

Under the Radar II:

The Second Trump Administration's Stealth Attack on the U.S. Immigration System



**Prepared by the Office of
U.S. Senator Edward J. Markey (D-Mass.)**

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Introduction and Executive Summary

In 2019, this office documented how the first Trump administration reshaped the U.S. immigration system through measures that often unfolded outside public view. Rather than relying on headline executive orders or legislation, it used

1. internal memoranda,
2. regulatory reinterpretations,
3. adjudicatory slowdowns,
4. and operational directives,

among other tools, to constrict lawful pathways for immigrants and expand the federal government's enforcement authority. The strategy was frequently shielded from sustained public debate, and therefore, "under the radar."

This follow-up report examines immigration actions that the second Trump administration has taken in the same fashion since January 2025. The report finds a redoubled effort, drawing on the first Trump administration's experience, which has destabilized lawful presence, expanded enforcement, and reengineered adjudication to accelerate and prioritize removal. During the first two years of the second Trump administration, Congress has not rewritten the Immigration and Nationality Act (INA), but through continued stealthy changes to immigration policies and practices, the administration has profoundly changed its practical application.

Section One documents how the second Trump administration has destabilized pathways to lawful presence in the United States. Generally, rather than eliminating programs outright, it has made them harder to access, less reliable, and more restrictive. Refugee admissions have effectively stalled, humanitarian protections have been withdrawn or narrowed, work authorization has become more fragile, and the process of obtaining—and even keeping—lawful status has grown more uncertain. These changes have largely occurred through internal guidance and operational shifts, allowing the administration to reshape outcomes without formal legislative change.

Section Two shows how that destabilization feeds directly into enforcement. As lawful pathways become more difficult to navigate, the consequences of falling out of status intensify. The administration has expanded enforcement authority, integrated it into agencies that once served primarily administrative functions, and reduced access to legal representation and procedural

safeguards. The result is a system in which individuals are not only more likely to become vulnerable to enforcement, but less able to avoid or defend against it.

Section Three demonstrates how immigration court adjudication completes the system. Immigration courts, once intended to provide individualized and neutral decision-making, now operate under increasing structural and political pressure. Changes to personnel, docket management, and adjudicatory practices have shifted the courts toward speed and volume over deliberation. In this environment, adjudication no longer functions as a meaningful check on enforcement, but as its final stage.

Across these sections, a consistent theme emerges. The second Trump administration has preserved the formal structure of immigration law while hollowing out its stabilizing mechanisms. It has avoided direct legislative repeal and is instead using administrative means to achieve similar ends. Protection for immigrants remains on the books, but delay, uncertainty, and risk abound. Enforcement capitalizes on instability created upstream, while adjudication finalizes overwhelmingly negative outcomes for immigrants within a system calibrated for speed, not justice. **The result is not an openly dismantled immigration system, but one transformed from within, appearing legally intact, but operating as a regime of managed attrition.**

Section One: Destabilizing Lawful Pathways

Refugees: Administrative Suspension Through “Realignment”

The statutory framework governing refugee admissions vests the Executive Branch with significant discretion over annual ceilings and program administration.ⁱ At the same time, in the Refugee Act of 1980, Congress made a clear choice to establish a permanent, functioning resettlement system—one designed to operate continuously, subject to annual consultation and numerical adjustment, and certainly not to be intentionally dismantled by Executive Branch officials.ⁱⁱ

Since January 2025, the second Trump administration has worked intensely to dismantle the program, which is a markedly different approach to refugee admissions than other administrations have taken, including by publicly disparaging particular groups who entered the United States on refugee status and suggesting, without evidence and by virtue of their status, that refugees are risks to public safety and national security.ⁱⁱⁱ Rather than proposing lower ceilings through the consultative process Congress prescribed, the administration took the unprecedented step of effectively suspending refugee admissions through unilateral executive action. An executive order issued on the first day of the administration directed what it characterized as a “realignment” of the U.S. Refugee Admissions Program (USRAP), framing the changes as efficiency measures and security enhancements;^{iv} later, in October 2025, the administration announced it was setting a record-low ceiling of only 7,500 refugees, allocated almost entirely for white Afrikaners from South Africa and based mainly on allegations of discrimination, which is typically insufficient on its own to meet the legal standard for refugee status.^v

In practice, this realignment operated to halt refugee arrivals, narrow eligibility categories, and disrupt coordination with domestic resettlement partners.^{vi} In February 2025, a federal district court blocked the indefinite suspension, recognizing that the president cannot override the refugee system Congress established.^{vii} But in March 2026, a federal appeals court largely reversed that order, upholding the preliminary injunction only as it related to the defunding of certain refugee support services while vacating the rest of it.^{viii}

The mechanics of the suspension were largely invisible to the public. Refugees who had already completed extensive vetting—often spanning multiple years—saw travel indefinitely delayed or canceled without individualized explanation.^{ix} Processing pipelines were throttled through staffing reductions and new procedures.^x The refugee program formally remained in existence and the changes did not present as a categorical ban, but their cumulative effect was indistinguishable from one.

Other administration actions during this period likewise curtailed access to refugee benefits, extending the reach of travel and refugee restrictions beyond overseas processing. For instance, on December 2, 2025, and January 1, 2026, U.S. Citizenship and Immigration Services (USCIS) issued policy memoranda suspending adjudications for certain individuals from countries subject to the current travel restrictions, subject to limited exceptions.^{xi} Although the underlying travel and refugee restrictions have primarily operated to prevent U.S. embassies and consulates from issuing boarding foils (i.e., temporary travel documents placed inside a passport by a U.S. embassy or consulate) and visas, these memoranda extend the practical effect of those

restrictions to domestic adjudications. In particular, these policies halt USCIS adjudication of petitions by refugees and asylees from affected countries to reunite with their spouses and children, thereby delaying or preventing family reunification.

The damage to refugee resettlement was also not merely temporary. Domestic resettlement agencies, which rely on predictable arrivals to maintain staff, housing networks, and support services, faced immediate contraction and closure, with hundreds of workers laid off within weeks of the January 2025 orders.^{xii} As these agencies were forced to scale back operations, the disruption acutely affected refugees who had already settled in the country, leaving them without access to essential integration services.^{xiii} The administration's efforts to dismantle refugee-related infrastructure arrived at a fragile time for resettlement agencies, which were still recovering from the severe cuts of the first Trump administration and the challenges of rebuilding capacity.

More recently, in April 2026, the administration proposed sending more than 1,000 Afghan refugees who helped the U.S. war effort—including more than 400 children—to the Democratic Republic of Congo, which is facing widespread violence and its own refugee crisis.^{xiv} This proposal illustrates the administration's broader "realignment," which has externalized U.S. refugee responsibilities, redirecting vulnerable populations away from the protections Congress intended the United States to provide.

By manipulating operational levers rather than following statutory authority, the administration has shown how refugee protection can be dismantled quietly, without the public debate, congressional scrutiny, or political accountability that would accompany formal legislative change.

Termination of CHNV Humanitarian Parole at Scale

The Trump administration's termination of humanitarian parole programs for approximately 550,000 nationals of Cuba, Haiti, Nicaragua, and Venezuela (CHNV) represents one of the most consequential examples of how administrative action alone can take away lawful presence.^{xv} The Secretary of Homeland Security's longstanding parole authority, which Congress expressly authorized, allows individuals to enter the United States temporarily for urgent humanitarian reasons or significant public benefit.^{xvi} The CHNV programs used that authority to create legal pathways for populations facing dangerous conditions, reducing irregular migration, and providing a controlled avenue to lawful presence.

