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**Immigration Law for  
Non-Immigration Lawyers:  
How Trump-Era Immigration Policies  
Impact Every Practice Area**

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# Immigration Law Isn't Just for Immigration Lawyers Anymore

A Practice-Area Guide for Non-Immigration Attorneys

*Navigating Trump-Era Immigration Changes Across Every Practice Area*

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This paper is written by an employment-based immigration practitioner for attorneys in all other practice areas. Its purpose is simple: the Trump administration has made sweeping changes to immigration law and enforcement that create legal risks, ethical obligations, and new service opportunities across virtually every field of legal practice. You do not need to become an immigration lawyer to protect your clients. You do need to know when immigration issues are lurking in your cases — and what to do when you find them.

This paper gives you that foundation. Part I surveys the immigration landscape as it stands today — what has changed, what is under legal challenge, and what remains uncertain. Part II translates that foundation into practice-area-specific issue-spotting frameworks.

## PART I: THE LANDSCAPE — WHAT HAS CHANGED

### The Scale of the Shift

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The Trump administration has pursued the most aggressive restructuring of U.S. immigration law and policy in modern history. The changes are not incremental. They span every major category of immigration — employment, humanitarian protection, family-based status, citizenship, and enforcement — and they are accelerating. For attorneys in other practice areas,

the practical effect is this: the clients you already serve are navigating an immigration system that looks fundamentally different than it did two years ago, and many of them do not yet know it.

## 1. Employment-Based Visa Programs

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The United States built its economy on the premise that it would attract and retain the world's most talented workers. The employment-based immigration system is the legal architecture that makes that possible. Today, that architecture is under deliberate, systematic assault. The statutory cap on employment-based green cards has not been adjusted since 1990, meaning the pipeline was already constrained before the current administration took office. The workers affected are not abstractions — they are physicians staffing rural hospitals, engineers building critical infrastructure, researchers conducting federally funded science, and entrepreneurs creating American jobs. The Trump administration's escalating scrutiny, its \$100,000 fee imposed by executive proclamation, its proposed elimination of post-graduation work authorization, and the compounding consular delays that strand workers abroad are not incremental policy adjustments. They are a fundamental disruption to the workforce infrastructure that American industry has spent decades building, with consequences that extend into every corner of legal practice.

- **Nonimmigrant Visas**

The H-1B visa is the primary mechanism by which U.S. employers sponsor foreign nationals for professional specialty occupation employment, covering roles in technology, healthcare, finance, engineering, and related fields. H-1B scrutiny has intensified on multiple fronts. USCIS has increased Requests for Evidence (RFEs) and denials, particularly in IT consulting, staffing, and healthcare. In September 2025, President Trump signed a Presidential Proclamation imposing a \$100,000 fee on new H-1B petitions filed on behalf of foreign nationals outside the United States who do not hold a valid H-1B visa. The fee is subject to active litigation, with multiple federal lawsuits challenging it as exceeding executive authority and bypassing required notice-and-comment rulemaking. Additional rulemakings to raise prevailing wage levels and narrow the definition of qualifying specialty occupations are anticipated.

OPT and STEM OPT are DHS-authorized work programs that permit international students to remain in the United States and engage in degree-related employment for one to three years following graduation. They function as the primary bridge between F-1 student status and employer-sponsored work visa status and are a critical pipeline for STEM workforce development. Both programs are targeted for restriction or elimination, which would require international graduates to depart the United States immediately upon program completion.

The L-1B visa authorizes multinational employers to transfer employees with specialized knowledge from a foreign affiliate to a U.S. office. L-1B petitions face heightened specialized knowledge standards, complicating intracompany personnel transfers at the international level.

TN visas (available to Canadian and Mexican nationals under the USMCA) and E-3 visas (available to Australian nationals) are treaty-based nonimmigrant categories that provide relatively streamlined professional work authorization. Both have seen increased consular unpredictability, particularly at land border ports of entry.

