areas within courthouses, wholly dedicated to "non-criminal proceedings" (e.g., family court, small claims court).

Enforcement actions in or near courthouses engaged in criminal proceedings will be prioritized against the following noncitizens:

1. Who pose national security or public safety threats.
2. Who have criminal convictions.
3. Who are gang members.
4. Who have been ordered removed from the United States but have failed to depart.
5. Who have re-entered the country illegally after being removed.

Impact: While presence may vary from jurisdiction to jurisdiction, clients and their attorneys may see ICE in and around courthouses. In many instances, this could include both civil and criminal courtrooms, as they are often housed in the same building. Clients are increasingly at risk if they fall into one of the above categories.

Practitioner Tips: Practitioners should:

- Identify current clients who have court matters outside of immigration court. Programs should consider advising these clients (1) of the consequences for failing to appear at court hearings; and (2) that they should speak to their representative in those matters for further details. Additionally…
    - For clients with matters in non-criminal proceedings, be sure to advise that enforcement should be generally avoided in those courts. However, share CLINIC's Know Your Rights documents in the event ICE is present.
    - For clients in criminal proceedings, especially those with past convictions or pending charges that could be construed to be as national security or public safety threats or gang-related, advise that they are a priority. Share CLINIC's Know Your Rights document in the event ICE is present.
- Identify current clients with past removal orders and advise those clients that they are a priority for enforcement. Share CLINIC's Know Your Rights resources.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of their open cases and use the list of open clients and cases to identify which clients should be consulted and advised, as described above.
- Consider requiring staff to send letters to all clients with open cases advising them of the interim guidance and sharing CLINIC's Know Your Rights documents as well as safety planning resources. Administrative staff, such as legal assistants or paralegals, may be able to help with this project.
- Set a deadline for the above process and assess the progress of this process along the way.

Organizations may consider organizing and hosting the following events for current clients and/or community members:

- Know Your Rights presentations.
- Safety planning clinics.
    - For more information on family preparedness plans, see the above Program Management tip regarding ICE Interim Guidance: Civil Immigration Enforcement in or near Courthouses.

ICE Directive: Ending the Abuse of Humanitarian Parole

This directive, which is not yet public, ends categorical parole programs, alleging its purpose to return humanitarian parole strictly to a case-by-case basis. On Jan. 21, 2025, a DHS spokesperson announced an ICE directive effectively ending the Biden-era special parole programs. The directive orders ICE and CBP to phase out any categorical parole programs and potentially has broad

implications for parolees or those applying for parole status, especially those who entered via a categorical or group-based parole program.

Categorical parole programs are designed to allow specific groups of individuals to apply for parole, such as individuals entering under the parole processes for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV); the Uniting for Ukraine program (U4U); Operation Allies Welcome for Afghans (OAW or OAR); and the Family Reunification Parole Process for beneficiaries of approved family-based petitions from Cuba, Haiti, Guatemala, El Salvador, Honduras, Colombia, and Ecuador. While these programs are based on group membership, parole is still granted on a case-by-case basis for each applicant. Only specific parolees qualify for categorical re-parole. A list of eligible parole programs for re-parole can be found on the USCIS website.

Impact: Because parole is a discretionary immigration benefit that can be revoked or canceled at any time, clients with parole obtained through a category or group-based parole program could:

- Have their parole revoked.
    - Clients whose parole is revoked during the granted period should receive written notice from DHS. See 8 CFR § 212.5(e) (DHS must notify parolees of revocation).
- Be subject to expedited removal if parole is revoked or canceled.
    - Cuban nationals who were granted parole and who apply for adjustment of status under the Cuban Adjustment Act should be advised that doing so may flag them as subject to expedited removal. Advocates should weigh the risks and benefits of the client's application.

