

Welcome

Our Presentation

Will Begin at 1pm

- All viewers are muted. Audience cameras cannot be turned on.
- Who's with us today? We invite you to share your nonprofit's name in the chat box.

Navigating the New Immigration Landscape:

Enforcement, Work
Authorization, and
Humanitarian Benefits



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Mission of Pro Bono Partnership of Atlanta

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals.

We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

PBPA Learning Center for Georgia Nonprofits

www.pbpatl.org/resources

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Client Criteria

In order to be a client of Pro Bono Partnership of Atlanta, an organization must:

- Be a 501(c)(3) nonprofit.
- Be located in or serve the greater Atlanta area.
- Serve low-income or disadvantaged individuals.
- Be unable to afford legal services.
- Employ at least one paid staff person.

Visit our website at www.pbpatl.org to apply.

Legal Information

This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

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Agenda

- **Increased Worksite Enforcement Actions and Raids:** Anticipating more frequent Form I-9 inspections, addressing common violations, and preparing for potential ICE raids.
- **Managing Work Authorization Gaps:** Handling potential gaps in work authorization for foreign nationals with temporary Employment Authorization Documents (EADs).
- **Changes to Humanitarian Programs:** Navigating the impact of changes to Temporary Protected Status (TPS) and Deferred Action for Childhood Arrivals (DACA) on your workforce.
- **Potential Future Changes**

Increased Worksite Enforcement Actions

Preparing for Inspections, Investigations, and Raids

Increased Worksite Enforcement Actions by ICE

- **Inspections:**
 - Form I-9 audits
- **Investigations:**
 - Government inquiry into specific individual employee
- **Raids**
 - Immigration and Customs Enforcement – show of force

Audience Poll #1

Increased Worksite Enforcement Actions by ICE

- **Form I-9 audits**
 - I-9: Employment Eligibility Verification Form. Must be completed by every employee.
 - Homeland Security Investigations (HSI) of ICE handles I-9 audits nationwide
 - Uptick in audits during Trump's first term, slowed during the Biden Administration
 - Potential industries of interest:
 - Hospitality, agriculture, seasonal hiring, retail, construction
 - Highly regulated industries
- **Why is it important to anticipate and prepare for an audit?**
 - Easy to commit paperwork violations on I-9s
 - Potential impact on company's bottom line
- **Recent updates**
 - Must use 08/01/2023 edition of Form I-9
 - I-9 penalties increased Jan. 2025
 - Paperwork violations: \$288-\$2,861
 - Knowingly hiring/recruiting/retention of unauthorized workers: \$716-\$28,619
 - Alternative documentation review procedure (virtual inspection of I-9 documents)
 - Available only to employers enrolled & in good standing in E-Verify

I-9 Completion

Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment (date of hire)

Employer must complete and sign Section 2 within three business days of the date of hire by reviewing in person the documentation provided by the employee to establish identity and employment authorization

Alternative Document Review Method (E-verify registered employers only)

- Employee transmits a copy (front & back) of the Form I-9 documents (or an acceptable receipt) to employer who must then examine the copies to ensure the documentation reasonably appears to be genuine;
- Conduct a live video interaction with the individual who must then present the same document(s) during the video interaction;
- Complete the corresponding box, that an alternative procedure was used to examine documentation;
- Retain a clear and legible copy of the documentation (front & back) to make available in the event of a Form I-9 inspection.

How Employers Should Prepare for I-9 Inspections

- Conduct an internal audit (also known as a “self-audit”)
- Review company’s I-9 (and E-Verify, if applicable) procedure. Confirm that the organization’s procedure:
 - Ensures timely review of employees’ documents and completion of Sections 1 and 2
 - Does not request or suggest specific documents from employees
 - Establishes timely reminders for reverifications
 - Is applied consistently every time
- Consider company's policy around:
 - Retention of document photocopies
 - Periodic self-audits, quality control (second person to review completed I-9s)
 - System for reminders about purging I-9s, reverifications of temporary work authorization documents
 - Training on I-9 rules
- Consider using electronic Form I-9 software or vendors
 - Eliminate human-prone errors
- If an employer receives a Notice of Inspection for I-9s, the employer has three days to respond and can potentially request more time in certain circumstances.

How Employers Should Prepare for Investigations by USCIS FDNS

- Administrative Site Visit and Verification Program
- Investigators with FDNS (Fraud Detection and National Security) make unannounced site visits to collect information for compliance review of specific individuals on immigration sponsorship for H-1B, L-1A, Special immigrant religious workers, EB-5 investors
- Conducted to ensure that employer (petitioner) and employee (beneficiary) are following the terms and conditions of the approved employment-based petitions
- Employers should:
 - Review USCIS filings prior to making any changes to ensure employment is materially consistent with listed terms and conditions and file an amended petition if necessary
 - Identify all work locations where a nonimmigrant worker is located
 - Instruct front-desk workers on how to respond to FDNS investigators – request identification of investigators and business cards before revealing any information such as identities of foreign workers at the location
 - Instruct beneficiaries on how to respond to questions – beneficiary should be able to discuss the job title and duties, salary, and minimum requirements for the role

Audience Poll #2

Worksite Raids

- Already seeing action—Newark, Chicago, Denver, Los Angeles, Atlanta
- Focus has expanded from only undocumented workers with criminal convictions or pending charges
- Trump's first term: Manufacturing and meat/poultry processing, states in Southeast & Midwest
- Who should be on alert?
 - Employers with jobs hard to fill, likely to be filled by undocumented workers
 - Trump administration has expanded locations to houses of worship, healthcare facilities, schools