Consular processing delays compound all of the above. An approved USCIS petition does not authorize entry into the United States. The foreign national must also obtain a visa stamp at a U.S. embassy or consulate abroad before presenting at a port of entry. As of late 2025, wait times vary dramatically by country and category, with employment-based categories generally receiving priority scheduling at 30 to 90 days, while other categories at high-volume posts stretch considerably longer. These delays carry direct operational consequences: a foreign national who travels outside the United States may be unable to return promptly if their visa has expired and consular appointment availability is limited. Under the \$100,000 H-1B fee proclamation, international travel by an H-1B worker whose status lapses during the absence may trigger the fee obligation, a risk that employers with internationally mobile workforces must now actively manage.

- **Immigrant Visas and Green Cards**

Per-country caps have created decades-long backlogs for Indian and Chinese nationals in the EB-2 and EB-3 categories — in some cases exceeding 10+ years at current visa availability rates. Workers in these backlogs remain entirely dependent on employer sponsorship for their status, often for the duration of their entire U.S. career. PERM labor certification processing times have lengthened, adding delays at the front end of an already protracted process. The EB-1 extraordinary ability and multinational manager categories have faced increased scrutiny. EB-5 investor visas, restructured by the 2022 Modernization Act, continue to suffer from administrative delays and litigation that have made foreign investor capital an unreliable financing tool.

## 2. Workplace Enforcement Surges and I-9 Compliance

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ICE's Homeland Security Investigations (HSI) unit has dramatically escalated worksite enforcement. This is not enforcement targeted solely at undocumented workers — it targets employers who fail to maintain compliant I-9 processes, regardless of whether their workforce is authorized.

- **I-9 Audits:** ICE has issued Notices of Inspection (NOIs) to thousands of employers across industries including agriculture, food processing, construction, hospitality, and healthcare. Civil penalties for I-9 paperwork violations range from \$272 to \$2,701 per violation for first offenses, and up to \$27,018 per violation for knowingly employing unauthorized workers.
- **Criminal Exposure:** Employers and HR personnel face criminal prosecution under 8 U.S.C. § 1324a for pattern or practice violations. Harboring, transporting, and conspiracy charges have been used against business owners.
- **E-Verify Pressure:** Although E-Verify remains voluntary at the federal level for most employers, the administration has pushed to make it mandatory and has used E-Verify mismatches as a basis for enforcement actions.
- **M&A Due Diligence Risk:** Acquiring companies inherit the I-9 and employment authorization liabilities of acquired companies. Buyers who fail to conduct I-9 due diligence can face successor liability.

### 3. Termination of Humanitarian Protections

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For decades, humanitarian immigration programs have functioned as a quiet but essential foundation of American civic and economic life, providing stability to individuals who have lived, worked, paid taxes, and raised families in the United States for years or even decades. The current administration has moved with deliberate speed to dismantle that foundation.

As of early 2025, approximately 1.3 million foreign nationals were protected by TPS designations across 17 countries. The administration has initiated termination proceedings against the majority of those designations.

- **Temporary Protected Status (TPS):** The administration has terminated or sought to terminate TPS for nationals of Venezuela, Haiti, Honduras, Nicaragua, Nepal, Afghanistan, Cameroon, Syria, and others. TPS for Honduras ended September 8, 2025; TPS for Nicaragua and Nepal ended in August and September 2025 respectively; and TPS for Venezuela has ended for most recipients. Many terminations are subject to active litigation, with federal courts issuing injunctions that the administration has appealed. The Supreme Court is expected to hear arguments on TPS for Haiti and Syria in late April 2026, with a decision likely by early July 2026 — a ruling that could affect TPS designations broadly. TPS recipients include long-term U.S. residents with U.S.-citizen children, mortgages, and decades of community ties. Termination renders them immediately deportable absent other legal status.
- **Deferred Action for Childhood Arrivals (DACA):** The administration has continued efforts to wind down DACA. Current recipients may renew, but no new applications are being accepted, and the program's legal future remains uncertain through ongoing litigation.
- **Humanitarian Parole Programs:** The CBP One parole program and the program for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV) have been terminated. The Supreme Court allowed the government to end CHNV parole in May 2025, ending humanitarian parole protections for approximately 530,000 individuals. Individuals who entered under these programs and were granted a defined period of authorized stay are now subject to removal.