Practitioner Tips: Practitioners should:

- Identify current clients with categorical parole. Advise those clients that:
    - They could have their parole revoked.
    - If they are eligible for other relief, such as asylum, they should consider applying as soon as possible.
    - They may be subject to expedited removal and should take certain precautions (see above).
- Review case notes to identify whether these clients may be eligible for alternative forms of permanent immigration relief.
- If a comprehensive screening has not been performed or the initial screening occurred more than six months ago, perform a comprehensive screening to identify whether there may now be alternative forms of permanent immigration relief for these clients. *See* CLINIC's Screening Tool.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of their open cases and use the list of open cases to identify which clients should be consulted and advised, as described above.
- Set a deadline for the above and assess the progress along the way.
- Consider whether it may be necessary to shift and balance staff caseloads.
- Train their staff or identify trainings and/or resources regarding parole, enforcement priorities, expedited removal, effective screening for alternative forms of relief, etc., that their staff can

attend to maintain requisite competence and diligence to ethically and zealously advocate for their clients, as required by ethics rules.

ICE Interim Policy: Guidance Regarding Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits

This memo provides guidance for enforcement involving noncitizens who are current beneficiaries of victim-based immigration benefits or have pending applications or petitions for such benefits. It rescinds two former ICE Directives advising ICE officers to use a victim-centered approach with noncitizen victims of crimes, including through prosecutorial discretion (PD). Specifically, it directs that ICE:

1. Coordinate with relevant law enforcement as appropriate to ensure criminal investigative and other enforcement actions will not be compromised.
2. Consult with DHS Office of the Principal Legal Advisor (OPLA) prior to taking enforcement action against a noncitizen beneficiary of a victim-based immigration benefit to ensure any enforcement action is consistent with applicable legal limitations.
3. Need not affirmatively seek to identify whether a noncitizen is a victim during enforcement action.
4. Need not consider a noncitizen's victim status or evidence of such in determining whether to take enforcement action.
5. Will no longer request expedited adjudication by USCIS except on a case-by-case basis if it is in ICE's best interest.

Impact: Individuals who have been granted or pending petitions for U status, T status, Continued Presence, or VAWA benefits with removal matters may face the following:

- Clients with orders of removal may be targeted for enforcement and reinstatement proceedings under the new guidance.
- Clients who are in removal proceedings and have pending petitions for these benefits may face barriers in requesting prosecutorial discretion for dismissal, administrative closure, or even continuances pending the adjudication of their petitions.
- For both types of clients, DHS may initiate proceedings or move to re-calendar or reopen prior proceedings against clients with prior removal orders who have since received grants of prosecutorial discretion based on their victim status or pending petitions.

Going forward, advocates can expect that PD requests are unlikely to be granted. However, this does not mean that these clients are without options, and advocates should explore termination and administrative closure under the regulations.

Practitioner Tips: Practitioners should:

- For clients with pending U, T, or VAWA petitions who also have orders of removal, consider filing motions to reopen (MTR) the removal orders. If a removal order issued by an

immigration judge (IJ) was appealed to the Board of Immigration Appeals (BIA), the MTR should be filed with the BIA.
    - The filing of some MTRs, such as motions to reopen/Rescind *in absentia* removal orders, automatically stay the removal order pending the adjudication of the motion. *See* 8 CFR § 1003.23(b)(4)(ii).
        - Notably, an IJ's removal order is automatically stayed when the MTR is filed by a battered spouse, parent, or child for the purposes of applying for VAWA adjustment of status or VAWA Cancellation of Removal. *See* INA § 240(c)(7)(C)(iv).
    - For other motions to reopen other removal orders that do not provide for automatic stays of removal, advocates should consider requesting a stay of removal from ICE by filing Form I-246, Application for a Stay of Deportation or Removal, after the Motion to Reopen is filed. While there may be risks involved in requesting a stay of removal from ICE and drawing their attention to an outstanding removal order, if an individual is detained, the risk of filing a stay is minimal. For sample stay of removal requests, see CLINIC's Removal Toolkit (Affiliate only).
    - For more information on filing motions to reopen, see National Immigration Litigation Association and American Immigration Council's practice advisory, The Basics of Motions to Reopen EOIR-Issued Removal Orders. For sample motions to reopen, see CLINIC's Removal Toolkit (Affiliate only).
- For clients with pending or approved U, T, or VAWA petitions who are in removal proceedings, consider filing motions for administrative closure or termination under the 2024 DOJ Regulations on Efficient Case and Docket Management in Immigration Proceedings in lieu of seeking PD from DHS.
    - For more information on these regulations and submitting Motions for Administrative Closure and Motions to Terminate, see Frequently Asked Questions: New DOJ Regulations on Efficient Case and Docket Management in Immigration Proceedings | Catholic Legal Immigration Network, Inc. (CLINIC). CLINIC Affiliates can also access sample motions in the removal toolkit.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of your open cases and use the list of open clients and cases to identify which clients should be consulted and advised, as described above.
- Set a deadline for the above processes and assess the progress along the way.
- Consider whether this tips the balance of your staff's caseloads across the organization and whether there may be cause for shuffling the caseloads around to support those with larger caseloads devoted to these forms of immigration benefits.
- Train your staff or identify trainings and/or resources regarding motions for administrative closure, motions to terminate, motions to reopen and stays of removal that your staff can attend.

