

TABLE OF CHANGES – INSTRUCTIONS
Form I-765, Application for Employment Authorization
OMB Number: 1615-0040
05/28/2026

Reason for Revision: Discretionary EAD Final Rule

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
Pages 1-16, Who May File Form I-765?	[Page 1] Who May File Form I-765? ... [Page 2] Please note that a person with a pending application for an immigration benefit or request might have a different category number than a person who was already granted the benefit or request. For example, a person with a pending asylum application may file an EAD application under category (c)(8); by contrast, the EAD category for a person already granted asylum is category (a)(5). [New]	[Page 1] Who May File Form I-765? ... [Page 1] Please note that a person with a pending application for an immigration benefit or request might have a different category number than a person who was already granted the benefit or request. For example, a person with a pending asylum application may file an EAD application under category (c)(8); by contrast, the EAD category for a person already granted asylum is category (a)(5). Discretionary EAD Categories If you are applying for a discretionary EAD under 8 CFR 274a.12(c) (that is, other than under (c)(8), (c)(19), (c)(20), (c)(21), (c)(22), (c)(24), and (c)(25)), please refer to the Special Filing Instructions for Those Applying for Employment Authorization under 8 CFR section 274a.12(c) section of these Instructions for additional information.

	Asylee/Refugee Categories (and their Spouses and Children) ... NOTE: If you are an asylee and have applied to adjust to lawful permanent resident status under INA section 209 using Form I-485, file Form I-765 under category (a)(5) as an asylee. Do not file Form I-765 under eligibility category (c)(9) as an INA section 245 adjustment applicant. 4. Granted Withholding of Deportation or Removal--(a)(10). File Form I-765 with a copy of the EOIR IJ's signed order granting withholding of deportation or removal. [New] 5. Pending Asylum and Withholding of Removal Applicants and Applicants for Pending Asylum under the ABC Settlement Agreement--(c)(8) If you have a pending Form I-589, Application for Asylum and for Withholding of Removal, or you are awaiting further consideration of a pending asylum application under INA section 235(b)(1)(B)(ii) following a positive credible fear determination, refer to Special Filing Instructions for Those With Pending Asylum Applications--(c)(8) in the Required Documentation section of these Instructions. 6. Asylum and Withholding of	Asylee/Refugee Categories (and their Spouses and Children) ... NOTE: If you are an asylee and have applied to adjust to lawful permanent resident status under INA section 209 using Form I-485, file Form I-765 under category (a)(5) as an asylee. Do not file Form I-765 under eligibility category (c)(9) as an INA section 245 adjustment applicant. 4. Granted Withholding of Deportation or Removal --(a)(10). File Form I-765 with a copy of the EOIR IJ's signed order, or a copy of an order from the Board of Immigration Appeals (BIA) granting withholding of deportation or removal, or withholding of removal under CAT. 5. Granted Deferral of Removal Pursuant to Regulations Implementing the Convention Against Torture (CAT)--(c)(18). Refer to Other Categories, Final Order of Deportation or Removal and Release from Custody on Orders of Supervision--(c)(18) below for the instructions for applying for employment authorization under the (c)(18) category. 6. Pending Asylum and Withholding of Removal Applicants and Applicants for Pending Asylum under the ABC Settlement Agreement--(c)(8). If you have a pending Form I-589, Application for Asylum and for Withholding of Removal, or you are awaiting further consideration of a pending asylum application under INA section 235(b)(1)(B)(ii) following a positive credible fear determination, refer to Special Filing Instructions for Those With Pending Asylum Applications--(c)(8) in the Required Documentation section of these Instructions. 7. Asylum and Withholding of
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	Deportation Applicants (with a pending Form I-589) who filed BEFORE January 4, 1995 – (c)(8). ... [Page 3] 7. Asylum application under the ABC Settlement Agreement--(c)(8). If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, <i>American Baptist Churches v. Thornburgh</i>, 760 F. Supp. 796 (N.D. Cal. 1991), you are entitled to an EAD under the ABC settlement. ... [Page 10] (4) Secondary Evidence. If you do not have the evidence listed in Items (1) or (2) above, you may ask us to consider secondary evidence in support of your application for employment authorization. For additional information on secondary evidence, see Evidence in the General Instructions section of these Instructions. (5) Proof of Arrests and Conviction. For initial