### 4. Asylum Restrictions

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The administration has systematically closed or narrowed virtually every legal pathway through which individuals may seek asylum in the United States. The cumulative effect is a nearly inaccessible asylum system.

- **Third Country Transit Bar:** The administration reinstated and expanded a rule barring asylum for individuals who transited through a third country without seeking protection there. This effectively bars most Central American and other asylum seekers.
- **Expanded Expedited Removal:** Expedited removal — summary deportation without immigration court proceedings — has been expanded to cover individuals anywhere in the U.S., not just within 100 miles of the border, who cannot prove they have been continuously present for more than two years.
- **Metering and Port of Entry Closures:** The administration has limited asylum processing at ports of entry and invoked emergency authority to effectively suspend the asylum system at the southern border for periods of time.
- **Asylum Officer Reforms:** Prior Biden-era reforms that allowed asylum officers (rather than immigration judges) to grant asylum are being reversed, slowing processing and increasing backlogs.

## 5. Birthright Citizenship Challenges

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Shortly after taking office, President Trump signed an executive order purporting to end birthright citizenship for children born in the United States to parents who are unlawfully present or in a temporary visa status. This directly challenges the conventional interpretation of the Fourteenth Amendment. Federal courts have uniformly blocked this order on constitutional grounds, and the issue is likely headed to the Supreme Court. However, the uncertainty itself has created planning challenges for families in nonimmigrant status and for employers whose foreign national employees have U.S.-born children whose citizenship status could theoretically be in question.

## 6. Declining International Student Enrollment

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The United States has long been the world's preferred destination for international higher education. That position is no longer assured. The administration's actions targeting international students have sent a clear signal to prospective students globally: the welcome mat has been pulled back. The downstream consequences extend well beyond the students themselves.

- **Visa Denials:** F-1 student visa denial rates have increased, and consular processing has become less predictable.
- **SEVIS Terminations:** The administration terminated the Student and Exchange Visitor Information System (SEVIS) records of thousands of international students, many without individualized notice or clear legal authority. Federal courts blocked many of these terminations, but the disruption sent a chilling signal to prospective international students globally.

- **Post-Graduation Work Authorization Uncertainty:** OPT and STEM OPT restrictions, combined with heightened H-1B scrutiny and changes to the program have made U.S. academic programs less attractive to international students who expected career pathways after graduation.
- **Enrollment Impact:** Major universities have reported application declines from international students, particularly from China and India. This has financial implications for institutions dependent on tuition revenue from international enrollees.

## 7. Denaturalization Efforts

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The administration has revived and expanded denaturalization — the process by which the government strips a naturalized citizen of citizenship. The Department of Justice has established a dedicated denaturalization unit and has pursued cases involving alleged fraud in the naturalization process, including cases based on undisclosed prior arrests, alleged misrepresentations about residence, and national security grounds.

While denaturalization has historically been rare and reserved for the most serious cases (e.g., war criminals), the current administration has signaled broader use. This creates exposure for clients who naturalized years or decades ago and may have inadvertent or minor issues in their naturalization record.

## 8. The ICE Enforcement Expansion

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Through the One Big Beautiful Bill Act, signed into law in July 2025, Congress provided ICE with the largest funding increase for immigration enforcement in U.S. history. The legislation allocated approximately \$75 billion to ICE over four years, nearly tripling its prior annual budget and making it the largest federal law enforcement agency in the country. The practical effects are already being felt at scale.