How Employers Should Prepare for Worksite Raids

- Prepare a Response Plan
- https://www.nilc.org/wp-content/uploads/2024/11/NELP_EmployerGuide_Eng_2025_Final-.pdf
 - Consult legal counsel and other similar businesses. Devise a plan that works for your organization.
 - Train the front desk personnel (first to greet agents)
 - Public vs Private Areas
 - Judicial warrant vs. administrative warrant
 - Read the warrant and monitor agents' actions
 - Ask agents where any detainees are being taken
- Rehearse the Plan
 - Train staff and use scripts
 - Well-oiled machine to leave impression on agents
- Know Your Rights for Employees
 - <https://www.ilrc.org/red-cards-tarjetas-rojas>
 - Be aware of criminals impersonating ICE or DHS

Potential Gaps in Employment Authorization

*Anticipating Delays in Employment Authorization
Application Processing*

For Foreign Workers With Temporary Employment Authorization

- Employee with temporary authorization to work might have an “Employment Authorization Document” (EAD)
- Expect longer immigration processing times overall including EAD applications
- Certain categories eligible for automatic extension of EAD for up to 540 days (<https://www.uscis.gov/eadautoextend>)
- 540-day automatic extension under threat
- Employers should:
 - Review I-9s, identify employees with temporary permission to work. Follow up earlier with employees requiring I-9 reverification to minimize chances of gap in employment.



Changes to Humanitarian Programs

Employment Authorization for Beneficiaries of Humanitarian Programs

Common Humanitarian Programs – Work Authorization

Parole Programs – Family Reunification, Uniting for Ukraine – categorical parole programs allowing foreign nationals with US sponsors to come to US. Work authorization (“EAD”) category (c)(11)

- **Benefits applications for parolees – suspended.**
 - **Affecting U4U, CHNV, Family Reunification parole applicants**

Common Humanitarian Programs – Work Authorization

- **Temporary Protected Status (TPS)** – Countries designated by Secretary of Homeland Security due to country conditions that temporarily prevent the safe return or where the country is unable to handle the return of its nationals adequately
 - Work authorization (“EAD”) category (a)(12) or (c)(19)
 - Trump administration 1.0 sought to terminate TPS for El Salvador, Haiti, Sudan, Honduras, Nepal, and Nicaragua but was prevented from doing so by preliminary injunction.
 - Biden administration extended TPS designation for several countries, including Venezuela and Haiti.
 - Venezuela – two separate TPS designations (2021 and 2023). However, on January 28, 2025, DHS Secretary Noem vacated the extensions of TPS Designation for Venezuela. As a result, the 2023 TPS designation for Venezuela will still expire on April 2, 2025. 2021 TPS designation for Venezuela remains in effect until September 10, 2025.
 - Haiti – Extension rescinded by Secretary Noem, currently TPS will end on August 3, 2025

Common Humanitarian Programs – Work Authorization

- **Deferred Action for Childhood Arrivals (DACA)** – First announced in 2012, DACA provides temporary renewable relief that defers removal action for certain foreign nationals who were brought to the US as children, allowing them to attend school and work even without lawful status
 - Work authorization (“EAD”) category (c)(33)
 - Trump administration 1.0 sought to end DACA but in 2020 Supreme Court declared the administration’s decision as arbitrary and capricious but made it clear that a president has the authority to cancel such a program if done properly.

Common Humanitarian Programs

– Work Authorization

- When auditing I-9s, review categories to see if any workers hold employment authorization through humanitarian programs. These will likely end at some point in the next four years.
- Check <https://www.uscis.gov/humanitarian/temporary-protected-status> for information on TPS extension designations and automatic extension of employment authorization.
- Set reasonable reminders to ensure timely reverification.
- Share responsibility with employee - employers are not required to keep up with the latest updates on humanitarian programs.
- *Caveat*: actual (“known”) or constructive knowledge (“should have known”) that a worker does not have valid work authorization supersedes documentation.
- Pursue alternatives for critical workers, such as:
 - Initiating permanent residency processing;
 - Pursuing a cap-exempt H-1B if organization is a nonprofit research organization or affiliated with an institution of higher education
 - Registration in H-1B lottery.

Potential Future Changes

Be Prepared

Further Potential Changes

- Further expanded enforcement –
 - Unaccompanied Alien Children Joint Initiative Field Implementation
 - Suspension of program providing legal representation to unaccompanied migrant children (previously overturned after outcry)
- ICE raids at houses of worship – *currently barred by Maryland district judge due to chilling effect on the free exercise of religion: “Each of the plaintiffs has religious beliefs that cause them to welcome and serve immigrants, has significant immigrant membership or operates in communities with significant immigrant populations, and has not disavowed that they will continue to serve immigrants both with and without legal status, it is reasonable to expect that DHS will direct immigration enforcement toward plaintiffs specifically”. Not a nationwide injunction, limited only to the specific plaintiffs.*
- Potential rollback of 540-day automatic employment authorization and other EAD issues
- Birthright citizenship
- International travel restrictions – travel bans, visa processing delays

Audience Poll #3

Employer Preparedness

Review documentation and make corrections.

Develop and implement a plan, whether for inspection, raid, or investigation for all company locations. Keep in mind different considerations depending on the business.

For most immigration benefits (including visa categories such as H-1B and L-1 and for EADs), apply as early as possible to account for higher scrutiny, requests for evidence, and fewer resources at USCIS. Anticipate the need for more substantial documentation and cast a wide net for additional evidence.

Consider alternative visa classifications for critical personnel, such as cap-exempt H-1B status.

Limit nonessential travel abroad.

Do not give the government an easy reason to deny your request.

Questions for our Speaker?

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