ICE Directive: Stays of Removal and Private Immigration Bills

This memo removes the provision that requires an automatic stay of removal when members of Congress introduce private immigration bills and request an investigative report on behalf of a noncitizen beneficiary. It also increases ICE discretion in moving forward with removal proceedings

and granting stays; it imposes limitations on the duration of stay that can be granted. It rescinds and supersedes the 11/8/21 ICE Directive 5004.2, Stays of Removal and Private Immigration Bills.

Impact: Likely to be minimal since seeking private bills was relatively rare.

Practitioner Tips: Practitioners should:

- Identify individuals with pending or anticipated private immigration bills filed on their behalf with final removal orders.
- Preemptively file stays of removal with ICE and explore other forms of relief for which they may be eligible, including habeas petitions.
- Identify those in active removal proceedings who should apply for any other relief available to them.

Program Management Tips: If you have a client with a pending or anticipated private immigration bill, you should contact the client in writing to explain the memo's changes to the private immigration bill process.

Policy Action (Federal Register): Designating Aliens for Expedited Removal and DHS Memo: Guidance Regarding How to Exercise Enforcement Discretion

Together, these policies (1) expand the use of expedited removal and (2) prioritize removal action against those who fall into the expanded reach of expedited removal and those with categorical parole.

The Federal Register notice designates for expedited removal, with limited exceptions, noncitizens who are inadmissible pursuant to INA § 212(a)(6)(C) (fraud) or (a)(7) (not in possession of a valid entry document) and who (1) "have not been admitted or paroled into the United States" and (2) "have not affirmatively shown, to the satisfaction of an immigration officer, that they have been physically present in the United States continuously for the two-year period immediately preceding the date of the determination of inadmissibility."

The DHS memo directs officials to review and take enforcement steps regarding two classes of individuals. Enforcement actions to be considered are terminating removal proceedings and/or any active parole status and applying expedited removal. The suggested enforcement steps will focus on:

1. Individuals who are subject to expedited removal who have not yet been removed (because they are inadmissible under INA § 212(a)(6)(C) due to fraud or material misrepresentation or INA § 212(a)(7) for lack of valid entry documents if they have not been admitted or paroled and do not show continuous physical presence in the United States for the last two years); and

2. Any noncitizen DHS is aware of who does not meet category (1) but was granted a categorical parole (such as the CHNV program).

Under the memo, DHS should take all steps to review the case to (a) decide whether to initiate removal proceedings, and (b) review parole status to determine if parole is appropriate given any changed legal or factual circumstances. The memo emphasizes that parole is not an admission, and

the expedited removal process includes asylum screening. However, it also emphasizes that DHS should prioritize for enforcement action those subject to expedited removal who failed to file for asylum within one year. Statutory exceptions to the one-year filing deadline are provided in INA § 208(a)(2)(D) and include "changed circumstances," if circumstances have materially impacted the applicant's asylum eligibility, and "extraordinary circumstances," if extraordinary situations have led to a delay in filing the application.

The regulations specifically identify one such extraordinary circumstance where the "applicant maintained Temporary Protected Status, lawful immigrant or nonimmigrant status, or was given parole, until a reasonable period before the filing of the asylum application." 8 CFR § 1208.4(a)(5)(iv). Therefore, individuals who fall under category 2, above, would qualify for this exception if they apply for asylum before the expiration of their status or shortly thereafter.