- **Interior Enforcement:** Interior enforcement operations, which had been largely deprioritized under the Biden administration, have resumed at scale, including worksite raids, courthouse arrests, and targeted operations in immigrant communities. The number of people held in ICE detention increased by more than 75 percent in a single year, reaching a record 73,000 individuals as of early 2026.
- **Detention Capacity:** The legislation allocated \$45 billion specifically for new detention infrastructure, a 400 percent increase over the prior year's detention budget. ICE expanded its use of facilities by 91 percent in 2025, incorporating converted warehouses, military base tent encampments, and offshore detention at Guantanamo Bay. Conditions at many facilities have drawn documented findings of detention standard violations, and 2025 was the deadliest year for ICE detention on record.

- **287(g) Expansion:** Cooperation agreements with state and local law enforcement under 287(g) have expanded significantly, deputizing local jails and police departments across more jurisdictions to function as immigration enforcement partners.
- **Alien Enemies Act:** The administration invoked the Alien Enemies Act of 1798, a wartime statute, to justify expedited deportation of certain individuals without standard immigration court proceedings. Courts have scrutinized this use and, in some cases, blocked it, but litigation is ongoing.

## 9. Travel Bans, Visa Freezes, and USCIS Adjudication Pauses

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Layered on top of the enforcement and policy changes described above is a separate and significant disruption to the adjudication system itself. The administration has used its authority under Section 212(f) of the Immigration and Nationality Act to suspend or restrict entry for nationals of an expanding list of countries, and has directed USCIS and the State Department to freeze processing for affected individuals — including many with pending petitions that were filed years ago.

- **Travel Bans:** Presidential Proclamation 10949, issued in June 2025, imposed entry restrictions on nationals of 19 countries designated as high-risk. Presidential Proclamation 10998, issued in December 2025, expanded the list further. The affected countries currently include Afghanistan, Burma, Cuba, Eritrea, Haiti, Iran, Libya, Somalia, Sudan, Venezuela, Yemen, and others, with additional countries facing partial restrictions.
- **USCIS Adjudication Pause:** In December 2025, USCIS issued a policy memorandum placing an indefinite hold on all pending immigration benefit requests filed by or for nationals of the travel ban countries, regardless of how long those applications had been pending or how far along in the process they were. The hold covers H-1B petitions, green card applications, adjustment of status filings, and other benefit requests. USCIS also ordered a comprehensive re-review of previously approved benefits for individuals from these countries who entered the United States on or after January 20, 2021.
- **Asylum Adjudication Pause:** Separately, USCIS placed an indefinite hold on all pending asylum applications regardless of the applicant's nationality, a sweeping pause that affects hundreds of thousands of pending cases across every country of origin.
- **Immigrant Visa Processing Pause:** The State Department has suspended immigrant visa processing for nationals of the travel ban countries at U.S. consular posts abroad, meaning individuals who have waited years or decades in the green card backlog cannot complete their final processing steps even if a visa number is available to them.
- **Re-Review of Previously Approved Cases:** USCIS has directed officers to re-examine and, in some cases, re-interview individuals whose immigration benefits were approved during the Biden administration. This retroactive scrutiny of previously approved cases represents a significant departure from prior agency practice and creates profound uncertainty for individuals who believed their status was settled.

For employers, the adjudication pause creates immediate operational consequences. Foreign national employees from affected countries may be unable to extend or renew their work authorization, complete pending green card steps, or obtain replacement documents, even if they have lived and worked lawfully in the United States for years. Travel outside the United States carries the risk of being unable to return.

## PART II: PRACTICE-AREA ISSUE-SPOTTING GUIDE

The sections below translate the landscape described in Part I into actionable issue spotters for each major practice area. These are not exhaustive immigration analyses — they are the questions and red flags that should prompt you to pause, ask more, and consider whether immigration counsel should be involved.