and renewal applications, you must submit documentation of any arrests and/or convictions. If you were ever convicted of a felony or two or more misdemeanors, you cannot be granted employment authorization under this eligibility category. USCIS will make the determination as to whether your crimes fall into either of these categories. You must, however, provide information and any supporting documentation on all crimes which you were convicted of so USCIS can make an appropriate decision. Provide certified copies of all arrest reports, court dispositions, sentencing documents, and any other relevant documents. NOTE: USCIS may, in its discretion, deny your application if you have been arrested and/or convicted of any crime. D. Traffic Violations and Arrests Do not select the “Yes” box for Part 3., Item B. in Item Number 3., on the application or submit documentation if you	Deportation Applicants (with a pending Form I-589) who filed BEFORE January 4, 1995 – (c)(8). ... [Page 3] 8. Asylum application under the ABC Settlement Agreement--(c)(8). If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, <i>American Baptist Churches v. Thornburgh</i>, 760 F. Supp. 796 (N.D. Cal. 1991), you are entitled to an EAD under the ABC settlement. ... [Page 10] (4) Secondary Evidence. If you do not have the evidence listed in Items (1) or (2) above, you may ask us to consider secondary evidence in support of your application for employment authorization. For additional information on secondary evidence, see Evidence in the General Instructions section of these Instructions. [Delete] [Delete] [Delete]
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	only have had minor traffic violations. Minor traffic violations do NOT include violations that are alcohol- or drug-related. If you were ARRESTED for any traffic offense, select the “Yes” box for Item B. in Item Number 3. on the application and provide arrest and disposition documentation so USCIS can properly assess whether your arrest and/or conviction may affect your employment authorization eligibility. NOTE: Provide the conviction and disposition documentation even if your records were sealed, expunged, or otherwise cleared. You must provide the documentation even if anyone, including a judge, law enforcement officer, or attorney told you that you no longer have a record or that you do not have to disclose the information. [New] Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization. ... [Page 11] (4) Secondary Evidence. If you do not have the evidence listed in Items (1), (2), or (3) above, you may ask us to consider secondary evidence in support of your application for employment authorization. For additional information on secondary evidence, see Evidence in the General Instructions section of these Instructions. USCIS may, in its discretion, deny your application if you have been arrested and/or convicted of any crime. [Page 12]	[Delete] Refer to the Special Filing Instructions for Those Applying for Employment Authorization under 8 CFR § 274a.12(c) section of these instructions if you’ve ever been arrested for the commission of, committed, or convicted of a crime. Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization. ... [Page 11] (4) Secondary Evidence. If you do not have the evidence listed in Items (1), (2), or (3) above, you may ask us to consider secondary evidence in support of your application for employment authorization. For additional information on secondary evidence, see Evidence in the General Instructions section of these Instructions. [Delete]
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	(5) Proof of Arrests and Convictions. For initial and renewal applications, you must submit documentation of any arrests and/or convictions. If you were ever convicted of a felony or two or more misdemeanors, you cannot be granted employment authorization under this eligibility category. USCIS will make the determination as to whether your crimes fall into either of these categories. You must, however, provide information and any supporting documentation on all crimes you were convicted of so USCIS can make an appropriate decision. Provide certified copies of all arrest reports, court dispositions, sentencing documents, and any other relevant documents. NOTE: USCIS may, in its discretion, deny your application if you have been arrested and/or convicted of any crime. D. Traffic Violations and Arrests Do not select the “Yes” box for Part 2., Item Number 31.b., on the application or submit documentation if you only have had minor traffic violations. Minor traffic violations do NOT include violations that are alcohol- or drug-related. If you were ARRESTED for any traffic offense, select the “Yes” box for Item Number 31.b. on the application and provide arrest and disposition documentation so USCIS can properly assess whether your arrest and/or conviction may affect your employment authorization eligibility. NOTE: Provide the conviction and disposition documentation even if your records were sealed, expunged, or otherwise cleared. You must provide the documentation even if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record or that you do not have to disclose the information. Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization. [New]	[Page 12] [Delete] [Delete] [Delete] [Delete] [Delete] Refer to the Special Filing Instructions
