

USCIS Form I-765: Guide to Employment Authorization Document Applications

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FINDINGS

USCIS FORM I-765: COMPREHENSIVE GUIDE TO EMPLOYMENT AUTHORIZATION DOCUMENT APPLICATIONS

Executive Summary

Form I-765, the Application for Employment Authorization Document, represents a critical pathway through which eligible noncitizens obtain legal permission to work in the United States while their immigration benefits remain pending or their status provides authorization. The landscape governing I-765 applications has undergone significant transformation since October 2025, with two major policy changes fundamentally altering how employment authorization operates. The elimination of automatic 540-day extensions effective October 30, 2025, followed by a reduction in maximum validity periods from five years to eighteen months for numerous categories effective December 5, 2025, creates substantial planning imperatives for immigration practitioners. As of February 2026, applicants face accelerated renewal cycles, elimination of the continuity buffer that automatic extensions previously provided, and compressed validity periods that increase both administrative burden and financial costs. Processing timelines currently range from two to six months depending on category and service center, with certain adjustment-of-status applicants experiencing substantially faster approvals in the four-to-six-week range. Premium processing fees will increase to \$1,780 on March 1, 2026, representing a \$95 increase from prior fees. This research report establishes a comprehensive framework for understanding I-765 eligibility, application procedures, documentation requirements, processing timelines, and strategic renewal planning in light of the December 2025 policy realignment that has reshaped employment authorization duration and continuity.

Statutory and Regulatory Framework Governing Employment Authorization

The authority to grant employment authorization derives from 8 U.S.C. § 1255(c), which establishes that adjustment of status applicants may be granted employment authorization upon application, and from 8 U.S.C. § 1357(a), which authorizes the Attorney General (now Secretary of Homeland Security) to establish classes of aliens authorized to accept employment. The foundational regulatory provision, 8 CFR § 274a.12, codifies both mandatory and discretionary employment authorization categories, defining the specific noncitizen classifications eligible to apply for work authorization.[2][5]

The regulatory framework establishes two primary pathways: section 274a.12(a) encompasses aliens who are automatically authorized to work without requiring application, including refugees within their designated status period and certain other classifications. Section 274a.12(c), by contrast, covers aliens who must affirmatively apply for employment authorization, including adjustment of status applicants, asylum applicants, temporary protected status holders, and individuals in various nonimmigrant categories.[2][5] Each category corresponds to a specific code designation appearing on the face of the Employment Authorization Document (EAD, Form I-766) that confirms the regulatory basis for the authorization granted.

The form itself, designated as Form I-765, Application for Employment Authorization, operates under the administrative procedures established in 8 CFR § 274a.13 through 274a.16, which establish that applications must be filed with appropriate supporting documentation, that USCIS maintains discretion to establish validity periods for employment authorization documents, and that the form must contain the applicant's photograph, signature, and biographic information to facilitate employer verification through Form I-9 employment

eligibility verification procedures. USCIS derives this discretionary authority to establish validity periods directly from 8 CFR § 274a.12(c), which explicitly states that "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." [2][5] This discretionary authority has historically permitted USCIS to grant validity periods extending as long as five years for certain categories, a practice that has now been substantially curtailed through recent policy modifications.

Current Legal Landscape: Transformative Policy Changes in 2025-2026

The October 30, 2025 Interim Final Rule: Termination of Automatic EAD Extensions

On October 30, 2025, USCIS issued an Interim Final Rule that terminated the practice of automatically extending Employment Authorization Documents for 540 days when timely renewal applications were filed. [8] For decades, this automatic extension provision created essential continuity in work authorization by permitting employees to continue working while USCIS processed renewal applications, even when those applications remained pending beyond the expiration date of the current EAD card. The 540-day extension period (approximately 18 months) had been the established practice, providing a meaningful buffer during periods of agency processing delay.

The Interim Final Rule, effective immediately upon publication, means that EAD cards no longer automatically extend simply because a timely renewal application has been filed. [8] Employment authorization now terminates on the expiration date printed on the physical EAD card, regardless of whether a renewal application is pending. The rule contains a critical temporal carve-out: applications for extension filed before October 30, 2025, remain eligible for the automatic 540-day extension under the prior rules. [25][45] This means that any timely filed renewal application submitted before October 30, 2025, still generates the 540-day automatic extension protection, protecting workers from coverage gaps during the interim period while USCIS processes those applications.

The categories affected by the end of automatic extensions include adjustment of status applicants (C09), asylum applicants and related categories (C08, A03, A05), Temporary Protected Status holders (A12, C19), H-4 dependent spouses (C26), and VAWA self-petitioners (C31). [25][45] Notably, F-1 OPT/STEM OPT students continue to benefit from separate rules governing 180-day automatic STEM extensions, and certain E and L visa spouses authorized to work with annotated I-94 documentation remain unaffected. [25][45]

The December 5, 2025 Policy Alert: Reduction of Maximum EAD Validity Period from Five Years to Eighteen Months

A second transformative policy modification took effect on December 5, 2025, when USCIS reduced the maximum validity period for Employment Authorization Documents from five years to eighteen months for numerous categories. [9][13] The policy, articulated through USCIS Policy Alert PA-2025-27 updating the USCIS Policy Manual, applies to all Form I-765 applications that are pending on or filed on or after December 5, 2025, affecting both initial and renewal applications in impacted categories. [9][13][51]

The categories subject to the eighteen-month maximum validity cap include individuals with pending adjustment of status applications under INA § 245 (employment-based and family-based), refugees admitted pursuant to INA § 207, aliens granted asylum under INA § 208, aliens granted withholding of deportation or removal under INA § 241(b)(3), and applicants with pending applications for asylum, suspension of deportation, cancellation of removal, or relief under the Nicaraguan Adjustment and Central American Relief