### Corporate and M&A

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Immigration due diligence is not optional in transactions involving a foreign national workforce. I-9 violations transfer with the acquisition. Pending green card petitions can be invalidated by a poorly structured deal. These are material liabilities.

- **I-9 Compliance:** Request the target's I-9 records and enforcement history. Violations are strict liability and follow the asset. Have immigration counsel audit a sample before closing.
- **Foreign National Workforce:** Identify all employees on H-1B, L-1, TN, E-3, or other work visas. Their authorization is employer-specific and does not transfer automatically to the acquiring entity.
- **Green Card Pipeline:** PERM labor certifications and I-140 petitions are tied to the sponsoring employer. A restructuring can erase years of processing if not handled correctly. Ask what stage each petition is at.
- **Public Access Files:** H-1B employers must maintain a Public Access File for each sponsored worker. Missing or deficient PAFs are an independent compliance violation.
- **TPS and DACA Employees:** Identify any employees whose work authorization derives from TPS, DACA, or humanitarian parole. Their ability to continue working may be at imminent risk given current policy changes.
- **Post-Closing Obligations:** If the transaction qualifies as a successor-in-interest, existing H-1B petitions may transfer without re-filing. Not all deals qualify. Material changes in employment terms, location, or duties require amended petitions filed before the change takes effect.

#### ISSUE-SPOTTING TIPS

- ▶ Ask for a complete census of foreign national employees: visa category, employer of record, and petition expiration dates.

- ▶ Ask whether any employees are in active green card processing and at what stage.
- ▶ Do not close without an I-9 audit. Inherited liability can be significant.
- ▶ If the target has raised EB-5 capital, involve immigration and securities counsel before closing.

## Labor and Employment

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Labor and employment attorneys are on the front lines of immigration enforcement consequences. I-9 audits, workforce disruption from TPS terminations, wage theft by employers exploiting immigration status, and ICE-related retaliation claims all land in this practice.

- **I-9 Audit Defense:** An employer who receives a Notice of Inspection (NOI) has three business days to produce records. Engage immigration counsel with worksite enforcement experience immediately. Do not attempt to handle an NOI without it.
- **Proactive Compliance:** Advise employer clients to conduct privileged internal I-9 audits before ICE arrives. Representing a client in remediation is far better than defending an enforcement action.
- **IRCA Discrimination:** IRCA prohibits discrimination in I-9 processes based on national origin or citizenship status. Over-verification, selective enforcement, and document abuse all create exposure. These claims are distinct from Title VII and often overlooked.
- **FLSA Applies Regardless of Status:** Wage and hour laws cover all workers regardless of immigration status. An employer's belief that an undocumented worker will not complain is not a defense. Using immigration status to coerce a worker out of a wage claim may itself be a crime.
- **ICE Retaliation:** Threatening to report a worker to ICE in response to a protected complaint is unlawful retaliation under the NLRA, FLSA, and most state equivalents. These cases are increasing.
- **TPS Workforce Disruption:** Industries including construction, food service, landscaping, and healthcare support carry significant TPS workforces. Employers need contingency workforce planning now. Termination of a TPS worker without proper process can create discrimination and wrongful termination exposure.

### ISSUE-SPOTTING TIPS

- ▶ Ask every employer client: Have you received an NOI or any ICE contact in the last five years?
- ▶ Ask: Which employees are on TPS, DACA, or humanitarian parole, and what is your plan if their authorization ends?
- ▶ Flag any document in a wage and hour case suggesting immigration status was used as leverage.
- ▶ The three-day NOI production window is unforgiving. Refer immediately.

## Family Law

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Immigration status can be the most consequential issue in a family law matter. It determines whether a client remains in the country, whether a parent is deported, and whether a child is separated from their family. It must be surfaced at intake, not discovered mid-case.