Impact: The following clients could be subject to expedited removal and removed without the opportunity to go before a judge:

- Individuals who:
    - Are inadmissible under INA § 212(a)(6)(C)(i) (immigration fraud) OR
    - Are inadmissible under INA § 212(a)(7) (failure to have appropriate documentation); AND
        - Presented at the border as "arriving aliens" (without limit as to time) OR
        - Entered without inspection AND
            - Were apprehended within 14 days and 100 miles of the border (without limit as to time) OR
            - Cannot affirmatively prove continuous physical presence for at least two years.

According to reporting on an internally circulated memorandum, ICE's position is that at the expiration or termination of parole, an individual reverts to whatever status they had prior to seeking parole. Therefore, an individual in one of these categories is subject to expedited removal under these policies regardless of whether they were granted parole. The internal email does appear to exempt individuals from this expedited removal process if they've filed affirmative applications for asylum. It does not address noncitizens who entered without inspection but were issued Notices to Appear (NTA), regardless of whether those NTAs were filed with the immigration court. However, the Jan. 23 Guidance memo explicitly directs officers to consider moving to dismiss INA § 240 proceedings to pursue expedited removal. Therefore, although not mentioned explicitly in the Feb. 18 directive, individuals in such circumstances are likely at risk of expedited removal as well, especially if they do not have an application for asylum pending. Individuals who are subject to expedited removal must be prepared to express fear of return to their country of origin, if such fear is credible.

- Note that a person who entered the United States with a visa and overstayed would not be subject to expedited removal as they are not subject to the grounds of inadmissibility but rather the grounds of deportation.

Practitioner Tips: Practitioners should:

- Identify current clients who:
    - Nay be inadmissible under INA § 212(a)(6)(C)(i) and INA § 212(a)(7)(A)(i); and

- Arrived at a port of entry and were released with or without parole; OR
- Entered without inspection and who were apprehended within 14 days and 100 miles of the border; OR
- Entered without inspection and cannot affirmatively prove that they have been continuously physically present for two years or longer.
- Have forms of relief that may be rescinded soon (e.g., TPS or parole—see below) are especially at risk.

- Advise clients who entered without inspection or who entered on a visa and have been in the United States for more than two years that:
    - They should carry proof of such presence. This proof should NOT include information about their country of birth or immigration status.
    - It is always best for individuals to remain silent during encounters and only volunteer copies of their documents if the arresting agents have evidence of foreign birth of the client and have therefore established "alienage."
- Advise clients who have been in the United States for less than two years or who entered as an "arriving alien" at any time to:
    - Consider filing for asylum affirmatively if they are afraid to return to their country of birth. This is especially important in situations where clients can still meet the generally applicable one-year filing deadline.
    - If they are apprehended prior to filing for asylum and they do have a fear of return, they should be prepared to express that fear of persecution if returned to their home country and indicate an intent to apply for asylum. They should be advised that they may not be asked if they have a fear of return and should be prepared to affirmatively assert their fear.
- Advise clients with a fear of return, who also currently hold forms of relief that may be rescinded soon, to file for asylum while still in valid status (e.g., TPS or parole—see below).
- Review case notes to identify whether there may be alternative forms of permanent immigration relief for clients.
    - If a comprehensive screening has not been performed or the initial screening occurred more than six months ago, perform a comprehensive screening to identify whether the clients may now have alternative forms of permanent immigration relief. *See* CLINIC's Screening Tool.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of their open cases and use the list of open cases to identify which clients should be consulted and advised as described above.
- Set a deadline for the above processes and check in on progress along the way.
- Consider whether it may be necessary to shift and balance the staff caseloads.
- Ensure advocates have taken comprehensive courses on immigration legal service benefit types, such as CLINIC's Comprehensive Overview of Immigration Law, to effectively screen individuals for relief. Advocates should take trainings and review resources that do a deeper

dive into forms of relief for which your organization specializes to ensure competence, diligence, and ethical representation.

Organizations may consider organizing and hosting the following events for current clients and/or community members:

- Know Your Rights presentations.
- Safety planning clinics.
    - For more information on family preparedness plans, see above Program Management tip regarding ICE Interim Guidance: Civil Immigration Enforcement in or near Courthouses.

