

**TABLE OF CHANGES – INSTRUCTIONS**  
**Form I-765, Application for Employment Authorization**  
**OMB Number: 1615-0040**  
**10/20/2025**

**Reason for Revision: Aylum EAD NPRM**

**Project Phase: OMB Review**

Legend for Proposed Text:

- Black font = Current text
- Red font = Changes

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Current Page Number and Section	Current Text	Proposed Text
<b>Pages 18-21, Specific Instructions</b>	<p>[Page 20]</p> <p><b>Part 3. Information About Your Eligibility Category</b></p> <p><b>Item Number 1. Eligibility Category.</b> Refer to the list of the eligibility categories in the <b>Who May File Form I-765</b> section of these Instructions. Find your eligibility category, and enter it in the space provided.</p> <p><b>Item Number 2. (c)(3)(C) STEM OPT Eligibility Category.</b> If you entered eligibility category (c)(3)(C) in <b>Item Number 1.</b>, provide your degree level and major (for example, Bachelor’s degree in English), your employer’s name as listed in E-Verify, your employer’s E-Verify Company Identification Number, or E-Verify Client Company Identification Number in the spaces provided.</p> <p><b>Item Number 3.A. (c)(8) Eligibility Category.</b> If you entered the (c)(8) eligibility category in <b>Item Number 1.</b> and are eligible for benefits under ABC settlement agreement as a Salvadoran or Guatemalan national, you should select the box.</p> <p><b>Item Number 3.B. (c)(8) Eligibility Category.</b> If you entered the eligibility category (c)(8) in <b>Item Number 1.</b>, provide an answer to the question “Have you have</p>	<p><b>Part 3. Information About Your Eligibility Category</b></p> <p>[no change]</p> <p><b>Item Number 3.A. (c)(8) Eligibility Category.</b> If you entered the (c)(8) eligibility category in <b>Item Number 1.</b> and are eligible for benefits under ABC settlement agreement as a Salvadoran or Guatemalan national, you should select the “Yes” box.</p> <p>[no change]</p>

**EVER** been arrested for and/or convicted of any crime?” If you answered “Yes” to **Item Number 3.B.**, refer to **Special Filing Instructions for Those With Pending Asylum Applications (c)(8)** in the **Required Documentation** section of the Instructions for information about providing court dispositions.

[new]

**Item Number 3.C. Lawful Entry. (c)(8) Eligibility Category.** Select “Yes” if you entered or attempted to enter the United States at a place and time other than lawfully through a U.S. port of entry on or after [EFFECTIVE DATE OF FINAL RULE]. Complete **Items D.-E.** in **Item Number 3.**

**NOTE:** Your eligibility for an EAD under category (c)(8) requires that, on or after [EFFECTIVE DATE OF FINAL RULE] any entry into the United States was lawful and through a port of entry. However, in limited circumstances, you may qualify for an exception to this requirement under 8 CFR 208.7(a)(1)(iv)(D)(iii)(F). In order for USCIS to determine whether you qualify for an exception, you must complete **Items D.-E.** in **Item Number 3.**

**Item Number 3.D. Presenting yourself to the Department of Homeland Security.** Select “Yes” if you presented yourself to an officer or agent from the Department of Homeland Security (DHS) within 48 hours of your entry or attempted entry into the United States **and** expressed an intention to apply for asylum or expressed a fear of persecution or torture. Presenting yourself to DHS includes presenting yourself to an officer or an agent from: U.S. Customs and Border Protection, U.S. Border Patrol, U.S. Immigration and Customs Enforcement, U.S. Coast Guard, or U.S. Citizenship and Immigration Services.

Select “No” if you did not present yourself to an officer or agent from DHS within 48 hours of your unlawful entry into the United States **and** express an intention to apply for asylum or express a fear of persecution or torture.