Act (NACARA).[9][13][51] Specifically, the affected category codes encompass C09, A03, A05, A10, C08, and C10.[9][13][45] A critical protective provision preserves the validity of existing EADs: existing employment authorization documents remain valid through their printed expiration date, which means individuals holding current five-year EADs will not face forced renewal until those cards naturally expire.[9][13]

According to USCIS, this reduction responds to operational objectives articulated as allowing "more frequent vetting of foreign nationals applying for work authorization." [9][13] The practical consequence is substantial: affected foreign nationals, including adjustment of status applicants, must now renew their EADs more frequently than under prior policy, which increases both the overall number of EAD renewal applications filed with USCIS and is expected to lengthen EAD processing times generally.[9][13]

March 1, 2026 Premium Processing Fee Increase

A third upcoming change takes effect March 1, 2026, when premium processing fees for certain applications increase pursuant to inflation adjustment mechanisms. The premium processing fee for Form I-765 applications (employment authorization, including OPT/STEM) will increase to \$1,780, up from \$1,685.[17] This \$95 increase applies to requests for premium processing service postmarked on or after March 1, 2026, and USCIS will reject premium processing requests submitted with incorrect fees.[17][33] The fee increase authority derives from the Emergency Stopgap USCIS Stabilization Act, which grants DHS authority to adjust premium processing fees every two years to account for inflation.[17]

Eligibility Categories and Classification Requirements

The Adjustment of Status Category (C09)

The C9 employment authorization category represents one of the most commonly utilized pathways for work authorization in contemporary immigration practice, particularly within Northern California's diverse immigrant population and significant tech sector employment sponsorship activity.[1] Category C9 applies to any alien applying for adjustment of status under INA § 245, regardless of the underlying basis for adjustment, including family-based petitions (immediate relatives, preference categories), employment-based petitions (EB-1 through EB-5), marriage-based petitions, parent sponsorship, and even diversity visa diversity visa lottery conversions.[2] Critically, prior immigration status or visa category does not affect C9 classification—an applicant who previously held F-1 student status, tourist visa (B-1/B-2), fiancé status (K-1), or any other classification will fall within C9 if now applying for adjustment of status.[1][22][28] The eligibility is determined entirely by the act of filing an I-485 adjustment of status application, not by the immigration history preceding the adjustment.

For C9 adjustment of status applicants, the filing fee is \$260 when Form I-765 is filed concurrently with or separately from the I-485 application.[1][20][22] Documentation requirements for C9 applicants are notably streamlined compared to other categories: while the form instructions technically recommend at least one document proving legal entry to the United States via Form I-94, passport, or travel document, practitioners routinely advise that such documentation is not strictly required for C9 category applicants and should still be included for completeness.[1][20] C9 applicants must also submit two passport-style photos meeting current U.S. government standards, any prior EAD cards they have held, and evidence of their current passport or travel document.

A particularly advantageous aspect of the C9 category has emerged in recent processing patterns: reports from

immigration practitioners indicate that C9 EAD applications are currently being approved in the four-to-six-week range, representing substantially accelerated processing compared to other categories that typically require two to six months.[15][10] This rapid processing for C9 applications reflects USCIS resource allocation prioritizing work authorization for adjustment applicants, particularly in high-volume service centers like California Service Center. However, practitioners cautioned that Advanced Parole (Form I-131) applications accompanying C9 EAD filings are not being approved with the same expedited timeline, often taking eight to nine months, and in some cases the underlying green card approval precedes the Advanced Parole approval entirely.[15] This creates a critical distinction: the work permit arrives quickly, but travel authorization does not.

Under the December 5, 2025 policy change, C9 category applicants now receive EAD validity limited to eighteen months rather than the five-year maximum previously available.[9][13][51] This means that C9 applicants who file renewal applications will need to do so far more frequently. Practitioners must counsel adjustment clients that if their green card approval has not yet been granted when their eighteen-month EAD approaches expiration, they must file an EAD renewal application to maintain work authorization and avoid coverage gaps. The elimination of automatic extensions compounds this challenge: any C9 EAD renewal application filed on or after October 30, 2025, will no longer automatically extend for 540 days if still pending at the expiration date.[25][45] The workbench calculation for Northern California becomes critical: if an applicant files an I-485/I-765 concurrently, receives EAD approval approximately 4-6 weeks later, and the EAD is valid for 18 months, renewal must be filed approximately six months before expiration to avoid gaps, meaning the renewal will occur around month 12 of the 18-month period.

The Asylum Category (C08)

Asylum applicants with pending I-589 asylum applications fall within employment authorization category C08.[16] The regulatory basis derives from INA § 208, which authorizes the Secretary of Homeland Security to grant asylum to eligible applicants. Employment authorization in the C08 category becomes available 150 days after filing a bona fide asylum application.[16] This 150-day waiting period represents a critical procedural deadline practitioners must track, as employment authorization does not issue immediately upon filing the I-589 asylum application but only after the 150-day threshold has been reached.

The C08 category encompasses several sub-classifications: pending asylum applications filed after January 4, 1995, and applicants for asylum under the ABC Settlement Agreement.[16] The filing fee for C08 applications is generally waived or substantially reduced, as employment authorization for asylum applicants falls within categories for which USCIS frequently grants fee waivers under Form I-912.[2] Documentation requirements include evidence of the pending asylum application, typically the Form I-589 receipt notice, a valid passport or travel document, and two passport-style photos.[16]

An important procedural note for C08 applicants: [if an applicant has already received a work permit in another category, such as initial parole or TPS, and subsequently applies for C08 asylum-based work authorization, the applicant must select "initial permission to accept employment" rather than "renewal," because even though they already possess an EAD, the C08 category represents a new and different classification.[16] This distinction matters for form completion and fee calculation.