In early 2025, the administration terminated these programs, stripping parole from hundreds of thousands of individuals who had already arrived and complied with the program conditions.^{xvii} The terminations were implemented through agency guidance rather than statutory changes, relying on the Secretary's discretionary authority to revoke parole.^{xviii} Individuals who had relocated, established employment, enrolled children in school, and built lives in reliance on their parole status found that status eliminated—without individualized review and with severe enforcement consequences for those who failed to depart.

Federal courts initially blocked portions of the termination, finding that the administration had acted arbitrarily.^{xix} The Supreme Court, however, subsequently allowed the administration to proceed with terminations while litigation continued.^{xx} The terminations expose the structural fragility of parole-based programs: because parole is discretionary and revocable, administrative

action can immediately render entire populations unlawfully present, without any statutory change or individualized adjudication.

Work Authorization as a Destabilization Tool

Work authorization allows millions of noncitizens to participate in everyday life and achieve economic stability. Without it, individuals cannot legally support themselves or their families, regardless of their underlying immigration status. Since January 2025, the administration has used processing delays, regulatory changes, and eligibility restrictions to make employment authorization increasingly tenuous—not by formally eliminating work authorization categories, but by making timely renewal practically unattainable.^{xxi} Additionally, with the ending of many temporary or discretionary programs, the administration has revoked work authorization for hundreds of thousands of people, even if their work permits still appear valid.^{xxii}

USCIS processing times for Employment Authorization Documents (EADs) have lengthened significantly, leaving individuals with lapsing authorization unable to work legally for extended periods.^{xxiii} For asylum seekers, Temporary Protected Status (TPS) holders, parolees, and others whose work authorization depends on underlying status determinations, delays in adjudicating the underlying status lead to gaps in work authorization. The administration has also proposed or implemented eligibility restrictions that narrow who qualifies for certain authorization categories, threatening the ability of many immigrants to sustain their livelihoods.^{xxiv}

Reducing Work Authorization Periods and Ending Automatic Work Authorization Extensions

The second Trump administration has also introduced instability into the lives of millions by shortening EAD validity periods and narrowing or eliminating the mechanisms that previously prevented lapses in work authorization. Work authorization has long functioned as a central stabilizing mechanism, allowing individuals with pending or approved immigration status to sustain themselves economically while navigating the immigration system.

In December 2025, USCIS revised its policy to reduce the maximum validity period for many EAD categories—including asylum applicants, refugees, and related populations—from five years to 18 months.^{xxv} The agency justified the change by asserting that shorter validity periods would force more frequent renewals, creating additional opportunities for USCIS to re-screen applicants and reassess their eligibility.^{xxvi}

At the same time, the administration moved to scale back automatic extensions of work authorization for certain categories of applicants with timely filed renewal applications.^{xxvii} Prior policy had allowed individuals to continue working for extended periods—often up to 540 days—while renewal applications were pending, recognizing that processing delays were common and often outside applicants’ control. By curtailing or limiting these automatic extensions, the administration has increased the likelihood that work authorization will lapse even for individuals who remain fully eligible. These lapses and processing delays are further driven by USCIS’s pivot toward enforcement, a shift that has strained adjudicatory capacity.

These changes do not alter the underlying eligibility for employment authorization. Individuals who qualify for work authorization remain eligible. But by shortening the duration of that

authorization and weakening renewal protections, the administration has introduced a recurring cycle of renewal, lapse, and review. Applicants must now reapply more frequently, pay additional and increased fees, contend with the elimination of many longstanding fee waivers, and navigate processing delays that may outlast the shortened validity period itself.

The practical consequences are significant. More frequent renewal requirements increase administrative burden on both applicants and the agency, exacerbating existing backlogs.^{xxviii} Gaps between expiration and renewal approval become more likely, forcing individuals out of lawful employment even when they remain eligible to work. Employers, in turn, terminate or suspend workers whose work authorization lapses, regardless of any pending renewal applications.

These dynamics transform work authorization from a stability mechanism into a conditional and time-limited benefit. Individuals who previously could rely on longer periods of authorization must now operate under shorter cycles of uncertainty, with each renewal presenting a new point of vulnerability. This policy will result in work stoppages for U.S. employers, force businesses to adopt workarounds for disruptions, and create uncertainty for foreign nationals expecting continuity in their employment. Taken together, these negative results will compound over time and harm the U.S. economy.

Ending Work Authorization for Asylum Seekers

One area where the administration has significantly altered work authorization eligibility is asylum. In February 2026, the Department of Homeland Security (DHS) issued a proposed rule that would fundamentally restructure employment authorization for individuals with pending asylum applications.^{xxix} The rule would extend the waiting period to apply for work authorization from 180 days to 365 days, impose new eligibility restrictions, and make approval discretionary rather than effectively mandatory once statutory criteria are met.^{xxx}

Even more significantly, the rule would condition the availability of work authorization on the pace of asylum adjudications, leaving asylum applicants at the mercy of USCIS's ever-growing backlog. It would direct USCIS to stop accepting new work authorization applications whenever average asylum processing times exceed 180 days—a threshold that has been surpassed for years.^{xxxi} Given the current backlog of more than one million pending asylum cases, this mechanism could halt new work authorization for “many years.”^{xxxii} The government itself estimates that it may take between 14 and 173 years to reach a 180-day processing time.^{xxxiii} Additionally, although not framed as a categorical bar, the rule would functionally prevent most asylum applicants who entered the United States between ports of entry from obtaining or renewing work authorization.^{xxxiv}

These dynamics are reinforced by new fee-based enforcement mechanisms. Under recent policy, asylum applicants whose cases remain pending for more than one year must pay an annual fee; a recently announced interim final rule mandates that failure to do so results in rejection of the asylum application (no matter how long it has been pending with the agency), denial of pending work authorization applications, and for those already approved to work based on the pending asylum application, the immediate loss of existing work authorization.^{xxxv} This practice further links prolonged processing delays to economic and legal uncertainty and penalizes applicants for USCIS's delays and inefficiencies. The interim final rule also eliminates fee waivers and specifies that failure to pay the asylum fee within thirty days can trigger removal proceedings—

an especially harsh consequence given that immigration attorneys have reported that the process for paying the fee is difficult and complicated, with little guidance available.^{xxxvi}

The combined effect of these provisions is not merely to delay access to work authorization, but to render it largely unattainable in practice. Asylum applicants will be required to wait longer to apply, face additional disqualifying criteria, and encounter a system that may not accept applications at all for extended periods. Even where applications are accepted, the introduction of discretionary adjudication and expanded eligibility bars further reduces the likelihood of approval.

Withdrawal of Protections for Workers Reporting Labor Violations (Termination of DALE)

The second Trump administration has dismantled a lesser-known but significant protection: deferred action for workers who report labor violations. Under prior policy, through the Deferred Action for Labor Enforcement (DALE) framework, DHS permitted noncitizens involved in labor investigations to request deferred action and work authorization.^{xxxvii} This reflected the longstanding principle that labor laws cannot be enforced if vulnerable workers fear immigration consequences for reporting abuse.^{xxxviii}

DALE operationalized that principle by allowing cooperating workers to obtain both temporary protection from removal and employment authorization, enabling participation in labor investigations without risking deportation.^{xxxix} Although discretionary and limited, the program aligned immigration enforcement with workplace regulation by reducing the leverage employers could exert through workers' immigration status. The framework also assisted law-enforcement efforts by helping ensure that key witnesses remained available, secure, and willing to assist investigators throughout the course of a case.