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	Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization. ... [Page 13] ... 5. Parole--(c)(11). File Form I-765 with a copy of your valid, unexpired Form I-94, passport, or other travel document showing you were paroled into the United States for urgent humanitarian reasons or reasons of significant public benefit. [New]	for Those Applying for Employment Authorization under 8 CFR § 274a.12(c) section of these instructions if you've ever been arrested for the commission of, committed, or convicted of a crime Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization. ... [Page 13] ... 5. Parole--(c)(11). File Form I-765 along with supporting documentation for an initial grant or a renewal of employment authorization under the (c)(11) eligibility category. A. For Initial Applications: If this is your first application for employment authorization under the (c)(11) eligibility category, you must file Form I-765 with: (1) A copy of your valid, unexpired Form I-94, passport, or other travel document showing you were paroled into the United States for urgent humanitarian reasons or reasons of significant public benefit, and (2) Form I-765WS, Form I-765 Worksheet to demonstrate you have an economic necessity to work. We will consider whether you have an economic necessity to work by reviewing your current annual income, your current annual expenses, and the current value of your assets. Provide this financial information on Form I-765WS and submit supporting evidence. If you would also like to provide an explanation, complete Part 3. Explanation of the worksheet. B. For Renewal Applications: If you are applying for a renewal of your employment authorization under the (c)(11) eligibility category, you must filed Form I-765 with:
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	NOTE: If you are in expedited removal under INA 235(b)(1)(A) or in expedited removal and have a pending credible fear determination under 8 CFR 208.30, you are not eligible for an initial EAD under the (c) (11) eligibility category. 6. Deferred Action--(c)(14). File Form I-765 with a copy of the order, notice, or other document reflecting the grant of deferred action and proof that you have an economic necessity to work. We will consider whether you have an economic necessity to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete Part 3. Explanation of the worksheet. Supporting evidence is not required, but USCIS will accept and review any documentation that you submit. You do not need to include other household members' financial information to establish your own economic necessity. [New]	(1) All the forms and documents listed in paragraph A. (1)-(2), and (2) Your employer or an employer's name you are seeking employment with as listed in E-Verify along with the E-Verify Company Identification Number or an E-Verify Client Company Identification Number for your current employer (if the employer is using an employer agent to create its E-Verify cases). You must provide this information in Part 2., Item Numbers 33.a. and 33.b. of Form I-765. NOTE: If you are in expedited removal under INA 235(b)(1)(A) or in expedited removal and have a pending credible fear determination under 8 CFR 208.30, you are not eligible for an initial EAD under the (c) (11) eligibility category. 6. Deferred Action--(c)(14). File Form I-765 along with supporting documentation for an initial grant or a renewal of employment authorization under the (c)(14) eligibility category. A. For Initial Applications: If this is your first application for employment authorization under the (c)(14) eligibility category, you must file Form I-765 with: (1) Copy of the order, notice, or other document reflecting the grant of deferred action, and (2) Form I-765WS, Form I-765 Worksheet to demonstrate you have an economic necessity to work. We will consider whether you have an economic necessity to work by reviewing your current annual income, your current annual expenses, and the current value of your assets. Provide this financial information on Form I-765WS and submit supporting evidence. If you would also like to provide an explanation, complete Part 3. Explanation of the worksheet. B. For Renewal Applications: If you are applying for a renewal of your employment authorization under the (c)(14) eligibility category, you must file Form I-765 with:
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	7. Consideration of Deferred Action for Childhood Arrivals--(c)(33). ... 8. Final Order of Deportation or Removal, including those granted Deferral of Removal under the Convention Against Torture--(c)(18). File Form I-765 with a copy of the EOIR IJ's Order of Removal and Form I-220B, Order of Supervision. Additional factors that may be considered include, but are not limited to, the following: [New]	(1) All the forms and documents listed in paragraph A. (1)-(2), and (2) Your employer or an employer's name you are seeking employment with as listed in E-Verify along with the E-Verify Company Identification Number or an E-Verify Client Company Identification Number for your current employer (if the employer is using an employer agent to create its E-Verify cases). You must provide this information in Part 2., Item Numbers 33.A. and 33.B. of Form I-765. 7. Consideration of Deferred Action for Childhood Arrivals--(c)(33). ... 8. Final Order of Deportation or Removal and Released from Custody on Orders of Supervision (OSUP) --(c)(18) (including those Granted Deferral of Removal Pursuant to Regulations Implementing the Convention Against Torture (CAT)). File Form I-765 along with supporting documentation for an initial grant or a renewal of employment authorization under the (c)(18) eligibility category. A. For Initial Applications: If this is your first application for employment authorization under the (c)(18) eligibility category, you must file Form I-765 with: (1) A copy of the EOIR IJ's Order of Removal (or Board of Immigration Appeals (BIA) decision affirming the final order) or an administrative order issued by DHS demonstrating you are subject to a final order of removal or deportation, (2) A copy of your current Form I-220B, Order of Supervision, or successor form, with annotation from ICE noting your removal is impracticable because all countries from whom travel documents have been requested have failed to issue a travel document and with a complete Personal Report Record showing your compliance with the terms and conditions for release, and
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	A. Existence of a dependent spouse and/or	(3) Form I-765WS, Form I-765 Worksheet, to demonstrate you have an economic necessity to work. We will consider whether you have an economic necessity to work by reviewing your current annual income, your current annual expenses, and the current value of your assets. Provide this financial information on Form I-765WS and submit supporting evidence. If you would also like to provide an explanation, complete Part 3. Explanation of the worksheet. NOTE: Your release on an order of supervision alone does not render you eligible for employment authorization under 8 CFR 274a.12(c)(18). USCIS will deny your application unless your Form I-220B is annotated by ICE to indicate that your removal is impracticable because all countries from whom travel documents have been requested have failed to issue a travel document. Employment authorization is discretionary and USCIS may deny your application as a matter of discretion even if your removal is determined to be impracticable and you demonstrate economic necessity to work. B. Renewal Application: If you are applying for a renewal of your employment authorization under the (c)(18) eligibility category, you must file Form I-765 with: (1) All the forms and documents listed in paragraph A. (1)-(3), and (2) Your employer or an employer's name you are seeking employment with as listed in E-Verify along with the E-Verify Company Identification Number or a Valid E-Verify Client Company Identification Number for your current employer (if the employer is using an employer agent to create its E-Verify cases). You must provide this information in Part 2., Item Numbers 33.A. and 33.B. of Form I-765. C. Additional Factors. Employment authorization under this category is discretionary, and USCIS will not grant an EAD unless we determine that you warrant a favorable exercise of discretion. Factors USCIS may consider include, but are not
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	children in the United States who rely on you for support; B. Existence of economic necessity to be employed; and [Page 14] C. Anticipated length of time before you can be removed from the United States. [New] 9. LIFE Legalization Applicant--(c)(24). ...	limited to, the following: (1) Existence of a dependent spouse and/or children in the United States who rely on you for support; (2) Existence of economic necessity to be employed; [Page 15] (3) Anticipated length of time before you can be removed from the United States; and (4) Whether you are complying with the conditions for release from detention noted on Form I-220B, Order of Supervision. 9. LIFE Legalization Applicant--(c)(24). ...