Following the December 5, 2025 policy change, C08 pending asylum applicants now receive EAD authorization limited to eighteen months rather than five years, and concurrent with the October 30, 2025 rule change, C08 renewal applications filed on or after October 30, 2025, no longer receive automatic 540-day extensions.[25][45] This creates substantial logistical challenges for the large population of pending asylum applicants in Northern California, particularly those from Central America (Guatemala, El Salvador,

Honduras) where case processing times through the San Francisco Immigration Court often extend multiple years. An applicant in affirmative asylum proceedings who receives an initial C08 EAD valid for eighteen months must file a renewal approximately six months before expiration or face a work authorization gap. This renewal cycle will repeat indefinitely until the asylum application is adjudicated.

Refugee and Asylee Categories (A03, A05, A10)

Aliens admitted to the United States as refugees pursuant to INA § 207 automatically fall within employment authorization category A03 without requiring application.[2][5] Similarly, aliens granted asylum status under INA § 208 (after successful adjudication, as opposed to pending asylum applicants who fall within C08) are classified as A05.[2] Aliens granted withholding of deportation or removal pursuant to INA § 241(b)(3)(b) fall within category A10.[2] These three categories differ fundamentally from C08 (pending asylum) in that they represent approved or granted status rather than pending applications.

Refugees and asylees are eligible to work in the United States for the duration of their respective status periods. However, employment authorization documents issued to refugees and asylees must be renewed periodically, and as a practical matter, the EAD card itself serves as physical proof of work authorization and must be valid and presented to employers for Form I-9 employment eligibility verification.[1][22][28] The filing fee for A03 and A05 applications is generally waived, given that these categories reflect established immigration status rather than applications requiring processing fees.

Following the December 5, 2025 policy change, refugees, asylees, and withholding beneficiaries now receive EAD authorization limited to eighteen months rather than five years.[9][13][51] An approved asylee or refugee must now renew their EAD more frequently, meaning individuals in these statuses must navigate renewal cycles approximately every eighteen months indefinitely, or until they adjust their status to lawful permanent resident (a step available to refugees and asylees but not available to withholding of removal beneficiaries).

Individuals granted withholding of removal face particular constraints: they may apply for employment authorization and work in the United States, but may not travel outside the United States (except under extremely limited circumstances), may not petition for family members, and cannot adjust status to permanent resident even if years have passed since the withholding grant.[38][41] The withholding of removal grant includes an order of removal, meaning the individual remains subject to removal should DHS locate a third country willing to accept them, though as a practical matter such placements are extraordinarily rare.[38][41] Given these constraints, individuals granted withholding of removal who seek work authorization must file Form I-765 with appropriate supporting documentation, and the EAD issued to withholding beneficiaries is typically valid for one year at a time and should be renewed with ample time—at least three months—to allow for processing.[41] The new eighteen-month validity period may provide somewhat more processing flexibility than the prior one-year standard, though practitioners must still track renewal deadlines carefully.

Employment-Based OPT and STEM OPT Categories (C03)

F-1 international students seeking employment authorization through Optional Practical Training (OPT) fall within employment authorization category C03, which encompasses three sub-classifications: pre-completion OPT (C03(A)), post-completion OPT (C03(B)), and STEM OPT extension (C03(C)).[3][21] These categories represent a distinct regulatory framework because the authorization derives from the student's F-1 visa status and the educational institution's designation in the Student Exchange and Visitor Information System (SEVIS), rather than from a direct application for adjustment of status or asylum benefits.

For pre-completion OPT, eligible F-1 students may work up to twenty hours per week during academic

semesters and full-time during official breaks.[3][21] Post-completion OPT authorizes full-time employment for up to twelve months after degree completion, and STEM OPT extension authorizes an additional twenty-four months of employment for students whose degrees fall within designated STEM fields.[3][21] The distinction between post-completion OPT and STEM extension is critical because they are treated as separate employment authorization categories, and a student applying for the STEM extension must select "initial permission to accept employment" rather than "renewal" because the STEM extension represents a new eligibility category distinct from the prior post-completion OPT.[3][21][6]

Form I-765 applications for OPT or STEM OPT must include the student's current Form I-20 issued by the Designated School Official (DSO) with the appropriate OPT or STEM recommendation on page two, the student's SEVIS number as printed on the Form I-20, a recent passport-style photo taken within thirty days of application, a copy of the student's I-94 arrival record, and the student's valid passport or evidence of government-issued identification.[3][6][21] Students applying for STEM OPT extension must additionally provide a copy of the university diploma from their STEM degree program and an official university transcript, as well as evidence of institutional accreditation by the U.S. Department of Education and certification by the Student Exchange and Visitor Program (SEVP).[3][6][21]

Critically, the December 5, 2025 validity period reduction does not apply to F-1 OPT students; OPT applications continue to receive authorizations under the standard validity period structure, with post-completion OPT valid for twelve months and STEM extension valid for twenty-four months, and F-1 students continue to benefit from the 180-day automatic STEM extension (permitting renewal filing up to 180 days before expiration with automatic extension through completion of processing).[25][45] This exception reflects the distinct regulatory architecture governing F-1 students compared to other employment authorization categories.

The premium processing fee for I-765 OPT applications will increase to \$1,780 on March 1, 2026.[17][33] However, the regular filing fee for Form I-765 OPT applications is \$260, which is substantially lower than the standard \$520 filing fee for I-765 applications in other categories.[40] Processing times for OPT applications typically range from 4-8 weeks for straightforward cases, though applications may face additional requirements if USCIS determines the STEM field designation is questionable or if other eligibility issues arise.[7]

TPS and Humanitarian Categories

Temporary Protected Status (TPS) holders fall within employment authorization category C19 (TPS applicant) or A12 (approved TPS holder), depending on whether they are applying for initial TPS status or renewing existing status.[2][29] Similarly, refugees and asylees may also be designated for work authorization, and certain humanitarian parole beneficiaries may qualify for employment authorization under specific category codes.[2] The employment authorization granted through TPS is coextensive with the TPS status designation, meaning the EAD validity period matches the Federal Register notice establishing or extending TPS for a particular country.