In 2025, USCIS quietly terminated this framework and archived DALE materials from the USCIS website. The agency stopped processing requests, removed public-facing references, and eliminated labor-investigation-based deferred action as a recognized pathway, all without formal rulemaking or public notice.^{xl}

The consequences extend beyond the program's direct beneficiaries. By withdrawing immigration protections for cooperating workers, the administration reintroduces a structural disincentive to report labor violations, forcing workers to choose between workplace rights and exposure to removal. Observers have warned that this shift will suppress complaints and weaken labor enforcement by deterring participation in investigations.^{xli}

Deferred Action for Special Immigrant Juveniles

The second Trump administration has also terminated deferred action for a vulnerable group: young people approved for Special Immigrant Juvenile Status (SIJS) after being abused, abandoned, or neglected by a parent. Under the prior policy, SIJS recipients were granted deferred action while they awaited an available visa that would allow them to apply for SIJS-

based lawful permanent residence.^{xlii} This policy demonstrated the nation's commitment to protecting children who had already endured significant harm.

The second Trump administration quietly tossed this commitment aside. On April 7, 2025, the administration sent an email ordering a moratorium on grants of deferred action to individuals with SIJS, a directive that was not publicly announced and became known only through a FOIA request.^{xliii} The administration did not announce the termination of deferred action for SIJS until June 6, 2025, when it formally rescinded the policy.^{xliv} A judge paused the rescission but did not require the administration to follow pre-rescission guidance related to granting deferred action, leaving SIJS deferred action applicants subject to a less favorable standard.^{xlvi} The ruling is now on appeal.^{xlvi} The administration then issued a new memorandum on April 10, 2026, prohibiting grants of SIJS deferred action beginning on May 10, 2026.^{xlvii} The new memorandum is likely to face legal challenges.

The end of deferred action for SIJS recipients has left vulnerable youth in a precarious position. Young people who depend on, or could benefit from, SIJS status may now face deportation when they cannot obtain or renew their deferred action.^{xlviii} They may also lose their corresponding work authorization and other protections, putting at risk their jobs, health insurance, and educational opportunities.

Public Charge Re-Weaponization

The public charge ground of inadmissibility allows immigration officials to deny lawful permanent residence or admission to certain individuals deemed likely to become primarily dependent on government assistance.^{xlix} Congress established this authority as a limited tool focused on primary dependence, not as a mechanism for deterring eligible individuals from accessing programs for which they qualify. The second Trump administration has revived and expanded public charge policy as a deterrent, proposing to rescind a 2022 rule governing public charge determinations that codified long-standing agency policy.^l The administration's aim is to broaden the range of benefits considered, lower the evidentiary threshold, and amplify the chilling effects on benefit use among immigrant families. On May 7, 2026, USCIS proposed requiring immigrants who must file a change of address form to also disclose unrelated personal details, including any use of means-tested benefits as well as employment and education information.^{li} This expanded disclosure obligation would expose individuals to potential immigration enforcement, further deter the use of critical benefits, and could create new avenues for the imposition of fines or even criminal penalties.

The chilling effect of the administration's public charge strategy extends far beyond direct applicants. Family members who fear that using benefits to which they are legally entitled may jeopardize a relative's immigration case may choose to forego food assistance, housing support, and healthcare rather than risk the immigration consequences. Studies have consistently documented that public charge expansions suppress benefit use even among U.S.-citizen children and other individuals whose use of benefits is irrelevant to any public charge determination.^{lii} The administration has also relied on its public charge concerns to impose a blanket ban on visa processing for people from 75 countries.^{liii} The administration's public charge strategy thus uses the threat of immigration consequences to impose poverty on eligible families as a condition of maintaining lawful status and to unlawfully discriminate against immigrants.

Affirmative Asylum Processing Without Decisions

The affirmative asylum system has historically functioned as a pathway for individuals seeking refuge in the United States. Applicants file with USCIS, undergo non-adversarial interviews, and receive lawful status if they are determined to be eligible for asylum.^{liv} Beginning in late 2025, the second Trump administration halted or sharply curtailed the issuance of final asylum determinations pending the implementation of enhanced vetting and review procedures.^{lv} Although USCIS has since resumed adjudications in some cases, the new framework has introduced additional unnecessary review processes that continue to delay or prevent timely decisions, particularly for applicants from so-called “high-risk” countries—designations made through a process that is arbitrary and lacks transparency.^{lvi}

This approach preserves the outward appearance of a functioning asylum system while withholding its core protection. Delay itself operates as a form of denial: asylum seekers who wait years for decisions face mounting pressure to abandon their claims or remain stuck in limbo. The system’s protective purpose has been undermined without any formal rejection of claims.

Increased Reliance on In-Person Interviews in Adjustment of Status Adjudications

The second Trump administration has also altered adjustment of status adjudication by increasing reliance on in-person interviews, narrowing the circumstances in which cases are resolved on the written record alone. Adjustment of status has historically functioned, in many categories, as a document-driven process in which USCIS exercised discretion to waive interviews where eligibility could be established through submitted evidence.

Current policy preserves that discretion in form but shifts its application in practice. The USCIS Policy Manual emphasizes that applicants “must be interviewed” unless an officer affirmatively determines—on a case-by-case basis—that a waiver is appropriate, reframing interviews as the default posture rather than an exception.^{lvii} At the same time, agency guidance increasingly positions interviews as a central tool for screening, vetting, and reassessing eligibility, particularly in cases flagged for additional review.^{lviii} These interviews have also increasingly functioned as an enforcement tool, as U.S. Immigration and Customs Enforcement (ICE) has arrived at appointments to detain applicants.^{lix}

This shift does not eliminate interview waivers, but changes what is happening practically. Cases that might have been adjudicated without interviews are now more likely to require them, introducing additional procedural steps into an already burdened system. Applicants must navigate scheduling delays, appear at field offices, and respond to questioning that may revisit prior submissions.^{lx}

As elsewhere, Congress has not required this new policy. The statutory framework governing adjustment of status remains unchanged. By drastically changing long-standing internal agency practices, the administration has made lawful permanent residence more difficult to obtain without even changing the law.

Making the Path to Citizenship Longer and More Difficult

The second Trump administration has made the naturalization process markedly more difficult overall, erecting new barriers at multiple stages. Beyond lengthening the naturalization civics test and making it more difficult, USCIS has implemented policies that unnecessarily heighten the vetting of applicants' good moral character and has revived neighborhood visits to scrutinize applicants' eligibility. Together, these changes transform what was once a relatively predictable final step in the immigration process into a far more burdensome and uncertain undertaking.

The second Trump administration has added new barriers to one of the last steps in the lawful immigration process by revising the naturalization civics test to make it longer and more complex. Naturalization has long required applicants to demonstrate knowledge of U.S. history and government through an oral civics examination, but prior versions of the test balanced this requirement with accessibility, limiting both the number of questions and the depth of required responses.^{lxi} In 2025, USCIS implemented a revised civics test that expands both the scope and difficulty of the examination. The new test draws from a bank of 128 questions (increased from the earlier 100) and requires applicants to answer 12 out of 20 questions correctly to pass.^{lxii} Unlike earlier versions, which allowed for relatively short and standardized responses, the revised test requires longer, more specific answers and greater contextual understanding of U.S. history and governance.^{lxiii}

In August 2025, USCIS issued a memorandum that heightens the standard for demonstrating good moral character in the naturalization process, directing officers to assess an applicant's positive attributes rather than focusing solely on the absence of disqualifying conduct.^{lxiv} The memorandum—although vague—appears to conflict with the governing statute and the existing Policy Manual (which has not been updated accordingly).^{lxv} Another memorandum, issued by USCIS shortly thereafter, authorizes neighborhood visits to examine an applicant's residence, good moral character, and attachment to the U.S. Constitution.^{lxvi} USCIS stopped conducting these visits in the 1990s as they were resource-intensive and usually failed to yield useful information; it replaced them with background-check procedures.^{lxvii} These combined policy changes materially elevate the burden on naturalization applicants, may subject applicants to more questioning and document requests, and will discourage eligible individuals from naturalizing.