Policy Action (Federal Register): Vacatur of 2025 Temporary Protected Status Decision for Venezuela and Termination of the Oct. 3, 2023 Designation of Venezuela for Temporary Protected Status

Pursuant to this memo, Temporary Protected Status (TPS) for Venezuelans under the 2023 designation was to end April 7, 2025; it was also likely that TPS for Venezuelans under the 2021 designation would end on Sept. 10, 2025. The memo rescinds the Biden administration's determination to extend TPS for Venezuelans. Following the vacatur, DHS terminated the 2023 designation, which will end on April 7, 2025. The re-designation decision for the 2021 designation must be made by July 12, 2025. The termination of Venezuelan TPS was challenged in the U.S. District Court, Northern District of California by the National TPS Alliance and Venezuelan TPS holders, which is represented by the American Civil Liberties Union (ACLU) Foundation of Northern California. See the complaint here.

Please note: On March 31, 2025, a federal court judge issued an order in *NTPSA v. Noem* temporarily postponing the administration's decision to vacate the extension of the 2023 designation and to terminate the 2023 Temporary Protected Status (TPS) designation for Venezuelans. As such, Venezuelans will not lose work authorization on April 3, 2025, and the protection will continue while the case proceeds. The judge also ordered that, within a week of the order, the plaintiffs must notify the court if they intend to file the same Motion to postpone with respect to the agency's action regarding Haiti's TPS designation.

Impact: Current Venezuelan TPS holders will or are likely to lose TPS status.

- Re-registration applications under the 2023 designation will no longer be accepted or approved. Clients with Venezuelan TPS under the 2023 designation will lose their status on April 7, 2025.
- The 2021 designation is unlikely to be extended, and thus clients with TPS under the 2021 designation will likely lose their status on Sept. 10, 2025.
- Clients who lose TPS are likely to be targeted or enforcement action. See above regarding the potential for expedited removal. Those with final orders of removal are especially at risk.

- TPS clients who have not applied for other immigration benefits should be screened for any relief available to them and encouraged to apply.

Practitioner Tips: Practitioners should:

- Contact and advise the types of clients named above.
- Review case notes to identify whether there may be alternative forms of permanent immigration relief for these clients.
  If a comprehensive screening has not been performed or the initial screening occurred more than six months ago, perform a comprehensive screening to identify whether these clients may be eligible for alternative forms of permanent immigration relief. *See* CLINIC's Screening Tool.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of their open cases and use the list of open cases to identify current clients with Venezuelan TPS who should be consulted and advised, as described above.
- Set a deadline for the above process and check in on progress along the way.
- Consider whether it may be necessary to shift and balance the advocate's caseloads.
- Ensure that advocates have taken comprehensive courses on immigration legal service benefit types, such as CLINIC's Comprehensive Overview of Immigration Law, to effectively screen individuals for relief. Advocates should take trainings and review resources that do a deeper dive into forms of relief for which your organization specializes to ensure competence, diligence, and ethical representation.

Organizations may consider organizing and hosting the following events for current clients and/or community members:

  - Know Your Rights presentations.
  - Safety planning clinics.
    - For more information on family preparedness plans, see above Program Management tip regarding ICE Interim Guidance: Civil Immigration Enforcement in or near Courthouses.

Policy Action (Federal Register): Partial Vacatur of 2024 Temporary Protected Status Decision for Haiti

Pursuant to this Federal Register notice, TPS for Haitians under the 2024 designation will likely end on Aug. 3, 2025. This memo partially vacates the 2024 notice that extended and redesignated Haiti for TPS by reducing the designation period from 18 months to 12 months and changes the registration deadline for new TPS applicants from Feb. 3, 2026, to Aug. 3, 2025. The 2024 extension and new designation will now expire on Aug. 3, 2025. The re-registration period for existing TPS beneficiaries closed on Aug. 20, 2024, and it is unlikely that USCIS will accept late re-registrations.

Impact: Current Haitian TPS holders will or will likely lose TPS status.

- The 2024 designation is unlikely to be extended, and clients with Haitian TPS under the 2024 extension and new designation will likely lose their status on Aug. 3, 2025.