Pages 21-23, Required Documentation	[Page 22] Required Documentation ... If you are required to show economic necessity for your category, submit a list of your assets, income, and expenses. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete Part 3. Explanation of the worksheet. Assemble the documents in the following order: ... [Page 23] E. Evidence of Arrests and Conviction. ... Your Form I-765 will be decided within 60 days if: 1. You identify yourself as an ABC class member by selecting the box in Part 3., Item Number 6. of this application; and	[Page 22] Required Documentation ... If you are required to show economic necessity for your category, submit a list of your assets, income, and expenses. Provide this financial information on Form I-765WS, Form I-765 Worksheet and submit supporting evidence. If you would like to provide an explanation, complete Part 3. Explanation of the worksheet. Assemble the documents in the following order: ... [Page 23] E. Evidence of Arrests and Conviction. ... Your Form I-765 will be decided within 60 days if: A. You identify yourself as an ABC class member by selecting the box in Part 3., Item Number 6. of this application;

	2. You have a complete pending asylum application on file. You must have filed your asylum application (Form I-589) with us (former Immigration and Naturalization Service (INS) or USCIS) or with an EOIR IJ to receive an EAD. Therefore, submit evidence that you previously filed a complete asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help us process your request more efficiently. [New]	B. You pay the filing fee; and C. You have a complete pending asylum application on file. You must have filed your asylum application (Form I-589) with us (former Immigration and Naturalization Service (INS) or USCIS) or with an EOIR IJ to receive an EAD. Therefore, submit evidence that you previously filed a complete asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help us process your request more efficiently. Special Filing Instructions for Those Applying for Employment Authorization under 8 CFR section 274a.12(c) 7. For initial and renewal applications filed under 8 CFR section 274a.12(c) (except for 8 CFR section 274a.12(c)(19), (c)(20), (c)(21), (c)(22), (c)(24), and (c)(25)), you are required to submit evidence of any arrests and/or convictions. USCIS will make the determination as to whether your arrests and/or convictions affect your eligibility to receive employment authorization. Provide information and any supporting documentation on all crimes you have committed, been arrested for, charged with (without disposition), indicted for, or were convicted of, or for any agreement or program that you ever entered into that imposed some form of punishment, penalty, or a restraint on liberty, so USCIS can make an appropriate decision. For example, if you were ever in a pretrial diversion program, under house arrest, participated in anger management or substance abuse programs, paid restitution or fines, those would constitute a punishment, penalty, or restraint on liberty, even if you were never formally sentenced or incarcerated. Provide a certified copy of all arrest reports, court dispositions, sentencing documents, and any other relevant documents, even if those records were sealed and/or expunged. NOTE: Employment authorization under 8 CFR section 274a.12(c) (except for 8 CFR section 274a.12(c)(19), (c)(20), (c)(21), (c)
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		(22), (c)(24), and (c)(25)) is discretionary, and USCIS will not grant an EAD unless we determine that you warrant a favorable exercise of discretion. Traffic Violations and Arrests Do not select the “Yes” box for Part 2., Item Number 32. on the application and provide arrest and disposition documentation so USCIS can properly assess whether your arrest and/or conviction may affect your employment authorization eligibility. NOTE: Provide the conviction and disposition documentation even if your records were sealed, expunged, or otherwise cleared. You must provide the documentation even if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record or that you do not have to disclose the information. NOTE: Refer to the Special Filing Instructions for Those With Pending Asylum Applications (c)(8) if applying for employment authorization under 8 CFR section 274a.12(c)(8) if you answered “Yes” to Part 2., Item 32.
Page 25, Paperwork Reduction Act	[Page 25] Paperwork Reduction Act 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 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	[Page 25] Paperwork Reduction Act 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 collection of information is estimated at 4.88 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. Do not mail your completed Form I-765 to this address.	Form I-765WS is estimated at 1 hour 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. Do not mail your completed Form I-765 to this address.
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