Taken together, these measures function as significant barriers to naturalization, deterring applicants from becoming U.S. citizens and punishing immigrants. Although none of these changes alter the statutory requirements for naturalization, they will make naturalization harder to obtain in practice. Critics and observers have noted that the policies may disproportionately affect non-native English speakers, low-income, low-literacy, and other vulnerable applicants.^{lxviii}

Disruption and Cancellation of Naturalization Oath Ceremonies

The second Trump administration has also disrupted the final step of the naturalization process by canceling or suspending oath ceremonies for certain approved applicants. The oath ceremony

represents the culmination of the statutory naturalization process; once an applicant has been approved, taking the oath of allegiance is the final act that confers citizenship.

Beginning in December 2025, USCIS abruptly canceled naturalization ceremonies for applicants from a group of countries designated as “high-risk.”^{lxxix} These cancellations occurred even after individuals had completed all statutory requirements, including background checks, interviews, and civics testing. In some instances, the ceremonies themselves were not canceled but applicants who appeared at scheduled ceremonies were removed from the line or turned away at the venue without advance notice.^{lxxx}

The policy was not limited to isolated incidents. Reports indicate that cancellations affected applicants across multiple jurisdictions and continued into early 2026, leaving approved individuals in limbo despite having satisfied all requirements for citizenship. Agency officials justified the cancellations as part of broader efforts to ensure heightened “vetting and screening,” but did not identify individualized concerns with the affected applicants.^{lxxxi}

This development represents a significant departure from longstanding practice. Historically, approval of a naturalization application has been understood to entitle the applicant to complete the process through the oath ceremony, except in highly unusual instances of denial or reopening for individualized grounds. By contrast, the administration’s actions introduced categorical and nationality-based barriers at the final stage of the process. These abrupt disruptions also had a chilling effect on lawful permanent residents who were in the naturalization process or considering applying, reinforcing the administration’s broader strategy of pressuring immigrants into the shadows or, in some cases, self-deportation.

The policy has prompted a legislative response. In December 2025, Senator Markey introduced the Naturalization and Oath Ceremony Protection Act, which would amend the INA to guarantee that individuals whose applications have been approved are permitted to complete the naturalization process through the oath ceremony.^{lxxii} The legislation would prohibit categorical or nationality-based exclusions, require individualized determinations, and establish minimum procedural protections before any post-approval interruption of naturalization.^{lxxiii}

As with other measures described in this section, the administration has not altered the statutory requirements governing naturalization. Instead, it has intervened at the final procedural stage, transforming what has traditionally been a formal and predictable step into a point of discretionary disruption.

Expansion of Denaturalization

The second Trump administration has also moved to expand denaturalization—the revocation of U.S. citizenship—as a more central component of immigration enforcement. Historically, denaturalization has been rare and pursued in relatively small numbers through civil litigation and criminal proceedings in federal court.

Recent policy changes signal a marked shift. In 2025, the Department of Justice (DOJ) elevated denaturalization as an enforcement priority, directing its Civil Division to “prioritize and

maximally pursue” such cases where legally available.^{lxxiv} The policy employs undefined and vague terminology that affords the DOJ broad discretionary authority. Notably, the memorandum identifies as a priority the pursuit of denaturalization cases involving individuals whom DOJ “determines to be sufficiently important,” without providing a definition or limiting standard for that term. The absence of clear criteria may allow for expansive interpretation and application, raising concerns about the scope of discretion and the potential for inconsistent or unpredictable enforcement across similarly situated cases.^{lxxv} At the same time, internal guidance to USCIS field offices reportedly instructed officials to refer between 100 and 200 denaturalization cases per month for litigation, an increase that would represent an unprecedented and dramatic escalation compared to historical practice, to serve the administration’s mass deportation agenda.^{lxxvi} These instructions show how arbitrary numerical targets, not deliberate, case-by-case evaluation, are driving the administration’s policy.

This expansion does not alter the legal standard governing denaturalization. Federal law continues to limit revocation of citizenship to cases involving fraud, misrepresentation, or illegal procurement.^{lxxvii} But by increasing the volume of referrals and prioritizing such cases institutionally, the administration has transformed denaturalization from an exceptional measure into a routine enforcement mechanism.

The effects are both legal and psychological. Denaturalization proceedings are complex, resource-intensive, often span years, and carry profound consequences for both the denaturalized individual and their family members: loss of citizenship, statelessness, potential criminal charges, and exposure to removal. Even the increased threat of such proceedings introduces uncertainty for naturalized citizens, a population that has traditionally understood citizenship as secure and final.

Observers have characterized the scale of the proposed increase as unprecedented in modern practice. Between 1990 and 2017, the federal government brought an average of roughly a dozen denaturalization cases annually; the contemplated referral levels would multiply that figure exponentially.^{lxxviii} By establishing volume-based expectations and prioritizing denaturalization across categories, the administration signals a broader willingness to revisit and potentially undo prior grants of citizenship.

Section Two: Transforming Enforcement

USCIS as an Enforcement Gateway: Expanded NTA Issuance

Congress created USCIS to function exclusively as an adjudicatory and benefits-processing agency, distinct from the enforcement functions of ICE, and the agency has operated in this way for most of its history.^{lxxix} This separation was not merely organizational. It reflected a considered judgment that individuals seeking lawful status should be able to interact with immigration authorities without the immediate risk of enforcement referral. It also enabled the system to function; individuals who fear that seeking relief will expose them to deportation will simply not apply, foreclosing lawful pathways and forcing them into the shadows.

In February 2025, USCIS issued updated guidance expanding the circumstances under which it will issue Notices to Appear (NTAs) and refer applicants directly into removal proceedings.^{lxxx} Under this guidance, individuals denied benefits—or otherwise deemed removable during benefits adjudication—may be placed into proceedings as a direct consequence of seeking lawful status.^{lxxxi} The effect is to transform routine interactions with USCIS into potential enforcement triggers. Although filing an immigration benefit application may have involved the possibility of a denial or NTA issuance, USCIS provided clear guidance regarding if and when an NTA would be issued. Under this new policy, individuals may be referred to immigration court even before their benefits have been adjudicated.

The chilling effect of this change is substantial. Eligible individuals may forgo applications for adjustment of status, asylum, or other relief out of fear that denial will expose them to enforcement. This deterrence is especially acute for individuals with complex or discretionary claims, where outcomes are uncertain and legal representation may be unavailable, as well as for survivors of trafficking, crime, and abuse. The result is a contraction of lawful engagement with the immigration system without any formal narrowing of eligibility criteria.

Transformation of USCIS Personnel into Enforcement Officers Through New Arrest Authorities

The second Trump administration has further blurred the line between benefits adjudication and immigration enforcement by granting USCIS personnel expanded law enforcement authority, including the power to arrest individuals. Historically, USCIS was institutionally separate from enforcement bodies such as ICE and U.S. Customs and Border Protection (CBP). As explained above, this separation reflected Congress’s judgment that individuals should be able to seek lawful status without fear that engagement with the agency would trigger enforcement consequences.

In 2025, DHS departed from that model. USCIS announced that it would recruit and deploy a new cadre of “special agents” authorized to carry firearms, execute warrants, and make arrests for immigration and related offenses.^{lxxxii} These authorities, typically associated with criminal investigative agencies, represent a significant expansion of USCIS’s institutional role.

By equipping USCIS personnel with arrest authority, the administration transforms routine interactions with the agency into potential enforcement encounters. Applicants appearing for interviews, submitting documentation, or otherwise engaging with the benefits process must now

contend with the possibility that the same agency adjudicating their applications may also initiate enforcement action against them. Observers have warned that this shift is likely to deter eligible individuals from seeking lawful status, particularly in cases involving complex eligibility, prior immigration violations, or reluctance to engage with law enforcement (as tends to be the case with victims and survivors of abuse and crime).^{lxxxiii}

The delegation of enforcement authority also introduces ambiguity into the scope of USCIS jurisdiction. Although agency guidance states that special agents will act only within matters “under USCIS jurisdiction,” that term encompasses a broad range of activities tied to the adjudication of immigration benefits, including fraud investigations and review of prior applications.^{lxxxiv} The practical boundaries of this authority remain undefined, creating uncertainty for applicants, legal representatives, and officers.