- Registration and re-registration applications under the 2024 designation that are pending or are filed prior to Aug. 3, 2025, are unlikely to be approved.
- Clients who lose TPS are likely to be targeted for enforcement action. See above regarding the potential for expedited removal. Those with final orders of removal are especially at risk.
- TPS clients who have not applied for other immigration benefits should be screened for any relief available to them and encouraged to apply.
- This action is likely to be challenged via federal court litigation and an injunction could be issued that preserves TPS for Haitians pending the outcome of litigation.

Practitioner Tips: Practitioners should:

- Contact and advise the clients of the above.
- Review case notes to identify whether the clients may be eligible for alternative forms of permanent immigration relief.
- If a comprehensive screening has not been performed or the initial screening occurred more than six months ago, perform a comprehensive screening to identify whether the client may be eligible for alternative forms of permanent immigration relief. *See* CLINIC's Screening Tool.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of their open cases and use the list of open cases to identify current clients with Haitian TPS who should be consulted and advised, as described above.
- Set a deadline for the above process and check in on progress along the way.
- Consider whether it may be necessary to shift and balance the advocate's caseloads.
- Ensure advocates have taken comprehensive courses on immigration legal service benefit types, such as CLINIC's Comprehensive Overview of Immigration Law, to effectively screen individuals for relief. Advocates should take trainings and review resources that do a deeper dive into forms of relief for which your organization specializes to ensure competence, diligence, and ethical representation.

Organizations may consider organizing and hosting the following events for current clients and/or community members:

  - Know Your Rights presentations.
  - Safety planning clinics.
    - For more information on family preparedness plans, see above Program Management tip regarding ICE Interim Guidance: Civil Immigration Enforcement in or near Courthouses.

Policy Action (Federal Register): Foreign Terrorist Organization Designations of Tren de Aragua, Mara Salvatrucha, Cartel de Sinaloa, Cartel de Jalisco Nueva Generacion, Carteles Unidos, Cartel del Noreste, Cartel del Golfo, and La Nueva Familia Michoacana

This Federal Register notice designates the following groups as Foreign Terrorist Organizations (FTO) pursuant to section 219 of the INA: Tren de Aragua (also known as Aragua Train); Mara Salvatrucha (also known as MS-13); Cartel de Sinaloa (also known as Sinaloa Cartel, Mexican Federation, Guadalajara Cartel); Cartel de Jalisco Nueva Generacion (also known as New Generation Cartel of Jalisco, CJNG, Jalisco New Generation Cartel); Carteles Unidos (also known as United Cartels, Tepalcatepec Cartel, Cartel de Tepalcatepec, The Grandfather Cartel, Cartel del Abuelo, Cartel de Los Reyes); Cartel del Noreste (also known as CDN, Northeast Cartel, Los Zetas); Cartel del Golfo (also known as CDG, Gulf Cartel, Osiel Cardenas-Guillen Organization); and La Nueva Familia Michoacana (also known as LNFM).

Impact: The TRIG bars are expansive and can apply to individuals who provided any type of support to FTOs, even under duress. It is important to screen your clients carefully for any type of contact with the above-listed organizations, including during their journey to the United States where immigrants often encounter cartels and gangs. Please see this CLINIC FAQ for more information on the FTO designations and practical tips.

Practitioner Tips: Practitioners should: review analysis notes to assess whether potential TRIG bars were considered as part of the overall case strategy, prioritizing clients seeking asylum from countries where identified FTOs have a presence.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of their open cases and use the list of open cases to identify current asylum clients who should be met with and advised as described above.
- Ensure advocates have access to resources and trainings on asylum law, including TRIG bars, so that they are providing competent, ethical representation to asylum clients who may be impacted by this policy action.

USCIS Policy Memo: Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens

This memo requires or permits USCIS to issue a Notice to Appear (NTA) for certain noncitizens whose applications are denied. On Feb. 28, 2025, USCIS issued a policy memorandum titled “Issuances of Notices to Appear in Cases Involving Inadmissible and Deportable Aliens." The memo closely mirrors the June 2018 NTA Guidance from the first Trump administration that expanded situations where USCIS was directed to issue NTAs against individuals applying for immigration benefits. This memo provides the circumstances where USCIS must and may issue an NTA, as well as the limited circumstances in which they can exercise prosecutorial discretion to not issue an NTA. It also implements a tracking system for officers to record instances in which they exercised prosecutorial discretion.