	<p><b>Item Number 4. (c)(26) Eligibility Category.</b> If you entered eligibility category (c)(26) in <b>Item Number 1.</b>, provide the receipt number of your spouse’s most recent Form I-797 Notice for Form I-129, Petition for a Nonimmigrant Worker, in the space provided.</p> <p>...</p>	<p><b>Date you presented yourself to DHS.</b> Provide the date that you presented yourself to DHS.</p> <p><b>Location where you presented yourself to DHS.</b> Provide the location where you presented yourself to DHS.</p> <p><b>Country of claimed persecution.</b> Provide the name of the country from which you fear persecution or torture.</p> <p><b>Item Number 3.E. Good Cause for Illegal Entry.</b> Provide an explanation for why you did not enter the United States lawfully through a U.S. port of entry. Your explanation should include any information that would demonstrate that you had good cause for not entering lawfully. <i>See</i> 8 CFR 208.7(a)(1)(iv)(D)(2). Examples of good cause may include, but are not limited to, needing immediate medical attention or fleeing imminent serious harm. Examples that do not constitute good cause include, but are not limited to, evasion of U.S. immigration officers, circumvention of the orderly processing of asylum seekers at a U.S. port of entry, or convenience.</p> <p>[no change]</p> <p>...</p>
<p><b>Pages 21-24, Required Documentation</b></p>	<p>[Page 22]</p> <p><b>Special Filing Instructions for Those With Pending Asylum Applications (c)(8)</b></p> <p><b>4. Asylum and Withholding of Deportation Applicants (with a pending Form I-589) who filed ON OR AFTER January 4, 1995 – (c)(8).</b></p> <p>[new]</p>	<p><b>Special Filing Instructions for Those With Pending Asylum Applications (c)(8)</b></p> <p><b>4. Asylum and Withholding of Deportation Applicants (with a pending Form I-589) who filed ON OR AFTER January 4, 1995 – (c)(8).</b></p> <p><b>Refer to [Website link] to verify that USCIS is currently accepting initial employment authorization applications based on a pending asylum application.</b></p>

		<p><b>A.</b> If you are requesting employment authorization under (c)(8), you must wait 365 calendar days from the date that USCIS or the Immigration Court accepts your asylum application before you may file your application for employment authorization;</p> <p><b>B.</b> Biometric Services fee and appointments.</p> <p>Applicants for initial and renewal EADs under the (c)(8) eligibility category must submit biometrics at a scheduled biometric services appointment . If you fail to appear for your biometric services appointment, you may be ineligible for employment authorization.</p> <p><b>C.</b> One-year deadline to file for asylum.</p> <p>If you file your asylum application on or after [EFFECTIVE DATE OF FINAL RULE] and file it more than one year after your most recent arrival in the United States, you will not be granted employment authorization under this eligibility category <b>unless and until</b> a USCIS asylum officer or an Immigration Judge determines that you meet an exception for late filing, as provided in section 208(a)(2)(D) of the Immigration and Nationality Act (INA). This prohibition does not apply to an alien who is an unaccompanied alien child, as defined by section 462(g) of the Homeland Security Act of 2002, 6 U.S.C. 279(g), INA section 208(a)(2)(E), 8 U.S.C. 1158(a)(2)(E).</p> <p><b>D.</b> Lawful entry into the United States through a port of entry.</p> <p>If you entered or attempted to enter the United States at a place and time other than lawfully through a U.S. port of entry on or after [EFFECTIVE DATE OF FINAL RULE], you are ineligible for employment authorization based on a pending asylum application, unless you demonstrate that: (1) you presented yourself to the Secretary of Homeland Security or his or her delegate within 48 hours of your arrival <b>and</b> you expressed an intention to seek asylum within the United States or expressed a fear of persecution or torture in your home</p>
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country; or (2) you establish good cause for not entering lawfully through a U.S. port of entry. USCIS will determine whether you meet the exception to the illegal entry bar based on your responses to **Items D. and E. in Item Number 3. in Part 3.** of Form I-765.

**E. Arrests, charges, and convictions.**

You cannot receive employment authorization under this eligibility category if:

- You have been convicted at any time in the United States or abroad of an aggravated felony as described in section 101(a)(43) of the Act;
- You have been convicted at any time of a particularly serious crime;
- There are serious reasons to believe that you have committed a serious non-political crime outside of the United States; or
- You are subject to a mandatory denial of your asylum application based on the criminal grounds described in 8 CFR 208.13(c).