Following the December 5, 2025 policy change, TPS holders and TPS applicants receive employment authorization limited to one year or the length of parole (for parolees), whichever is shorter, and this limitation is a departure from the prior practice of allowing TPS-based EADs to track the full statutory TPS designation period.[25][45][51] This change substantially increases the administrative burden on TPS holders who previously could rely on EAD cards valid for the duration of their TPS designation (typically 18 months) but now must renew annually.

H-4 Spouse Employment Authorization Category (C26)

Certain spouses of H-1B nonimmigrants (designated as H-4 visa holders) are eligible to apply for employment authorization through Form I-765 in category C26 if their H-1B spouse is either the principal beneficiary of an approved I-140 immigrant petition or has been granted H-1B status under sections 106(a) and (b) of the American Competitiveness in the Twenty-first Century Act of 2000, which permits certain H-1B nonimmigrants seeking lawful permanent residence to work and remain in the United States beyond the standard six-year H-1B limitation.[27] This category emerged from litigation challenging the prior prohibition on H-4 work authorization and now represents a significant pathway for employment authorization within the tech-dependent Northern California economy.

The H-4 EAD is typically valid for up to two years, matching the validity period of the H-1B visa or H-1B extension approval notice.[30] However, following the October 30, 2025 rule change eliminating automatic extensions, H-4 dependent spouses must file renewal applications before expiration and can no longer rely on automatic continuation of work authorization during the renewal processing period.[25][45] Additionally, the H-4 spouse EAD validity is conditioned on the H-1B worker maintaining status: if the H-1B worker's status terminates through visa expiration or change of status, the H-4 spouse's employment authorization immediately terminates as well.[27]

VAWA Self-Petitioner Category (C31)

VAWA self-petitioners (abused spouses or children of U.S. citizens or lawful permanent residents, or abused parents of U.S. citizens) and qualified children of VAWA beneficiaries fall within employment authorization category C31.[2][32] VAWA employment authorization requires filing Form I-765 concurrently with the I-360 self-petition, and VAWA beneficiaries receive employment authorization valid for the duration of the pending or approved VAWA petition.[53] The filing fee for Form I-765 when filed with a VAWA I-360 petition is generally waived or substantially reduced given the humanitarian nature of the relief.

Following the October 30, 2025 automatic extension termination, VAWA self-petitioners and their derivative children must file renewal applications before their EAD expires, as no automatic extension will provide continuity if the renewal application is still pending at the card expiration date.[25][45] The duration of VAWA cases, which can extend years from filing through final adjudication, means that VAWA beneficiaries may need to file multiple EAD renewals throughout the pendency of their underlying petitions.

U Visa and T Visa Categories (A19, A16, C32, C33)

Victims of certain federal crimes who are eligible for U nonimmigrant status may receive employment authorization through a distinct application process, with category codes including U-1 principal (A19), U-2 through U-5 derivatives.[2][59] Similarly, trafficking victims eligible for T nonimmigrant status receive employment authorization through category T-1 principal (A16) and T-2 through T-6 derivatives.[2] Notably, T visa holders receive employment authorization automatically upon T visa approval without requiring a separate Form I-765 application, though many practitioners file the form to ensure an EAD card is issued for employer I-9 verification purposes.[56]

DACA (Deferred Action for Childhood Arrivals) recipients fall within employment authorization category C33.[2][32] DACA beneficiaries receive automatic employment authorization upon DACA approval and must file Form I-765 to obtain a physical EAD card for employment verification purposes, though the DACA grant itself conveys work authorization independent of the EAD issuance.

Application Procedures and Documentation Requirements

Filing Methods: Online versus Paper Submissions

Form I-765 applications may be filed through two primary mechanisms: online through the USCIS online filing system at uscis.gov/i-765, or by paper submission to designated USCIS Lockbox facilities.[3][21] The choice of filing method affects processing and procedural requirements substantially. Online filing permits applicants to upload supporting documents in accepted file formats (JPG, JPEG, PDF, TIF, TIFF), with each file subject to a maximum size limit of 6 megabytes and required to be clear and readable without encryption or password protection.[3][6][21] File names must use English letters, spaces, periods, hyphens, underscores, and parentheses to be accepted by the USCIS system.

For paper submissions, applicants must print the current version of Form I-765 from uscis.gov/i-765 (practitioners must verify the version date to ensure they are using the most current iteration), complete the form in black or blue ink, include two passport-style photos, and mail the application together with supporting documentation and payment to the appropriate USCIS Lockbox address.[3][21] The USCIS Lockbox facility destination depends on the applicant's category and the residence jurisdiction, requiring practitioners to reference the most current USCIS guidance to identify the correct mailing address.

Online filing generally represents the more efficient pathway, as it provides immediate electronic acknowledgment, permits applicants to track application status through their USCIS online account, and often results in faster initial processing. However, some categories, such as F-1 OPT students seeking employment through designated international organizations (category C03(ii)), cannot file online and must submit paper applications to specific Lockbox addresses.[57]

Critical Form Fields and Category Selection

The most frequent cause of I-765 application errors and consequent delays derives from incorrect or missing information and, most critically, selection of an inappropriate eligibility category in question 27 of the paper form or the corresponding field in online applications.[52] Practitioners must counsel clients that the eligibility category is not discretionary; the applicant's immigration status and pending applications determine which category applies, and selecting the wrong category can result in rejection of the application or, worse, grant of employment authorization in an erroneous category creating future complications.

Selection of "reason for applying" requires choosing among: initial permission to accept employment, replacement of existing employment authorization (if the prior EAD was lost, stolen, or damaged), or renewal.[3][6][21] A critical distinction requires emphasis: even if an applicant already possesses an EAD in a different category (for example, DACA, asylum, or OPT), if they are now applying for employment authorization in a new and different category (such as adjustment of status), they must select "initial permission to accept employment" rather than "renewal," because the new category represents a distinct classification.[1][3][6][21][20] This distinction proves particularly important for applicants transitioning from initial parole or TPS status to asylum category C08, or from OPT to adjustment of status category C09.