Erosion of DACA Protections Through Expanded Deportation Authority

The second Trump administration has also eroded the practical protections associated with Deferred Action for Childhood Arrivals (DACA), making it easier to place recipients into removal proceedings despite their previously recognized status. DACA has long been understood to provide a measure of protection from deportation for individuals brought to the United States as children, even though it does not confer lawful status.

In April 2026, DOJ issued a precedential decision through the Board of Immigration Appeals (BIA) clarifying that DACA status alone is not sufficient to justify termination of removal proceedings.^{lxxxv} The decision arose in a case in which an immigration judge had terminated proceedings based on the respondent’s active DACA status; the BIA reversed, holding that immigration judges must independently assess whether removal should proceed, regardless of DACA protection. Immigration judges may now proceed with removal even where DACA remains valid, treating it as an optional consideration, not the barrier to deportation it has historically been.

DACA recipients are also facing increasingly prolonged and unpredictable delays to renew their status, which jeopardizes their ability to maintain employment, drivers’ licenses in some states, and protection from removal.^{lxxxvi} USCIS has also reportedly frozen DACA renewals for individuals from 39 countries, though this decision has yet to be publicly announced.^{lxxxvii}

These shifts do not formally revoke DACA. Recipients may continue to obtain deferred action and work authorization. But by decoupling DACA from protection against removal in immigration court, freezing DACA for vulnerable recipients, and subjecting DACA beneficiaries to prolonged processing delays, the administration has significantly narrowed DACA’s practical effect.

The consequences are substantial. During the first ten months of the second Trump administration, immigration officials arrested more than two hundred DACA recipients, and the administration has reportedly already removed them from the United States.^{lxxxviii} DACA recipients, who are often described as some of the most integrated and long-term residents in the United States, now face increased exposure to removal proceedings despite maintaining compliance with program requirements. These developments also introduce greater uncertainty into the program itself, as recipients can no longer rely on DACA as a meaningful safeguard against deportation once placed in proceedings.

Revival and Expansion of Alien Registration Requirements

The second Trump administration has revived and expanded alien registration requirements, transforming a long-dormant statutory obligation into a central tool of immigration enforcement. Federal law has long required certain noncitizens to register with the government, but for decades this requirement operated largely in the background, satisfied through visa issuance, entry processing, or prior contact with immigration authorities.^{lxxxix}

In 2025, the administration moved to operationalize and enforce this obligation at scale. Through executive action and implementing regulations, DHS required noncitizens present in the United States for more than 30 days, and who had not previously registered, to submit biographical information, undergo fingerprinting, and obtain proof of registration.^{xc} Individuals aged 18 and older must carry evidence of registration at all times, while parents and guardians must ensure that minors are registered and re-registered upon reaching certain ages.^{xcj}

Critically, the policy attaches enforcement consequences to noncompliance. Failure to register or to carry proof of registration may result in criminal penalties, including fines and potential imprisonment, in addition to immigration enforcement exposure.^{xcii} At the same time, compliance itself carries risk: registration provides the government with updated identifying information and location data for individuals who may otherwise have had limited contact with federal authorities. Advocacy groups report that even individuals with legal status who have shown their registration have been detained. In Arizona, CBP agents have issued more than one hundred citations in the past year to immigrants for failing to carry their papers.^{xciii}

This dynamic creates a structural dilemma: noncitizens subject to the requirement must choose between registering and potentially exposing themselves to removal proceedings, and declining to register and facing criminal prosecution.^{xciv} The policy thus operates not only as a tracking mechanism, but as a coercive tool that expands the government's ability to identify and target individuals for enforcement.

Dismantling of the Recognition and Accreditation Program for Low-Cost Legal Representation

The second Trump administration has also weakened one of the immigration system's primary mechanisms for providing affordable legal assistance to low-income noncitizens. For decades, DOJ's Recognition and Accreditation (R&A) program has authorized non-attorney representatives working with nonprofit organizations to assist immigrants in navigating complex immigration processes, including applications for lawful status and representation in removal proceedings.^{xcv}

The program has played a central role in bridging the gap created by the absence of a right to government-appointed counsel in immigration proceedings. By accrediting trained non-lawyers affiliated with community-based and faith-based organizations, the R&A framework expanded access to legal assistance for individuals who would otherwise be unable to secure representation. As of 2025, the program supported more than 2,600 accredited representatives across hundreds of organizations nationwide.^{xcvi}

In 2026, the administration effectively gutted this system through internal personnel actions. Senior attorneys responsible for administering the program were abruptly reassigned to immigration court duties, leaving only limited support staff without authority to approve or renew accreditation applications.^{xcvii} Although DOJ did not formally terminate the program, the removal of its operational capacity halted its core functions, including the processing of new applications and renewals.^{xcviii} The program remains nominally in existence, but its capacity to function has been sharply curtailed.

Ending Federally Funded Legal Representation for Unaccompanied Children

The second Trump administration has also curtailed one of the immigration system's most significant safeguards for vulnerable populations: federally funded legal representation for unaccompanied children. Although immigration proceedings do not guarantee appointed counsel, Congress has long funded programs that provide legal orientation and representation to minors who enter the United States without a parent or guardian, recognizing the unique challenges children face in navigating complex removal proceedings.

In March 2025, the administration halted funding for the primary contract supporting these services, a program that had provided legal assistance to more than 25,000 unaccompanied children nationwide.^{xcix} The termination notice directed legal service providers to cease work immediately, effectively leaving thousands of children without representation in ongoing proceedings.

The consequences were immediate for these children, who lack the capacity to understand legal processes or assert protection claims. They faced the prospect of appearing in immigration court alone. Legal advocates and observers warned that the loss of representation would sharply increase the likelihood of removal, undermine due process, and expose children to heightened risks of trafficking and exploitation.^c Immigration judges are almost one hundred times less likely to grant relief to an unaccompanied child without legal representation than one with counsel.^{ci}

Litigation followed swiftly. Legal service providers and advocacy organizations challenged the funding cutoff in federal court, arguing that the termination violated statutory and contractual obligations and deprived children of meaningful access to the immigration system.^{cii} A federal district court issued emergency relief requiring the government to restore funding while litigation proceeds, and the case remains ongoing.^{ciii}

Even as funding has been partially restored under court order, the administration has moved to restructure the program through revised contract terms that limit its effectiveness. A subsequent solicitation shifts legal orientation and "Know Your Rights" programming toward primarily virtual formats, including pre-recorded video, reducing the availability of in-person legal assistance for children in custody. At the same time, the revised framework narrows the categories of reimbursable legal services and delays compensation for others, making it more difficult for providers to sustain full representation.^{civ} Together, these changes preserve the formal existence of the program while reducing its practical reach and effectiveness.

Expansion of Expedited Removal

Expedited removal is a statutory mechanism that allows DHS to remove certain individuals without a hearing before an immigration judge.^{cv} Originally limited to individuals encountered at ports of entry or who are apprehended near the border shortly after arrival, the second Trump administration has significantly expanded expedited removal. DHS has extended expedited removal to apply to individuals encountered anywhere in the United States who cannot demonstrate lawful admission, and DHS has begun applying expedited removal to people who have been in the country for years.

