



TRAFFICKING & T-VISAS

Volunteer Attorney Practice Update

June 2026

T Visa Updates

ICWC v. Noem

On May 20, in *ICWC. V. Noem*, a district court in California issued an order staying a 2025 ICE policy memo which resulted in the routine arrest, detention, and removal of immigrants with pending VAWA, U visa, and T visa petitions. The court certified three classes and stayed the 2025 memo and policies nationwide on behalf of those classes.

- Pending Petition Class: All individuals with pending principal or derivative U visa petitions, T visa petitions, or VAWA self-petitions who ICE detains or seeks to detain for civil immigration enforcement.
- Deferred Action Class: All individuals to whom USCIS has granted deferred action based on a pending U or T visa petition and who, during the authorized period of deferred action, ICE detains, seeks to detain, or removed without providing notice and an opportunity to be heard regarding potential revocation of their deferred action status.
- Stay of Removal Class: All individuals with a pending U or T visa petition who, since January 30, 2025, have been, are, or will be detained by ICE and who request or requested a stay of a final removal order prior to enforcement of that removal order.

For members of those classes, the 2021 and 2011 ICE guidance memos should now be back in force. Therefore, ICE should now be implementing the victim-centered approach described in those prior memos. The 2011 Policy and the 2021 Directive established that ICE policy was to refrain from immigration enforcement against persons with pending petitions for victim-based benefits, including by releasing them from detention; identifying persons with pending petitions; seeking expedited preliminary adjudications of their petitions from USCIS; deferring to USCIS preliminary adjudications; and granting administrative stays of removal.

The court also stayed ICE's policies of (1) unilaterally revoking deferred action status issued to U and T visa petitioners by detaining and removing them without USCIS having revoked that status, and (2) removing U and T petitioners who request a stay of removal without first obtaining a determination of their prima facie eligibility for those visas.

Practice advisory and toolkit: [ICWC v. Noem Practice Advisory & Toolkit](#)

Admin Closure

Immigration Judges have been denying motions for admin closure based on recent BIA precedent and the fact that Ts are taking greater than six months to process. However, after the preliminary injunction in *ICWC*, there are new arguments available for admin closure. Please reach out if you are seeking admin closure or other forms of docket management.

Deferred Action

On May 8, USCIS issued a "Policy Alert" describing deferred action "as an Extraordinary Use of Prosecutorial Discretion." Upon a positive T visa Bona Fide Determination ("BFD"), USCIS may consider the applicant for deferred action. See 8 CFR § 214.205. At this time, it's still unclear how this policy will affect the T BFD process. Prior to this memo, USCIS was slow to issue deferred action to victims of trafficking, and this alert may continue that trend.

BFD Denials

The advocates are hearing reports of BFD and (C)(40) I-765 denials. Please reach out if you receive a denial or approval of the BFD. Additionally, please report wait times between approval of the BFD and issuance or non-issuance of the (C)(40) EAD.

Increased Placement on ISAP Programs

Generally, more immigrants are being placed on Intensive Supervision Appearance Program ("ISAP") programs. These include ankle monitors, app messaging, in-home visits, and office visits. However, as above, there may be arguments against this for T clients based on *ICWC*. Please contact The Advocates if your T client has an upcoming ICE check-in or if your client is on an ISAP program.

Adjustment of Status

On May 21, USCIS issued a policy memorandum describing adjustment of status as a matter of discretion and an "extraordinary relief that permits applicants to dispense with the ordinary consular visa process." While it's still unclear how this policy will be applied to individuals with approved T nonimmigrant status, T status is within the

exclusive jurisdiction of USCIS to grant. There is no consular processing option for Ts. Consular processing would be antithetical to the statutory schemes, which require ongoing cooperation with LEAs (which would be frustrated while outside the country), continuous physical presence through adjustment of status (processing would likely force breaking of presence), and a showing of extreme hardship upon return to their home country (the most likely country of consular processing). These types of adjustment are altogether different from ones the memo claims have historically been extraordinary exceptions to the more preferred path of consular processed immigration. Still, adjustment for Ts is discretionary. The second theme of the memo can be expected to apply. Representatives should plan to submit positive discretionary evidence in every case, and especially where there are any negative factors present.

Dorcas International Institute of Rhode Island et al. v. USCIS et al.

On June 5, in *Dorcas International Institute of Rhode Island et al. v. USCIS et al.*, a U.S. District Court struck down multiple U.S.C.I.S. policies. One of those policies, the “benefits hold policy,” (PM-602-0192 and PM-602-0194) placed an adjudicative hold on pending immigration benefit requests filed by individuals from “high-risk” (39 total) countries. As the T visa, form I-914, was not listed on the exceptions to the adjudication hold, it was widely believed that there was a decision hold on trafficking visa applications for individuals from the “high-risk” countries. Similarly, the court struck down the “Comprehensive Re-Review Policy,” which required a comprehensive re-review of all approved benefits from nationals of those “high-risk” countries which were approved on or after January 20, 2021. As above, this policy was believed to apply to T visas. Finally, the court struck down the “Country-Specific Factors Policy,” (PA-2025-26) which allowed USCIS to treat country-specific risks (high overstay rates, identity document security, . . .) as a significant negative factor when evaluating a discretionary benefit request. This policy allowed USCIS to designate country-specific factors as a significant negative discretionary factor for T visa applicants from “high-risk” countries. Taken all together, as of June 5, 2026, there is no adjudicative hold for T visas from “high-risk” countries, there are no re-reviews of T visas from “high-risk” countries, and there are no country specific factors for T visa applicants from “high-risk” countries.

Ongoing Reminders

Continued Issues with BFDs and Wait Times

Current wait times (sitting around 30.5 months) are only going up. The Advocates are not seeing decisions. Expect long processing times and prepare your clients for long waits. Additionally, the BFD process is still faulty and not working well. Do not rely on a BFD and prep your clients for increasing wait times. If necessary, reach out to The Advocates to ensure your client is enrolled in services for trafficking victims.

Updated Filing Address

USCIS updated the address for filing the I-914, Application for T Nonimmigrant Status. There are now two addresses—one in IL and one in AZ— depending on which state you are filing from. Be sure to check the USCIS website (<https://www.uscis.gov/i-914>) and select “Where to File” before sending an application.

NTAs on denied Ts

The Advocates know of NTAs (notice to appear) issued after T denials. Please reach out to JP to review applications before submission and reach out if you receive a RFE (request for evidence) or NOID (notice of intent to deny).