Form fields requiring biographical information (name, date of birth, place of birth) must be completed with precision, as minor discrepancies such as name misspellings can trigger requests for evidence or, in egregious circumstances, denial.[52] Immigration practitioners should instruct clients to provide names exactly as they appear on passport, visa stamps, and other official immigration documents, including proper spacing and capitalization.

Biometric Appointment Requirements

Following submission of Form I-765, USCIS will issue a notice (Form I-797C) scheduling the applicant for a biometrics appointment at an Application Support Center (ASC), during which USCIS will collect photograph, fingerprints, and signature using LiveScan technology.[43] The biometrics notice will include a biometric notice code indicating the scope of collection: Code 1 indicates full fingerprinting for FBI background check, Code 2 indicates photo, signature, and index finger print (typical for card-issuing applications like EAD), and Code 3 indicates full fingerprinting plus photo, signature, and index finger.[43] OPT applications for F-1 students generally do not require biometrics appointments, and if an applicant receives a biometrics notice despite being an OPT applicant, they should contact their designated school official or international office for guidance.[46]

Applicants must bring government-issued photo identification to the biometrics appointment, with acceptable documents including permanent resident cards, passports, driver's licenses, military photo identification, and state-issued photo identification cards.[43] The appointment typically requires 15-30 minutes, and USCIS will stamp the appointment notice to confirm attendance. If an applicant misses the appointment without rescheduling or demonstrating good cause, USCIS may treat the case as abandoned and deny the application.[43] Applicants may reschedule biometric appointments online through their USCIS accounts or by calling USCIS customer service, but delay in attending biometrics will delay final EAD issuance.

Processing Timelines: Current Standards and Service Center Variations

General Processing Timelines Across Categories

As of current USCIS data (2025-2026), the general range for Form I-765 processing time spans 2 to 6 months, with most applicants receiving a decision within 90 to 120 days (approximately 3-4 months).[18] However, this represents a broad generalization obscuring substantial category-specific and service-center-specific variations. Processing times are also influenced by several key factors including the number of applications USCIS receives, USCIS workload and staffing allocations, policy and operational changes, and the applicant's response time for any Requests for Evidence (RFE) that USCIS issues.[7]

According to USCIS data released in early 2023, there was a notable 25% increase in processing times for Form I-765 compared to the prior year, primarily due to higher application volumes and resource constraints within the agency, and this pattern has continued or intensified through 2025-2026.[7] The national average for 80% of applicants stands at approximately 6.4 months, though this masks significant regional variation.

Service Center Variations and Northern California Processing

Service center processing times vary substantially, with some geographic jurisdictions experiencing significantly faster or slower processing than others. For example, an EAD application from an F-1 student in Potomac Service Center jurisdiction may be processed in approximately two months, while an individual with a pending I-485 adjustment application in California Service Center jurisdiction may wait approximately 21 months for processing.[7] This dramatic 19-month differential reflects the California Service Center's handling of the enormous volume of concurrent I-485 and I-765 applications from the Bay Area, Southern California, and other Western regions.

Applicants can check their specific service center's current processing time by visiting the USCIS website, selecting Form I-765 from the dropdown menu, choosing the applicable form category, selecting the specific field office or service center handling the case, and clicking the "Get Processing Time" button.[7] The receipt notice issued by USCIS upon application receipt will include a three-letter service center code indicating

which facility is processing the application. These codes typically correspond to geographic regions: WAC (Western Arizona), SRC (Southern Regional Center), CAL (California Service Center), and others.

Category-Specific Processing Patterns

For C09 adjustment of status applicants, Northern California practitioners have reported expedited processing in recent months. Reports from immigration attorneys indicate that C9 EAD applications are receiving approval in the 4-6 week range, representing substantially accelerated processing compared to the standard 2-6 month range.[15][10] This acceleration likely reflects agency focus on providing employment authorization to adjustment applicants more rapidly, consistent with policy objectives to facilitate legal work authorization for immigrants in green card processing.

For C08 asylum applicants, processing times have generally tracked the standard 2-6 month range, though asylum offices and service centers may process pending asylum applications more rapidly than immigration courts, with typical timelines in the 2-4 month range for positive determinations.[16] However, applicants must wait the mandatory 150-day threshold from filing the initial I-589 before becoming eligible for employment authorization, so the total timeline from asylum filing to EAD receipt extends well beyond the processing period for the I-765 form itself.

For OPT applications from F-1 students, processing times have historically been more rapid, with many applications receiving approval within 4-8 weeks.[3][21][6] However, this depends heavily on whether the application presents any complexity or whether USCIS issues an RFE.

Post-Approval Card Production and Receipt

Once USCIS approves an I-765 application and changes the case status to "Card Being Produced," the physical EAD card typically arrives within 5-10 business days via USPS to the mailing address provided in the application.[18] USCIS advises applicants to wait up to 30 days before submitting a non-delivery request if they have not received their card, as mail delays or processing variations may extend delivery.

If an applicant's mailing address changes after filing the Form I-765 but before the EAD card arrives, the applicant must update the address through their USCIS online account or by submitting a change-of-address notice (Form AR-11) with USCIS and the U.S. Postal Service.[3][21] Simply filing a USPS change-of-address form is insufficient, as USCIS will not automatically forward immigration documents.