Under this memo, USCIS will issue an NTA in the following circumstances:

- An application, petition, or benefit request is denied, and the noncitizen is not lawfully present in the United States. There are no exceptions to this laid out in the memo for petitioners for survivor-based benefits such as U visas, T visas, or the Violence Against Women Act (VAWA).
- They identify removable noncitizens if they have been arrested, charged with, or convicted of a criminal offense and their immigration benefit application is denied or withdrawn.
- They identify cases presenting substantiated fraud or material misrepresentation, even if the petition or application is denied due to lack of prosecution, abandonment, or withdrawal.
- USCIS will generally issue an NTA if it denies an initial or re-registration TPS application, or if the application is withdrawn, and the applicant has no other lawful status or authorization to remain in the United States. If the DHS Secretary terminates a country's TPS designation, and the former TPS recipient has no other legal status or authorization to remain in the United States, USCIS "should coordinate with ICE and Customs and Border Protection (CBP) regarding the appropriate timing of any NTA issuances to former TPS beneficiaries after the country's TPS designation ends."
- Where a naturalization applicant was inadmissible at the time of adjustment or admission to the United States.

This policy memo does **not** apply to or change NTA-related procedures involving Deferred Action for Childhood Arrivals (DACA), as the regulations provide special protections to DACA recipients.

Impact: With the return to this NTA policy, more individuals are likely to be placed into removal proceedings. This policy does not mean that clients should not apply for benefits with USCIS; there is risk in not filing applications for available benefits, too. It simply means that clients must be informed of the risks and benefits so that they may make an informed decision on how they wish to proceed.

Practitioner Tips: A return to the 2018 policy means that practitioners must carefully assess each case at the start of representation. Practitioners must ensure that clients are statutorily eligible for the relief they seek before filing any application with USCIS. It is crucial to ensure applications contain all necessary supporting documentation, as failure to include a critical piece of evidence (such as a birth certificate, medical exam, or passport copy) could result in the denial of a benefit and a referral to immigration court. Finally, practitioners must make it a regular practice to file USCIS FOIA requests prior to filing benefits applications before USCIS, particularly for naturalization clients, as USCIS will be reviewing whether the underlying lawful permanent resident status was properly granted. Practitioners should:

- Identify clients:
    - With pending applications who will be unlawfully present or otherwise removable if their application is denied.
        - These clients should be advised of the new NTA memo and the risk they face if their application is denied. It is important to note, however, that withdrawing a pending application will not shield an individual from being issued an NTA under the guidance.
    - Who are not yet on immigration's radar and have not yet filed an application but would be unlawfully present or otherwise removable if their application would be denied.
        - These clients should be advised of the new NTA memo and the risk they face if their application is denied so they can consider whether to file.

For clients who are at risk of issuance of an NTA and wish to proceed with their affirmative benefit application, consider requiring them to sign an informed consent document. For more information about the USCIS NTA Guidance Memo, including pre-filing discussion talking points and a sample informed consent document, see this CLINIC practice advisory.

Program Management Tips: PMs should:

- Instruct all staff to pull a report of their open cases and use the list of open cases to identify current clients with Haitian TPS who should be met with and advised as described above.
- Set a deadline for the above process and check in on progress of this process along the way.
- Consider whether it may be necessary to shift and balance the advocate's caseloads.
- Ensure advocates have taken comprehensive courses on immigration legal service benefit types, such as CLINIC's Comprehensive Overview of Immigration Law, to effectively screen individuals for relief. Advocates should take trainings and review resources that do a deeper dive into forms of relief for which your organization specializes to ensure competence, diligence, and ethical representation.

Organizations may consider organizing and hosting the following events for current clients and/or community members:

  - Know Your Rights presentations.
  - Safety planning clinics,
    - For more information on family preparedness plans, see above Program Management tip regarding ICE Interim Guidance: Civil Immigration Enforcement in or near Courthouses.