- **Conditional Permanent Residence:** A foreign national who obtains a green card through marriage receives conditional status for two years. Divorce during that period creates an immigration problem requiring a waiver petition. Many clients do not know this step exists.
- **VAWA Self-Petitions:** Victims of domestic violence who are spouses or children of U.S. citizens or permanent residents can self-petition for immigration status without the abuser's knowledge or participation. Every family law attorney should know this remedy exists and be able to refer to counsel who handles it.
- **Status as Coercive Control:** Abusers routinely use immigration status as a control mechanism: threatening ICE reports, withholding documents, refusing to sponsor. Recognize the pattern. Know the protections, including U-visas for crime victims who cooperate with law enforcement.
- **Impact of Divorce on Pending Petitions:** A divorce can revoke a pending I-130 and end green card processing. Clients need to understand this consequence before filing.
- **Special Immigrant Juvenile Status (SIJS):** Minors who have been abused, neglected, or abandoned may qualify for SIJS through state court proceedings. Family law attorneys can initiate these cases.
- **Courthouse Safety:** ICE enforcement at and near courthouses has increased significantly. Immigration-vulnerable clients need to be advised before any court appearance.

### ISSUE-SPOTTING TIPS

- ▶ Intake question for every divorce or separation matter: What is each party's citizenship and immigration status? Is either party's status tied to the other?
- ▶ Ask: Are there children? What is their citizenship status?
- ▶ Ask: Has immigration status been used as a threat in this relationship?
- ▶ Flag the courthouse enforcement risk before any court date involving an immigration-vulnerable client.

## Criminal Defense

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For any non-citizen client, a guilty plea to even a misdemeanor can be the most consequential legal event of their life. The Sixth Amendment requires defense counsel to advise non-citizen

clients of the immigration consequences of a plea. *Padilla v. Kentucky*, 559 U.S. 356 (2010). This is not a courtesy. It is a constitutional obligation.

- **The Padilla Standard:** When deportation consequences are clear, advise the client that deportation will result. When consequences are unclear, advise that they may result and urge consultation with immigration counsel. Failure to advise, or incorrect advice, is ineffective assistance of counsel.
- **Aggravated Felonies:** This is a term of art in immigration law with its own definition at 8 U.S.C. Section 1101(a)(43). It includes offenses that would surprise most criminal attorneys: theft with a one-year sentence, fraud involving more than \$10,000, and others. An aggravated felony conviction results in mandatory deportation and a permanent bar to reentry.
- **Other Deportable Offenses:** Crimes Involving Moral Turpitude (CIMTs), drug offenses (including simple possession), domestic violence convictions, protective order violations, and firearms offenses all trigger deportability. Even deferred adjudications and diversions that result in no conviction can have immigration consequences.
- **Sentence Length Is Strategic:** Many deportability determinations turn on whether a sentence imposed is one year or more. Negotiating 364 days instead of 365 preserves eligibility for relief. This is a concrete, actionable consideration in every plea.
- **Plea Language Matters:** Immigration courts look at the record of conviction, not the underlying conduct. What is admitted in a plea colloquy can determine immigration outcome. Have immigration counsel review the specific plea language.
- **Post-Conviction Relief:** If a non-citizen client was not properly advised of immigration consequences, post-conviction vacatur may be available. This is a growing area of practice.

#### ISSUE-SPOTTING TIPS

- ▶ Ask at intake for every criminal matter: Is your client a U.S. citizen? If not, surface it before strategy is set, not at plea negotiations.
- ▶ A green card, U.S.-citizen spouse, or U.S.-citizen children do not guarantee relief from deportation after a covered offense.
- ▶ Never advise a non-citizen client to take a plea without first running the specific charges and plea language by immigration counsel.
- ▶ Document your Padilla advice in writing.

## Estate Planning and Probate

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Immigration status directly affects estate tax structure, planning options, and the practical administration of estates. Non-citizen spouses require fundamentally different planning than citizen spouses. Failure to recognize this can result in immediate and avoidable tax liability.