ICE also adopted an unprecedented practice of channeling immigrants into expedited removal during their immigration court hearings. ICE lawyers have begun the practice of asking the court to dismiss an immigrant's pending case. Once dismissed, ICE has arrested the individual outside the courtroom and, if qualified, placed them into expedited removal proceedings.^{cvi} This practice has dramatically broadened the categories of individuals who may be removed without judicial review or opportunity to present claims for relief.^{cvi}

This expansion eliminates the procedural safeguards that would otherwise apply: access to counsel, an individualized hearing, and judicial review. For individuals with cognizable claims to asylum or other protection, expedited removal forecloses the opportunity to present those claims before a neutral adjudicator. Federal courts have halted portions of the expansion, but the administration's litigation posture has allowed broad implementation to continue while legal questions are resolved.^{cvi}

Curtailment of Prosecutorial Discretion and Administrative Closure

For decades, prosecutorial discretion and administrative closure functioned as safety valves within the immigration system, allowing DHS and immigration judges to prioritize limited resources and defer low-priority cases.^{cix} These mechanisms did not alter statutory eligibility for removal; rather, they recognized that enforcement capacity is finite and that humanitarian equities, pending collateral relief, or resource constraints may justify pausing or terminating proceedings. The Supreme Court has affirmed that the Executive Branch retains inherent discretion in enforcement decisions.^{cix}

The second Trump administration has sharply narrowed these off-ramps. DHS attorneys are now asking to dismiss removal proceedings in immigration court in order to force people into the expedited removal process.^{cx} Simultaneously, jurisprudence hostile to administrative closure—initially advanced during the first Trump administration in *Matter of Castro-Tum* and limited by subsequent circuit court decisions—has been reinvigorated through policy guidance from the Executive Office for Immigration Review (EOIR).^{cxii} The DOJ also updated its Justice Manual to remove a section recommending that Office of Immigration Litigation (OIL) attorneys consider remanding federal court cases to the BIA to facilitate DHS's exercise of prosecutorial discretion.^{cxiii} Together, these changes ensure that more cases proceed to removal, eliminate opportunities for resolution outside full adversarial litigation, and convert the immigration court into an almost exclusively enforcement-aligned institution.

Normalization of Detention

The INA authorizes DHS to detain noncitizens subject to removal but also allows for release on bond or other conditions.^{cxiv} Previous administrations used alternatives to detention (ATDs), such as supervised release programs, reporting requirements, and community case management, to ensure appearances at proceedings while preserving individual liberty. The Family Case Management Program (FCMP), for example, achieved 99 percent compliance with ICE check-ins and 100 percent immigration court hearing appearances at a fraction of the cost of detention.^{cxv}

The second Trump administration has re-centered detention as the default response to removability. In a day-one executive order, President Trump ordered DHS to “detain, to the fullest extent permitted by law,” immigrants apprehended for violations of immigration law until their removal from the country.^{cxvi} ICE increased the maximum holding time in ICE field offices from 12 hours to 72 hours, leading to extended confinement and overcrowding at many ICE facilities.^{cxvii} DHS has also quickly expanded family detention, including reopening the family detention center in Dilley, Texas, which has been subject of numerous reports of inhumane treatment.^{cxviii} And to make matters worse, the administration has sought repeatedly to terminate the 1997 *Flores* Settlement Agreement, which sets minimum standards for the humane treatment of children in custody.^{cxix}

Detention populations have grown dramatically since January 2025, with ICE holding record numbers of individuals, including many with no criminal history.^{cxx} Conditions in detention have also worsened and fiscal year 2026 marks the deadliest year in ICE custody since 2004.^{cxxi} Court records show that detained individuals are more likely to abandon viable claims for relief or accept removal rather than endure prolonged confinement.^{cxxii} Detention thus accelerates case outcomes by attrition rather than by adjudication.

Elimination of Bond Eligibility

The second Trump administration has not only expanded detention, it has also moved to eliminate release on bond. For decades, immigration law operated under a settled understanding: noncitizens arrested in the interior were entitled to seek release on bond before an immigration judge, who would assess danger and flight risk.^{cxxiii} This practice reflected both the text of INA section 236 (the federal immigration bond statute) and the constitutional concern that prolonged civil detention without individualized review raises serious due process issues.^{cxxiv}

In July 2025, ICE abandoned that longstanding framework. Acting Director Todd Lyons issued interim guidance asserting that INA section 235—not section 236—governs all “applicants for admission,” a category the administration now interprets to include anyone who entered without inspection, regardless of how long they have been in the United States.^{cxxv} The directive rendered such individuals categorically ineligible for bond hearings. In practical terms, long-term residents were reclassified as if they were newly arriving at the border.^{cxxvi}

The BIA ratified this theory in *Matter of Yajure Hurtado*, holding that immigration judges lack authority to grant bond to individuals present without admission.^{cxxvii} The immediate effect was dramatic: daily bond grants dropped precipitously, reflecting the near elimination of custody redetermination hearings.^{cxxviii}

Federal courts responded swiftly. Hundreds of judges issued rulings rejecting the administration’s interpretation, concluding that long-term residents are not meaningfully “seeking admission” and that detention without individualized review raises serious constitutional concerns.^{cxxxix} The Trump administration has lost nearly 10,400 of these cases, comprising 90% of all rulings.^{cxxx} Federal appeals courts have split on the issue, virtually ensuring the U.S. Supreme Court will decide the matter.^{cxxxi}

The administration’s response has been to narrow compliance and continue litigating. EOIR guidance instructed immigration judges to continue applying *Yajure Hurtado* outside the issuing court’s jurisdiction, while enforcement continued even after repeated judicial findings of unlawful detention.^{cxxxii} The administration has also taken a more unprecedented stance—defying lower court orders outright in individual detention cases.^{cxxxiii} The practical consequences are severe. Even where courts order bond hearings, reports indicate that proceedings are often perfunctory, with denials unsupported by individualized evidence.^{cxxxiv} And even when courts order detainees released, the administration has delayed their release by days or even weeks.^{cxxxv} Meanwhile, tens of thousands remain in immigration detention, and deaths in custody continue.^{cxxxvi}

This policy reflects a deliberate shift from discretionary detention toward categorical confinement. By eliminating bond eligibility for large segments of the interior population, the Trump administration has transformed detention from a targeted tool into a default condition of immigration enforcement.

Data-Driven Enforcement and Information-Sharing Expansion

Since January 2025, the administration has expanded data-driven enforcement through a coordinated series of executive directives, interagency agreements, and rescissions of prior confidentiality policies. A March 2025 executive order directed agency heads to ensure that designated federal officials have “full and prompt access to all unclassified agency records, data, software systems, and information technology systems” and, within 30 days, to modify or rescind internal regulations that impede inter-agency data sharing.^{cxxxvii}

DHS has increasingly sought access to new data sources. In April 2025, the Internal Revenue Service and ICE signed a Memorandum of Understanding permitting ICE to request taxpayer records—including names, addresses, and tax data—for individuals with final removal orders or under federal criminal investigation, representing the first formal agreement of its kind between the two agencies.^{cxxxviii} The IRS’s move marked a complete break from its decades-long promise to immigrants that their taxpayer information would not be used for immigration enforcement.^{cxxxix} Shortly thereafter, the Centers for Medicare & Medicaid Services (CMS) began sharing Medicaid enrollee data—including immigration status, location, and contact information—with DHS pursuant to a formal CMS-ICE Information Exchange Agreement.^{cxli} The U.S. Department of Housing and Urban Development also announced last year that it would help DHS locate immigrants without legal status residing in federally subsidized housing.^{cxlii}

ICE has also reportedly sought to access the federal parent locator service, a database containing sensitive details about children, and has aggressively expanded its use of I-9 workplace inspections to locate immigrants.^{cxliii} In December 2025, reporting indicated that the Department

of Veterans Affairs would share with other agencies a new database of non-U.S. citizen workers affiliated with the Department, and that the Transportation Security Administration had begun to share traveler information with ICE for immigration enforcement purposes.^{cxliii} And in February 2026, the Trump administration issued an order requiring DOJ to provide DHS access to criminal history records.^{cxliv} These arrangements expand the enforcement footprint across agencies that applicants had long understood, or had been informed, would be walled off from immigration enforcement.