**F. Availability of (c)(8) Employment Authorization During the Asylum Process.**

If you are granted employment authorization while your asylum application is pending with USCIS or the Immigration Court, you may seek renewal of your EAD as long as the asylum application remains pending (unless your EAD is revoked or terminated).

If you have an EAD based on a pending asylum application and your asylum application is denied by USCIS, your EAD will automatically terminate on the date of the denial of the asylum application. If you have an EAD based on a pending asylum application and your asylum application is denied by the Immigration Court, your EAD will automatically terminate after 30 days unless you file a timely appeal with the Board of Immigration Appeals (BIA). If you file a timely appeal with the BIA, your current employment authorization will continue while your asylum application is on review at the BIA (unless revoked or

	<p>You are subject to a 150-day waiting period after the filing of your asylum application, before you can apply for an EAD, and an additional 30-day period before we can issue you an EAD, for a total of 180 days. The number of days a completed asylum application is considered pending does not include any delays requested or caused by you while your application is pending with the USCIS asylum office or with an EOIR IJ. (See 8 CFR 208.7). This time period during which your asylum application is pending before we may grant you an EAD is called the “180-day asylum EAD clock.” We may reject your Form I-765 if you file it before the 150-day waiting period has elapsed. Some examples of delays that may be caused by you while your application is pending with the USCIS Asylum Office include but are not limited to:</p> <ul style="list-style-type: none"> <li><b>A.</b> Failure to appear at your interview or fingerprint appointment;</li> <li><b>B.</b> Failure to receive and acknowledge your asylum decision in person (if required);</li> <li><b>C.</b> A request to schedule your interview for a later date;</li> <li><b>D.</b> A request to transfer your case to a new asylum office or interview location, including when the transfer is based on a new address;</li> <li><b>E.</b> A request to provide additional evidence after your interview; and</li> <li><b>F.</b> If you are required to provide a competent interpreter at your interview, failure to provide a competent interpreter.</li> </ul>	<p>terminated). There is no need to file another Form I-765, unless your EAD is about to expire or will expire during the time your case is on appeal. If the BIA affirms the denial of your asylum application, your employment authorization terminates automatically on the date of the BIA’s denial.</p> <p><b>G.</b> Additional Evidence requirements for category (c)(8) applicants:</p> <p>[deleted]</p>
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**[Page 23]**

Additionally, if you fail to appear for your interview with a USCIS asylum office for a hearing before an EOIR IJ, you may be ineligible for an EAD.

If you have received a Recommended Approval notice from the USCIS asylum office recommending a grant of asylum, you do not need to wait 150 days and may apply for an EAD immediately upon receipt of this notice. Provide a copy of your notice as evidence of your recommended approval with your Form I-765.

If you are a category (c)(8) applicant who has met the requisite 150-day waiting period to file Form I-765, not including delays caused or requested by you, file your Form I-765 with the following evidence, where applicable:

**A.** If your asylum application was filed with USCIS, a copy of the following: the USCIS Acknowledgement of Receipt that was provided to you and your USCIS Asylum Interview Notice (scheduling, re-scheduling, or cancelling your asylum interview); your Form I-797C Notice (ASC appointment notice) for the biometrics appointment for your asylum application; or other evidence that your asylum application was filed with USCIS.

**B.** If you lodged or filed your asylum application with the Executive Office for Immigration Review (EOIR), a copy of acknowledgement of receipt of your application or other available evidence.

