



Guidance on Temporary Protected Status (TPS) Litigation and Work Authorization

This guidance provides general information to employers on their legal obligations regarding employees with Temporary Protected Status (TPS) in light of the United States Supreme Court's recent decision in Mullin v. Doe. It also includes general information about the rights of employees who are TPS beneficiaries. This guidance is for informational purposes only and should not be construed as legal advice.

Temporary Protected Status: Temporary Protected Status (TPS) is a federal humanitarian immigration program administered by the Department of Homeland Security (DHS) that allows eligible noncitizens of designated countries to lawfully reside in the United States for a period of time due to ongoing armed conflict, environmental disasters, or other extraordinary and temporary conditions in their home countries. Noncitizens with TPS are eligible and may apply for a work permit, also called an Employment Authorization Document (EAD), with U.S. Citizenship and Immigration Services (USCIS) that gives them the temporary right to work in the country.

Recent Supreme Court Decision: Over the last year, the Secretary for Homeland Security terminated the TPS designation of several countries. Those termination decisions have been challenged in lawsuits filed in federal courts around the country. On June 25, 2026, the Supreme Court issued a decision in *Mullin v. Doe*, Nos. 25–1083 and 25–1084, concerning the TPS terminations for Syria and Haiti. The Supreme Court reversed lower court orders that had blocked the termination of TPS for Syria and Haiti, and allowed DHS to proceed with terminating the protections and benefits of TPS for the two countries. The decision also sets limits on judicial review of DHS' TPS determinations that may reduce federal courts' authority to block termination of TPS in the future. Following the ruling, DHS terminated both countries' TPS status effective July 27, 2026.

What the Mullin Decision Does NOT Mean:

- **The decision did not end all the challenges to TPS terminations. Legal proceedings over TPS terminations for other countries continue, with some courts having subsequently ruled that DHS may proceed with terminations.** Due to ongoing proceedings, the validity of employment authorization documents for TPS beneficiaries from those countries may shift as courts issue new rulings.
- **The decision does not change employers' legal obligations under federal and state law to pay and fairly treat employees with TPS.**

What the Mullin Decision Means for Employers:

- **Employers should continue to follow current Form I-9 federal employment authorization requirements.**
- **Employers should monitor the [USCIS TPS page](#) and [E-Verify What's New page](#) for DHS notices of operative TPS termination dates and expiration dates for TPS-based work authorization.** For Haiti and Syria, USCIS' guidance reflects TPS termination dates effective July 27, 2026.
- **Employers should seek out legal counsel specializing in immigration-related employment issues before taking any actions based on an employee's TPS status.** An employee with TPS may still be authorized to work based on another status or provision of law and may provide [other acceptable Form I-9 documentation](#) to demonstrate employment authorization.



Employers' Legal Obligations

Employers must comply with: (1) federal immigration laws governing employment verification; and (2) applicable federal and state laws prohibiting discrimination based on national origin or citizenship status, and retaliation using unfair immigration-related practices. **To ensure compliance with these legal obligations, employers should consult with an attorney to obtain advice.**

1. Employment Eligibility Verification

- Employers are required to complete Form I-9, Employment Eligibility Verification, for each employee to document identity and verify work authorization in the United States. 8 U.S.C. § 1324a.
 - Employers have the option to use E-Verify, an electronic program the U.S. Department of Homeland Security operates, to check if their employees are eligible to work in the United States.
- Employers must not request more or different documents than are required to establish a worker's identity and eligibility to work in the United States; request a specific document among the [acceptable Form I-9 documentation](#); or reject documents that appear to be reasonably genuine on their face based on a worker's citizenship status or national origin. 8 U.S.C. § 1324b(a)(6) and Cal. Labor Code § 1019.1.
- To determine when work authorization ends for a noncitizen employee with TPS, employers should not rely on the printed date on an Employment Authorization Document (EAD) alone.
 - TPS EADs may be automatically extended by: (1) a Federal Register Notice (FRN) specific to the designated country; (2) a Form I-797, Notice of Action sent by USCIS to the noncitizen; (3) a court order; or (4) DHS regulations under specific conditions.
- When the EAD period, including any extensions, ends and the EAD is no longer valid, employers must reverify an employee's employment authorization no later than the date employment authorization expires.
- Employers must not reverify or request new documents from TPS employees whose EADs have not yet legally expired. Reverification of unexpired or auto-extended EADs may constitute potential document abuse. 8 USC § 1324b and Cal. Labor Code § 1019.1.
- Employers must not terminate employees based solely on TPS ending for their country of origin when EADs have expired and have not been automatically extended without first completing any reverification required by federal law and giving the employee an opportunity to present acceptable documents for establishing continued employment authorization.

Additional Resources:

- More details on auto-extensions and Form I-9 requirements are available in the Employment Authorization Document (EAD) Extension accordion on the [USCIS TPS webpage](#) and the [Handbook for Employers M-274](#).
- Additional resources on state law requirements can be found on the [California Department of Industrial Relation's website](#) and in the California Department of Justice's and the Labor Commissioner Office's joint [Immigrant Worker Protection Act FAQ](#).

2. Anti-discrimination and Anti-retaliation laws

- Employers must not engage in discriminatory practices, including but not limited to, in hiring, firing, recruitment, compensation, and working conditions, based on an employee's national origin or ancestry. Cal. Gov't Code § 12940(a); Cal. Code Regs. tit. 2 § 11028(f)(3).
- Employers must not report or threaten to report an employee's suspected citizenship or immigration status, or that of their family member to a federal, state, or local agency because the employee exercises a right under the California Labor Code, Government Code, or Civil Code. Cal. Labor Code § 244(b).
- Employers must not intimidate, threaten, coerce or retaliate against employees for exercising their rights,, or for participating in an investigation, proceeding, or hearing covered under federal immigration-related employment discrimination law. 8 U.S.C. § 1324b(a)(5).
- Employers and others must not engage in unfair immigration-related practices for the purpose or intent to retaliate against any employee for exercising their rights under the Labor Code or local ordinances that protect workplace rights. Violations may lead to the suspension of business licenses. Cal. Labor Code § 1019.
- Discriminatory or unfair immigration-related practices may include but are not limited to:
 - Using Form I-9 of the E-Verify system inconsistently or improperly based on a worker's citizenship, immigration status or national origin; or for a retaliatory purpose.
 - Threatening to file a false report to police or state or federal agency.
 - Threatening to contact immigration authorities.

Additional Resources:

- More details on California anti-discrimination and anti-retaliation laws can be found on the California DIR website on [other worker rights and protections](#) and the California Civil Rights Department's [Fact Sheet on the Civil Rights of Immigrants](#).
- More information on the federal anti-discrimination provision can be found in the [USDOJ Civil Rights Division Immigrant and Employee Rights Section's Employer Fact Sheet](#).

Workplace Rights of Employees with TPS

TPS beneficiaries with valid employment authorization are granted legal rights and protections in the workplace. **For any concerns related to potential violations of those rights and protections, employees should consult with an attorney to obtain advice.**

- All TPS beneficiaries with valid employment authorization have the right to seek employment in the United States without discrimination based on national origin or immigration status. 8 U.S.C. § 1324b.
- Employees have the right to choose which documents to present from the [Form I-9 list of acceptable documents](#) during the Form I-9 verification process. 8 U.S.C. § 1324b(a)(6).
- All protections, rights, and remedies available under state law are available to all individuals regardless of immigration status who have applied for employment, or who are or have been employed, in California. Cal. Gov't Code § 7285.