Filing Fees and Premium Processing Options

Standard Filing Fees by Category

The standard filing fee for Form I-765 varies significantly by category and filing circumstance, with the baseline fee for standalone I-765 applications being \$520 when filed by mail or \$470 when filed online.[1][22][28][40] However, when Form I-765 is filed concurrently with a green card application (I-485) as part of an adjustment of status package, the I-765 fee is reduced to \$260.[1][20][22][40] Certain categories, including asylum applicants (C08), refugee and asylee categories (A03, A05), withholding of removal (A10), and VAWA self-petitioners (C31), are exempt from filing fees or receive substantially reduced fees.[1][22][28][40]

For F-1 OPT applications, the standard filing fee is \$260, substantially lower than the baseline \$520 fee.[40] TPS applicants (C19) and certain other humanitarian categories may face different fee structures or may

qualify for fee waivers depending on their circumstances.[1][22][28][40]

Applicants facing financial hardship may apply for a fee waiver using Form I-912, Request for a Fee Waiver, by demonstrating that they receive means-tested public benefits, that their household income is at or below 150% of the Federal Poverty Guidelines, or that they face financial hardship from medical expenses, unemployment, eviction, or homelessness.[37] The I-912 must be filed concurrently with the I-765 application, and if approved, the filing fee for the I-765 is waived entirely.[37]

Premium Processing Service Increases

USCIS offers premium processing for certain Form I-765 applications through the Form I-907, Request for Premium Processing Service. When premium processing is approved, USCIS guarantees a decision within 30 business days or provides a full refund of the premium processing fee.[17] However, as of March 1, 2026, the premium processing fee for Form I-765 applications (including OPT/STEM) will increase to \$1,780, up from the prior fee of \$1,685.[17][33] This \$95 increase applies only to premium processing requests postmarked on or after March 1, 2026, and USCIS will reject premium processing requests that include incorrect fee amounts.[17]

It is essential to note that premium processing is not available for all I-765 categories. Premium processing is not currently available for Form I-131 Advance Parole applications, even when filed concurrently with I-765, and USCIS typically reserves expedited processing requests for extremely unusual or humanitarian situations when premium processing is unavailable.[39] The decision whether to pursue premium processing for an I-765 application should be carefully calculated, as the \$1,780 premium fee represents a substantial additional expense, and practitioners should counsel clients that premium processing does not guarantee approval, only that a decision will be issued within the specified timeframe.

Automatic Extensions and Renewal Strategies in Light of 2025-2026 Policy Changes

Strategic Renewal Filing Timelines

Given the elimination of automatic EAD extensions effective October 30, 2025, practitioners must now counsel clients with unprecedented urgency regarding renewal timing. USCIS typically permits filing of I-765 renewal applications up to 180 days before the current EAD card's expiration date.[1][12][22][26][28] The critical tactical decision facing practitioners is whether to file at the maximum 180-day window or closer to the expiration date.

The calculus in February 2026 remains highly uncertain due to the novelty of the policies. Under the prior automatic extension regime, filing near the expiration date was often strategic, because the renewal application's filing would trigger the 540-day automatic extension, providing continuity even if the renewal was not adjudicated for many months. Under the current regime, filing late carries substantial risk: if a renewal application is filed just weeks before expiration, and USCIS does not adjudicate the application by the expiration date, the applicant's work authorization will terminate, potentially exposing them to unlawful employment liability and creating employment termination exposure.

Accordingly, practitioners should now counsel clients in affected categories to file renewal applications as early as possible, ideally near the six-month mark before expiration.[12][25][26] While USCIS processing times may extend beyond six months in some service centers (particularly California Service Center for I-485/I-765 packages), filing early provides maximum processing time before work authorization gap. For

applicants in Northern California with pending adjustment of status applications (C09), the accelerated 4-6 week processing timeframe for C9 EADs means that filing at 180 days pre-expiration will likely result in approval well before the card expires, avoiding coverage gaps entirely.

Specific Category Renewal Considerations

For C09 adjustment of status applicants whose EAD is now limited to 18 months under the December 5, 2025 policy, the renewal calculation follows this timeline: initial I-485/I-765 filed in month 0, EAD approved and received in month 0-1, EAD valid for 18 months (expiration in approximately month 18), renewal should be filed in month 12 to provide 6 months of processing time before expiration. Practitioners must counsel adjustment applicants that if their green card application has not been adjudicated before the 18-month EAD expiration approaches, a second EAD renewal will be required. This creates a particularly complex scenario for applicants whose underlying green card approval is delayed: they may require 2-3 consecutive I-765 renewals if their I-485 remains pending through multiple 18-month EAD cycles.

For C08 asylum applicants, the 18-month EAD validity period combined with the 150-day initial waiting period means that an applicant filing an I-589 asylum application in month 0 cannot receive work authorization until month 5 (after the 150-day threshold), at which point the I-765 is filed. If approved, the EAD is valid approximately 18 months. An applicant whose asylum case has not been adjudicated by month 23 (18 months from EAD receipt) must file a renewal application. Given that San Francisco Immigration Court asylum cases routinely process over 2-3 years, most asylum applicants will face multiple EAD renewal cycles.

For refugees and asylees (A03, A05), the 18-month validity period means renewals must be filed approximately annually, whereas previously multi-year validity periods were standard. A refugee arriving in 2025 with an initial 18-month EAD must file a renewal in month 12. If the refugee has not adjusted status to lawful permanent resident by month 18, a second renewal will be required. The compounding administrative and financial burden of these frequent renewals warrants careful communication to refugee clients about the new reality of their work authorization management.

For TPS holders now limited to one-year validity periods, affected immigrants must renew their EADs annually or according to the specific TPS designation period, representing a substantial increase in administrative burden compared to the prior multi-year validity arrangements.[25][45][51] This is particularly burdensome for Northern California's large El Salvador, Honduras, and Nicaragua TPS populations.

For H-4 spouses whose employment authorization was previously dependent on the H-1B worker maintaining status and typically valid for two years matching the H-1B approval, the October 30, 2025 elimination of automatic extensions means that H-4 spouses must file renewal applications before the EAD expires and can no longer rely on automatic coverage during processing.[25][45] If the H-1B worker's status changes, terminates, or visa expires without timely renewal, the H-4 spouse's work authorization immediately terminates regardless of the printed expiration date on the EAD card.