Critically, the administration has simultaneously moved to narrow confidentiality protections for the most vulnerable categories of applicants. ICE issued interim guidance in late January 2025 rescinding prior directives that limited enforcement actions against immigrant survivors of crime, trafficking, and domestic violence—specifically superseding the 2021 Victim-Centered Approach policy and the 2011 guidance on prosecutorial discretion for victims and witnesses.^{cxlv} In December 2025, USCIS updated its Policy Manual to impermissibly narrow the application of the statutory confidentiality protections that govern the Violence Against Women Act (VAWA), and T and U visa petitioners, circumventing congressional intent by reinterpreting when those protections apply and limiting their scope in ways practitioners have described as rendering survivors less able to access safety.^{cxlvi} And documents obtained through FOIA litigation revealed that, through direct access to shared electronic systems, ICE can access DACA applicant information submitted to USCIS, contradicting prior agency representations that such information would not be used for enforcement.^{cxlvii} Together, these changes convert the benefits system into a data source for enforcement targeting, and deter the most vulnerable populations from seeking protection.

Section Three: Reshaping Immigration Courts

Administrative Control of the Executive Office for Immigration Review (EOIR)

The immigration court system, housed within EOIR, is formally an adjudicatory body but operates inside DOJ and remains subject to executive control.^{cxlviii} Unlike Article III courts, immigration courts lack structural independence, leaving them vulnerable to policy directives and political pressure that shape outcomes through administrative processes not law. Since January 2025, the second Trump administration has intensified the use of administrative mechanisms to influence immigration court outcomes. EOIR has issued guidance emphasizing rapid case completion, throughput metrics, and docket reshuffling as primary institutional goals.^{cxlix}

Politicization and Removal of Immigration Judges

Immigration judges are Executive Branch employees who exercise delegated authority to adjudicate claims for relief, protection, and removal under the INA.^{cl} The legitimacy of the immigration courts depends on the perception and reality that judges decide cases based on law and fact rather than policy preference or political pressure. During the first Trump administration, DOJ took unprecedented steps to discipline, reassign, or remove immigration judges whose decisions were perceived as inconsistent with enforcement priorities.^{cli} Those actions established a template for exerting administrative control over the immigration judiciary.

The second Trump administration has revived and expanded this approach. DOJ has exercised its appointment and removal authority to sideline or terminate judges perceived as insufficiently aligned with accelerated adjudication and enforcement goals.^{clii} Since January 2025, the administration has lost more than 100 immigration judges to firings and voluntary resignations.^{cliii} Judges with reputations for granting continuances, allowing extensive evidentiary development, or issuing asylum grants at rates the administration determined were too high have faced heightened scrutiny, reassignment, or removal. The administration has also lowered the training and expertise requirements for temporary (up-to six months) replacement judges, who no longer must have prior immigration law experience.^{cliv} Instead, dozens of temporary immigration judges have military or law enforcement backgrounds.^{clv} And the administration has instructed immigration judges to dismiss cases to allow it to place individuals in fast-track removal proceedings.^{clvi}

These actions have a chilling effect that extends beyond the judges directly targeted. Remaining immigration judges are placed on notice that deviation from enforcement-oriented norms may jeopardize their careers. This implicit pressure encourages conformity, discourages grants of relief in close cases, and narrows the range of permissible judicial discretion.

Changes to the Board of Immigration Appeals (BIA)

The politicization of immigration judges is particularly troubling in light of the second Trump administration's changes to the BIA, which hears appeals from the immigration courts and issues published decisions that bind the nation's immigration judges and officers. In early 2025, the

administration slashed the BIA’s size from 28 to 15 members, despite a large backlog of pending appeals.^{clvii} This reduction decreased the BIA’s capacity and altered its composition, resulting in a majority of remaining members appointed by Republican attorneys general. The change in the BIA’s makeup led to an uptick in decisions that made it harder for immigrants to assert their rights and easier for them to be removed.^{clviii} At the same time, the administration-backed “One Big Beautiful Bill” imposed new barriers to appeal adverse rulings to the BIA. The law increased filing costs for BIA appeals from \$110 to \$1,010.^{clix} This exponential increase effectively established a pay-to-play system, precluding many low-income immigrants from filing appeals.

On February 6, 2026, the administration took an even more drastic step towards undermining immigrants’ due process rights by publishing an interim final rule that dramatically curtailed the BIA’s review.^{clx} The new rule shortened the time to file an appeal from 30 days to just 10, barred individuals from filing reply briefs (documents used to respond to the government’s assertions) without special permission, and required the BIA to dismiss any appeal unless a majority of the Board voted to consider the case within 10 days. The rule also eliminated the BIA’s practice of reviewing transcripts from the prior hearing and narrowed the Chief Appellate Immigration Judge’s authority to extend deadlines or pause cases. The administration made the rule effective prior to the public comment process, denying stakeholders the opportunity to meaningfully express concerns.^{clxi} A federal judge blocked several provisions from going into effect, including the shortened filing deadline and the automatic dismissal policy.^{clxii}

The second Trump administration’s changes to the BIA have hollowed out the integrity of the immigration appeals process. Immigrants who receive unfair outcomes in initial proceedings now face an even steeper uphill battle to assert their rights and obtain meaningful review. What was once a critical safeguard against erroneous or unjust decisions has been transformed into a system increasingly unable, or unwilling, to deliver justice.

Continuances and Docket Control

Immigration court procedure is often described in doctrinal terms, but in practice the most outcome-determinative power frequently lies in docket control. Because proceedings are adversarial, evidence-intensive, and frequently depend on counsel, the allocation of time—how quickly a case is set, how often it is moved, and whether a respondent can obtain additional time—can determine whether statutory rights are real or illusory.

Since January 2025, the administration has leaned into docket control as a policy instrument, using EOIR policy levers to compress timelines, narrow the availability of continuances, and create scheduling instability that predictably disadvantages respondents.^{clxiii} EOIR guidance encourages judges to deny continuances absent extraordinary circumstances, even where respondents are actively pursuing relief before USCIS or awaiting critical evidence. Recent precedent further underscores these pressures. In the *Matter of Laurent Castro*, published in January 2026, the BIA held that where a respondent fails to appear and DHS submits evidence of removability, the immigration judge erred by continuing proceedings rather than entering an *in absentia* removal order.^{clxiv}

Backlogs as a Tool Rather Than a Failure

Case backlogs have long plagued the immigration system, but historically they were treated as administrative failures to be mitigated. Since January 2025, the administration has treated delay not as a problem to be solved, but as an enforcement tool to be exploited. While enforcement referrals and detention have expanded, adjudicatory capacity has not increased proportionally, ensuring that backlogs grow rather than recede.^{clxv} Detained removal cases are routinely accelerated, particularly where relief appears unlikely, while adjudication of complex protection claims proceeds slowly. This asymmetry produces a system in which removals are processed quickly while relief remains entangled in delay.

For detained respondents, delay transforms civil confinement into prolonged deprivation of liberty. Some respondents withdraw applications or accept removal orders to escape uncertainty. Others fail to appear for hearings after years of instability. Backlogs thus function as a silent filter: relief remains legally available, but the prolonged path to obtain it discourages pursuit.

Conclusion

This report has documented how the second Trump administration has continued and expanded the “under the radar” approach to immigration adopted during the first Trump administration.