**C.** If an EOIR IJ has denied your asylum and withholding of removal relief, but you met the requisite 180-day waiting period prior to the EOIR IJ's decision in your case, evidence that you:

**(1)** Timely appealed the EOIR IJ's decision on your asylum application to the BIA and the appeal remains pending; and

If you are a category (c)(8) applicant who has met the requisite **365 calendar-day** waiting period to file Form **I-765**, **file** your Form I-765 with the following evidence, where applicable:

- **If** your asylum application was filed with USCIS, a copy of the following: the USCIS Acknowledgement of Receipt that was provided to you and your USCIS Asylum Interview Notice (scheduling, re-scheduling, or cancelling your asylum interview); your Form I-797C Notice (ASC appointment notice) for the biometrics appointment for your asylum application; or other evidence that your asylum application was filed with USCIS.
- **If** you lodged or filed your asylum application with the Executive Office for Immigration Review (EOIR), a copy of acknowledgement of receipt of your application or other available **evidence**.

**[deleted]**

	<p>(2) If applicable, evidence that you timely appealed the BIA decision on your asylum application to a U.S. Court of Appeals and that decision remains pending.</p> <p>[new]</p> <p><b>D.</b> If your asylum application has been remanded to an EOIR IJ for further adjudication of your underlying asylum claim:</p> <p>(1) A copy of the BIA decision and order remanding your case to the EOIR IJ; and</p> <p>(2) Evidence that your asylum claim remains under review by the EOIR IJ.</p> <p><b>E. Evidence of Arrests and Conviction.</b></p> <p>For initial and renewal applications, you are required to submit evidence of any arrests and/or convictions. If you have been convicted of an aggravated felony, you cannot be granted employment authorization under this eligibility category. USCIS will make the determination as to whether your convictions meet the definition of aggravated felony. You must, however, provide information and any supporting documentation on all crimes you were convicted of so USCIS can make an appropriate decision. Provide a certified copy of all arrest reports, court dispositions, sentencing documents, and any other relevant documents.</p>	<ul style="list-style-type: none"> <li>• If you were granted employment authorization under the (c)(8) category and an Immigration Judge (IJ) subsequently denied your asylum application, and you are now seeking renewal of your EAD, evidence that you timely appealed the EOIR IJ's decision on your Form I-589 to the BIA and the appeal remains pending.</li> <li>• If the BIA remanded your asylum application to an EOIR IJ for further adjudication of your underlying asylum claim: <ul style="list-style-type: none"> <li>○ A copy of the BIA decision and order remanding your case to the EOIR IJ; and</li> <li>○ Evidence that your asylum claim remains under review by the EOIR IJ.</li> </ul> </li> <li>• If a federal court remanded your asylum claim to the BIA for further action and your claim is still pending with the BIA, you must submit a copy of the Federal Court's remand order.</li> </ul> <p><b>H. Evidence of Arrests and Conviction.</b></p> <p>[deleted]</p>
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	<p>[new]</p>	<p>You must submit certified police and court records for any criminal charges, arrests, or convictions you may have.</p> <ul style="list-style-type: none"> <li>• If you were <b>EVER</b> arrested or detained by a law enforcement officer for any reason in <b>any</b> country, including the United States, and no criminal charges were filed, you must submit: <ul style="list-style-type: none"> <li>○ An original or certified copy of the complete arrest report; and</li> <li>○ Either an official statement by the arresting or detaining agency or prosecutor’s office <b>OR</b> an applicable court order that indicates the final disposition of your arrest or detention;</li> </ul> </li> <li>• If you were <b>EVER</b> charged for any reason (even if you were not arrested) in <b>any</b> country, including the United States, you must submit: <ul style="list-style-type: none"> <li>○ An original or certified copy of the complete arrest report; and</li> <li>○ Certified copies of <b>BOTH</b> the indictment, information, or other formal charging document <b>AND</b> the final disposition of each charge (for example, a dismissal order or acquittal order);</li> </ul> </li> <li>• If you were <b>EVER</b> convicted or placed in an alternative sentencing or rehabilitative program (such as probation, drug treatment, deferred adjudication, or community service program) in <b>any</b> country, including the United States, you must submit: <ul style="list-style-type: none"> <li>○ An original or certified copy of the complete arrest report;</li> <li>○ Certified copies of the following: the indictment, information, or other formal charging document; any plea agreement, whether in the form of a court filing or recording in a hearing transcript; and the final disposition for each incident (for example, conviction record, deferred</li> </ul> </li> </ul>