Managing Employment Gaps and Employer Obligations

The elimination of automatic extensions creates heightened risk of employment gaps that previously would have been avoided. An employee whose I-765 application is still pending at the printed expiration date on their current EAD card will lose work authorization as of that date, even if a renewal application is pending with USCIS. This creates significant compliance obligations for employers.

Employers must implement robust tracking systems (often called "tickler systems") to identify employees

with expiring work authorization documents. Employers should notify employees more than 180 days before EAD expiration to ensure adequate time for renewal filing and processing.[25][45][26] Employers are obligated under Form I-9 requirements to reverify employment eligibility before the EAD expires. If an employee cannot produce a new employment authorization document or other valid proof of work authorization by the expiration date, employers must terminate employment to avoid potential sanctions for knowingly employing someone without work authorization.

Alternatively, if the employee's prior nonimmigrant status (such as H-1B, L-1, or other visa classification) remains valid, the employee may provide evidence of that status as proof of continued work authorization, permitting employment continuation while the I-765 renewal is processing. This option exists particularly for adjustment applicants who previously held work-authorized nonimmigrant status, though counsel should verify with business immigration specialists that the specific nonimmigrant status selected for continued reliance will be accepted.

Northern California Implementation and San Francisco Immigration Court Context

San Francisco Immigration Court and Asylum Processing Dynamics

The San Francisco Immigration Court (located at 100 Montgomery Street, Suite 800, San Francisco, CA 94104, with additional locations at 630 Sansome Street, 4th Floor, Room 475, San Francisco, CA 94111, and Concord Hearing Location at 1855 Gateway Blvd., Suite 850, Concord, CA 94520) serves the Northern California immigration docket encompassing the entire Bay Area, northern coastal regions, and substantial Central Valley areas. The Court's docket carries a predominantly asylum-focused caseload, reflecting Northern California's refugee and asylee settlement patterns, gang violence persecution referrals from Central America, and large populations from Guatemala, El Salvador, and Honduras.

The San Francisco Asylum Office conducts affirmative asylum interviews for Northern California applicants through procedures that have evolved substantially in recent years. Interview appointment wait times, previously ranging 2-4 months, have extended to 6-12 months or longer in recent periods due to staffing constraints and application volume. Asylum applicants in Northern California must understand that, even after credible fear screening at the border or receipt of a Notice to Appear (NTA), the affirmative asylum interview at San Francisco Asylum Office may not occur for many months, during which time work authorization through category C08 remains the only employment path available.

The interplay between affirmative and defensive asylum proceedings creates distinct employment authorization timelines. An applicant who files an I-589 asylum application affirmatively at USCIS can apply for employment authorization through category C08 after 150 days, receiving work authorization during the pendency of the asylum adjudication.[16] An applicant who receives a Notice to Appear and appears before an immigration judge defensively may also apply for C08 employment authorization, though the employment authorization availability in defensive proceedings may depend on timing and case stage.

San Francisco Asylum Office Interview Patterns

The San Francisco Asylum Office has developed distinct procedural patterns that practitioners should understand when counseling clients. Officers in this office have been noted to conduct relatively thorough interviews covering applicant credibility, sufficiency of persecution evidence, and applicant demeanor. Gang violence persecution cases-the predominant claim type from Central America-receive particular scrutiny regarding the applicant's ability to demonstrate nexus between persecution and a protected ground (typically

political opinion or membership in a particular social group). Interview preparation including mock interviews substantially improves adjudication outcomes.

ICE Enforcement Operations and Northern California Field Office Considerations

Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Field Office 1 covers Northern California operations encompassing the San Francisco Bay Area and northern regions. ERO priorities and enforcement patterns directly affect the urgency of employment authorization applications for vulnerable immigrant populations. ERO detention facilities within Northern California include various locations, and alternatives to detention procedures may be available depending on the individual's circumstances and immigration status. Practitioners representing immigrants in ERO enforcement contact situations should immediately counsel regarding employment authorization applications as a protective measure while pursuing alternative legal strategies.

State Criminal Law and Immigration Consequences in Northern California Practice

California's criminal law landscape interfaces critically with employment authorization through provisions addressing criminal conviction modifications. California Penal Code § 1473.7 permits individuals who were previously convicted and sentenced without adequate advisement of immigration consequences to petition for vacatur of the conviction, which can restore eligibility for immigration benefits and employment authorization. California Penal Code § 1203.43 addresses post-conviction relief for immigration-related consequences of certain convictions. California Penal Code § 18.5 and Prop 47 reductions similarly implicate immigration consequences, as conviction modifications may restore eligibility for employment authorization categories from which certain convictions had disqualified the individual.

Practitioners representing immigrants with prior criminal histories should routinely assess whether conviction modification is strategically available and potentially beneficial to restore employment authorization eligibility. This is particularly critical for individuals otherwise eligible for asylum, withholding of removal, or cancellation of removal who may be statutorily ineligible due to criminal conviction bars.

Port of Entry Considerations and CBP Processing

Northern California has major ports of entry including San Ysidro and Otay Mesa in the San Diego region (though outside strict Northern California), as well as land ports and designated ports throughout the region. CBP officers conduct credible fear screenings for arriving asylum applicants, determine expedited removal eligibility, and collect initial biographic and processing information. Understanding CBP documentary requirements and processing patterns at specific ports of entry can inform client counseling regarding what documents to present at arrival and what to expect during the intake process.

Common Pitfalls and Request for Evidence Patterns

Frequent I-765 Denial Reasons and RFE Triggers

USCIS issues Requests for Evidence (RFE) on I-765 applications for several common reasons: incomplete or incorrect information, incorrect filing category, presence of criminal records or misdemeanors, inconsistent travel information, incorrect employer information on E-Verify, missing required signatures, insufficient documentation, eligibility issues, status issues, and incorrect fee payment.[52] Understanding these common triggers permits practitioners to conduct thorough quality control before submission, substantially reducing RFE and denial risk.