Section One demonstrated how the second Trump administration has destabilized lawful immigration pathways without formally repealing them. Rather than eliminating programs outright, it has made them harder to access, less reliable, and more contingent. Refugee admissions have effectively stalled, humanitarian protections have been withdrawn or narrowed, work authorization has become more tenuous, and avenues to secure or retain lawful status have grown increasingly uncertain.

None of these measures required Congress to amend the INA. Stability was replaced with conditionality. Protection remained on paper while becoming uncertain in practice. Advocates are sounding the alarm that attacks on legal immigration harm America and do not make us safer.^{clxvi}

Section Two showed how that instability furthers enforcement. As immigration enforcement increases, the consequences of falling out of status intensify. The administration has expanded enforcement authority, embedded it more deeply across agencies, and reduced access to legal representation and procedural safeguards. USCIS now functions in part as an enforcement gateway, while detention, data-sharing, and state and local entanglement extend the system’s reach. Enforcement no longer operates solely to remove individuals, but to deter engagement with lawful processes and accelerate exposure to removal.

Section Three demonstrated how the increased politicization of the immigration court system completes the cycle. Immigration courts, once intended to provide neutral and individualized decision-making, now operate under increasing structural and political pressure. Changes to personnel, docket management, and adjudicatory practices have shifted the system toward speed and volume over deliberation. In this environment, judges’ decision-making functions less as a check on enforcement and more as its final stage.

Taken together, these developments reveal a governing strategy grounded in administrative fragility. Lawful status is made unstable. Instability increases exposure. Exposure feeds enforcement. Enforcement is finalized in courts configured for speed and attrition. The formal architecture of immigration law remains intact, but its operational environment has been reengineered.

An immigration system can function while preserving stability, protecting due process, and honoring the law, international treaties, and humanitarian commitments. The system documented in this report has been deliberately designed to do otherwise. Unless unwound, the second Trump administration’s “under the radar” administrative campaign will leave a lasting mark on our immigration system—and on our identity as a nation built by immigrants seeking promise and security in the United States.

ⁱ 8 U.S.C. § 1157(a)-(e).

ⁱⁱ Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102.

ⁱⁱⁱ See, e.g., Andorra Bruno, Cong. Rsch. Serv., R47399, U.S. Refugee Admissions Program (USRAP) (2023), https://www.congress.gov/crs_external_products/R/PDF/R47399/R47399.1.pdf.

^{iv} Exec. Order No. 14163, 90 Fed. Reg. 8,459, *Realigning the United States Refugee Admissions Program* (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/realigning-the-united-states-refugee-admissions-program/>.

^v Presidential Determination on Refugee Admissions for Fiscal Year 2026, 90 Fed. Reg. 49,005 (Oct. 31, 2025), <https://www.federalregister.gov/documents/2025/10/31/2025-19752/presidential-determination-on-refugee-admissions-for-fiscal-year-2026>.

^{vi} Exec. Order No. 14163 §§ 3-4, *supra* note iv; *see also* David Nakamura, *Trump Administration Says It Could Take Months to Resume Refugee Admissions*, Wash. Post (Mar. 11, 2025), <https://www.washingtonpost.com/immigration/2025/03/11/trump-refugees-resettlement-judge-immigration/>.

^{vii} Nate Raymond, *U.S. judge blocks Trump's indefinite suspension of refugee resettlement program*, Reuters (Feb. 25, 2025), <https://www.reuters.com/world/us/us-judge-blocks-trumps-indefinite-suspension-refugee-resettlement-program-2025-02-25/>.

^{viii} Monique Merrill, *Trump's refugee program shutdown stands after appeal*, Courthouse News Service (Mar. 5, 2026), <https://www.courthousenews.com/trumps-refugee-program-shutdown-stands-after-appeal/>.

^{ix} Complaint ¶¶ 156-178, *Pacito v. Trump*, No. 2:25-cv-00255 (W.D. Wash. Feb. 10, 2025), Dkt. No. 1, <https://www.akingump.com/a/web/dfUUMPVJU77WHRxPoUqpN2/a77voa/pacito-case-no-225-cv-00255-complaint.pdf>.

^x Nakamura, *supra* note vi.

^{xi} Policy Memorandum, *Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries*, U.S. Citizenship & Immigr. Servs. (Dec. 2, 2025), <https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf>; Policy Memorandum, *Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries*, U.S. Citizenship & Immigr. Servs. (Jan. 1, 2026), <https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf>.

^{xii} *See, e.g.*, Jennifer Ludden, *Trump freeze on resettlement funding leaves new refugees scrambling to adjust in U.S.*, NPR (Mar. 8, 2025), <https://www.npr.org/2025/03/06/nx-s1-5309763/refugees-limbo-trump-freeze-resettlement-programs>.

^{xiii} Tiffany Stanley & Peter Smith, *Refugee resettlement agencies scramble after Trump orders them to halt their federally funded work*, Associated Press (Jan. 29, 2025), <https://apnews.com/article/trump-refugees-resettlement-funding-pause-afghan-allies-3f35577f504246132ede00dddf46f27>.

^{xiv} Megha Rajagopalan et al., *Trump Is Said to Be in Talks to Send Afghans Who Aided U.S. Forces to Congo*, N.Y. Times (Apr. 21, 2026), <https://www.nytimes.com/2026/04/21/world/europe/afghan-refugees-congo-us.html>.

^{xv} *See* 8 U.S.C. § 1182(d)(5)(A); *CHNV Humanitarian Parole Revoked: A Shift in U.S. Policy Towards Cuban Exiles*, U.S. Comm. for Refugees and Immigrants (Aug. 19, 2025), <https://refugees.org/chnv-humanitarian-parole-revoked-a-shift-in-u-s-policy-towards-cuban-exiles/>.

^{xvi} *See* 8 U.S.C. § 1182(d)(5)(A); *CHNV Humanitarian Parole Revoked: A Shift in U.S. Policy Towards Cuban Exiles*, *supra* note 15.

^{xvii} Dara Lind, *Trump Administration Terminates CHNV Program, Impacting More Than a Half-Million Immigrants*, Am. Immigr. Council (Apr. 8, 2025), <https://www.americanimmigrationcouncil.org/blog/trump-terminates-chnv-program-impacting-more-than-half-million-migrants/>.

^{xviii} *Id.*; *see* 8 U.S.C. § 1182(d)(5)(A).

^{xix} Press Release, Justice Action Center, *Judge Temporarily Halts Trump Administration's Attempt to Revoke Legal Status of Hundreds of Thousands; Grants Class Certification* (Apr. 14, 2025), <https://justiceactioncenter.org/news/judge-temporarily-halts-trump-administrations-attempt-to-revoke-legal-status-of-hundreds-of-thousands-grants-class-certification/>.

^{xx} Nina Totenberg, *Supreme Court allows Trump administration to end humanitarian status for some migrants*, NPR (May 30, 2025), <https://www.npr.org/2025/05/30/nx-s1-5406775/supreme-court-trump-chnv-program>.

^{xxi} *See* 8 C.F.R. §§ 274a.12, 274a.13; Luisa E. Koidl, *Major Changes to Employment Authorization Document Processing Will Impact U.S. Employers*, Nat'l Law Rev. (Dec. 15, 2025), <https://natlawreview.com/article/major-changes-employment-authorization-document-processing-will-impact-us-employers>.

^{xxii} Nat'l. Emp. Law Project & Nat'l Immigrant Law Ctr., *Understanding Your Rights When Losing Work Authorization: FAQs for Immigrant Workers and Advocates* (Dec. 22, 2025), <https://media.nilc.org/wp-content/uploads/2025/12/FAQ-Understanding-Immigrant-Workers-Rights-Losing-Work-Authorization-December-2025.pdf>.

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- ^{xxxi} Employment Authorization Reform for Asylum Applicants, *supra* note xxix.
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