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		<p>adjudication order, probation order); and</p> <ul style="list-style-type: none"> <li>○ Either an original or certified copy of your probation or parole record showing that you completed the mandated sentence, conditions set for the deferred adjudication, or rehabilitative program OR documentation showing that you completed the alternative sentencing or rehabilitative program; or</li> <li>● If you <b>EVER</b> had any arrest or conviction vacated, set aside, sealed, expunged, or otherwise removed from your record in <b>any</b> country, you must submit: <ul style="list-style-type: none"> <li>○ An original or certified copy of the complete arrest report; the indictment, information, or other formal charging document; any plea agreement, whether in the form of a court filing or recording in a hearing transcript; and the final disposition for each incident (for example, conviction record, deferred adjudication order, probation order); and</li> <li>○ A certified copy of the court order vacating, setting aside, sealing, expunging, or otherwise removing the arrest or conviction.</li> </ul> </li> </ul> <p>You must disclose all arrests and charges, even if the arrest occurred when you were a minor. An adjudication of juvenile delinquency is not a “conviction” under U.S. immigration law, but a juvenile can be charged as an adult for an offense committed while a juvenile. If you were convicted as an adult, there is a conviction, regardless of whether you were tried before a criminal court or a juvenile court. An adjudication of juvenile delinquency could also be relevant to the exercise of discretion. If you claim that an arrest resulted in an adjudication of delinquency, and not in a conviction, you must submit a copy of the court document that establishes this fact.</p>
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	<p><b>5. Asylum and Withholding of Deportation Applicants (with a pending Form I-589) who filed BEFORE January 4, 1995 – (c)(8).</b> You may file Form I-765 at any time; however, we will only grant your employment authorization if we find that your asylum application is not frivolous. File Form I-765 with a copy of the following documents, where applicable:</p> <p>A. Your date-stamped previously filed Form I-589;</p> <p>...</p>	<p>In general, you do <b>not</b> need to submit documentation relating to traffic fines and incidents that did not involved an actual physical arrest if the penalty was only a fine of less than <b>\$500</b> or points on your driver’s license. However, you must submit such documentation if the traffic incident resulted in criminal charges or involved alcohol, drugs, or injury to a person or property.</p> <p>If you are not able to obtain certified copies of any court dispositions relating to the above, please submit:</p> <ul style="list-style-type: none"> <li>• An explanation of why the documents are not available, including (if possible) a certificate from the custodian of the documents explaining why the documents are not available;</li> <li>• Any secondary evidence that shows the disposition of the case; or</li> <li>• If secondary evidence is also not available, one or more written statements, signed under penalty of perjury under 28 U.S.C. 1746, by someone who has personal knowledge of the disposition.</li> </ul> <p><b>5. Asylum and Withholding of Deportation Applicants (with a pending Form I-589) who filed BEFORE January 4, 1995 – (c)(8).</b> You may file Form I-765 at any time; however, we will only grant your employment authorization if we find that your asylum application is not frivolous. File Form I-765 with a copy of the following documents, where applicable:</p> <p>[no change]</p> <p>...</p>
<p><b>Page 28, Paperwork Reduction Act</b></p>	<p>[Page 28]</p> <p><b>Paperwork Reduction Act</b></p> <p>USCIS may not conduct or sponsor an information collection, and you are not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for this</p>	<p>[Page 28]</p> <p><b>Paperwork Reduction Act</b></p> <p>USCIS may not conduct or sponsor an information collection, and you are not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for this</p>

	<p>collection of information is estimated at 4.38 hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes. The public reporting burden for the collection of information for Form I-765WS is estimated at 30 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No. 1615-0040. <b>Do not mail your completed Form I-765 to this address.</b></p>	<p>collection of information is estimated at <b>4.72</b> hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes. The public reporting burden for the collection of information for Form I-765WS is estimated at 30 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No. 1615-0040. <b>Do not mail your completed Form I-765 to this address.</b></p>
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