Incorrect category selection represents perhaps the most significant error, as applicants frequently misidentify their employment authorization eligibility category. An applicant who is applying for employment authorization through pending adjustment of status universally falls within category C09 regardless of prior status, but applicants sometimes incorrectly select other categories based on misunderstanding of their current situation.[52] Similarly, asylum applicants must distinguish between C08 (pending asylum) and A05 (approved asylum), and between renewal and initial applications when transitioning between categories.

Missing or incomplete documentation represents a second significant RFE category. Applications must include all required supporting documents specified in the form instructions, and incomplete submissions delay processing substantially or result in RFE issuance.[52] The requirement for two passport-style photos meeting specific format requirements, presentation of valid government identification, I-94 records, and category-specific documents (I-20 for OPT students, diploma and transcript for STEM OPT, etc.) must be carefully verified before submission.

Inconsistent biographical information across forms and documents triggers RFE issuance, as USCIS adjudicators conduct background checks and data verification across multiple immigration system databases. Name spellings, date of birth, passport numbers, and A-numbers must be consistent across the I-765 application, supporting documents, and prior immigration records. Even minor discrepancies such as middle name inclusion or hyphenation variations can trigger inquiry.

RFE Response Strategy

When USCIS issues an RFE, the applicant has a strict deadline (typically 87 days from issuance) to submit complete and accurate responses to each specific request item.[49] Late or incomplete RFE responses result in automatic denial.[49] RFE responses should be organized logically with a table of contents, labeled exhibits corresponding to each RFE request item, and a brief cover letter summarizing the submission.[49]

If an applicant cannot locate a document that USCIS requests (for example, an I-94 from years prior or a birth certificate from a country with inadequate record-keeping systems), the RFE response should explain the reason the document cannot be produced and provide secondary evidence as an alternative.[49] Affidavits from individuals with personal knowledge, institutional letters explaining record destruction or loss, or alternative documentation establishing the fact in question may substitute for the primary evidence if the applicant makes a reasonable good-faith effort to locate it.

Conclusion: Strategic Planning and Emerging Landscape Considerations

The employment authorization document landscape as of February 2026 presents substantially altered parameters from the prior decade's regime. The twin October 2025 and December 2025 policy changes-elimination of automatic EAD extensions and reduction of maximum validity periods-have fundamentally restructured the work authorization calculus for vulnerable immigrant populations and the practitioners serving them. Where automatic extensions previously provided 540 days of continuity even if USCIS processing times extended, employment authorization now terminates on the printed expiration date regardless of pending renewal applications. Where individuals previously benefited from five-year EAD validity periods providing substantial administrative reprieve, numerous categories now cap at eighteen months, necessitating renewal cycles occurring approximately annually or biannually.

For practitioners based in Northern California serving adjustment of status applicants, the acceleration in C9 EAD processing (4-6 week approvals reported) provides significant mitigation for employment authorization

gaps, though counsel must carefully monitor whether this processing speed persists as the new policies take effect across all service centers. The eighteen-month maximum validity period for C09 applications remains substantially more generous than the annual requirements for TPS and other humanitarian categories, but it nonetheless represents a significant departure from the five-year standard that had governed since September 2023.

Asylum applicants and refugees comprise a substantial portion of Northern California's immigrant community, particularly in the San Francisco Bay Area's service-provision sector. These populations now face the most acute administrative burden: C08 pending asylum applicants must renew employment authorization approximately annually, as must approved asylees and refugees under the new eighteen-month cap. TPS holders, who constitute a particularly large population from El Salvador, Honduras, and Nicaragua in Northern California, now face annual renewal cycles representing dramatic administrative burden increase.

Strategic planning imperatives for practitioners include: (1) immediately implementing robust docketing systems to track all client EAD expirations with calendar entries triggering renewal filing approximately 180 days before expiration; (2) counseling all clients in affected categories regarding the new 18-month validity periods and elimination of automatic extensions, emphasizing the critical importance of timely renewal filing; (3) calculating anticipated renewal cycles for clients with pending applications (adjustment, asylum, VAWA, etc.) that may remain pending for years, preparing clients and employers for multiple EAD renewals; (4) considering premium processing for strategic applications where employment authorization gaps pose acute employment risk, and noting the March 1, 2026 fee increase to \$1,780; (5) for employers with international workforces, implementing systemic I-9 compliance and work authorization tracking systems with adequate lead time to permit EAD renewal and reverification well before expiration dates; and (6) assessing criminal conviction modification opportunities for clients whose prior convictions may be creating employment authorization eligibility barriers.

The emerging policy landscape also warrants monitoring of several developing legal questions. Litigation challenging the automatic extension elimination or validity period reduction may emerge, particularly if employment gaps demonstrably increase and create economic or humanitarian harm. Congressional action addressing work authorization timelines remains possible. USCIS processing time improvements (or deterioration) will substantially affect practical implementation of the new policies. The interaction between California state employment law and the compressed EAD validity periods may create novel compliance questions for employers.

Immigration practitioners must prepare clients and employers for a prolonged engagement with employment authorization administration, moving away from the multi-year validity-period model toward a continuous renewal framework. This new landscape requires heightened vigilance, earlier filing timelines, and substantial communication with clients and employers regarding the operational changes now in effect. For immigrant communities in Northern California-particularly asylum seekers, TPS beneficiaries, and adjustment applicants-understanding these employment authorization changes proves essential to maintaining lawful work status and avoiding the grave consequences of employment without authorization.

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Practitioner Note: This research report reflects the state of employment authorization law as of February 3, 2026. The October 30, 2025 elimination of automatic EAD extensions and December 5, 2025 validity period reductions represent transformative policy changes requiring immediate implementation of revised client counseling and docketing procedures. Further regulatory changes or litigation challenging these policies remain possible and should be monitored through USCIS policy updates, Federal Register notices, and AILA practice alerts.