- **QDOT Requirement:** The unlimited marital deduction does not apply to transfers to non-citizen spouses. Transfers must pass through a Qualified Domestic Trust (QDOT) to defer

estate tax. A QDOT must include a U.S. trustee and meet specific structural requirements. Missing this is a material planning error.

- **Gift Tax Exclusion:** The annual gift tax exclusion for gifts to non-citizen spouses is \$185,000 (2024), significantly higher than the standard \$18,000 exclusion for citizen spouses. This creates planning opportunities that are often overlooked.
- **Deportation Contingency Planning:** Clients with uncertain immigration status should have durable powers of attorney in place before any enforcement event occurs. If a parent is deported, who has legal guardianship of U.S.-citizen children. Estate planning documents should address this explicitly.
- **Undocumented Heirs:** Heirs who are undocumented retain full legal rights to inherit. They may be reluctant to participate in probate proceedings. Provide appropriate reassurance and coordinate with immigration counsel if needed.
- **Denaturalization:** The current administration has revived denaturalization proceedings. A client who faces denaturalization may need to revisit tax status, treaty benefits, and other planning elements tied to citizenship.

#### ISSUE-SPOTTING TIPS

- ▶ Ask every estate planning client: Is your spouse a U.S. citizen? If not, QDOT planning is required.
- ▶ Ask: Do you or any family members have uncertain immigration status? Plan for contingencies now.
- ▶ Do not treat QDOT as optional when a non-citizen spouse is involved. It is a threshold planning requirement.

## Healthcare Law

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Healthcare is among the most immigration-dependent industries in the country. Foreign-trained physicians, nurses, and support staff are essential to hospital operations, particularly in rural and underserved markets. The current policy environment creates acute workforce and compliance risk for healthcare providers.

- **J-1 Physicians and Conrad 30 Waivers:** Foreign physicians completing residency or fellowship on J-1 visas are subject to a two-year home residency requirement before they can change status. J-1 waivers, including the Conrad 30 program for underserved area service, are the primary pipeline for rural hospitals. These waivers carry strict compliance and service requirements. Violations can be costly.
- **H-1B Scrutiny in Healthcare:** Healthcare H-1B petitions, particularly at staffing agencies and hospitals, face heightened USCIS scrutiny. Petition denials or delays can create immediate staffing gaps.
- **TPS in Home Health and Long-Term Care:** Home health and long-term care facilities employ large numbers of TPS recipients, particularly from El Salvador and Haiti. The ongoing TPS terminations are creating and will continue to create acute staffing crises in already under-resourced settings.

- **EMTALA Does Not Check Status:** EMTALA requires emergency departments to provide stabilizing treatment regardless of immigration status or ability to pay. This does not change under current enforcement posture.
- **ICE at Healthcare Facilities:** The administration has taken an aggressive posture toward sensitive location protections, including healthcare settings. Providers should have established protocols for responding to ICE inquiries.

#### ISSUE-SPOTTING TIPS

- ▶ Audit your H-1B and J-1 physician workforce: who has home residency requirements, who has pending green cards, and what is the exposure if petitions are delayed or denied?
- ▶ For any healthcare employer with significant TPS workforce exposure: develop a contingency staffing plan now.
- ▶ A worksite enforcement notice requires immediate engagement of employment immigration counsel.

## Real Estate

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Immigration status affects financing eligibility, ownership planning, and transaction structure in both residential and commercial contexts.

- **Buyer Status and Financing:** DACA recipients, TPS holders, and other nonimmigrant visa holders each face different lender requirements and mortgage eligibility rules. Status uncertainty can affect a buyer's ability to close.
- **Deportation and Forced Disposition:** A client facing detention or deportation may need to sell quickly, transfer ownership, or establish a power of attorney. Real estate counsel may be the first attorney to hear this need.
- **EB-5 Capital:** Commercial real estate projects have used EB-5 investor capital as a financing tool. EB-5 raises complex questions about investor rights, capital structure, and USCIS reporting compliance. Always involve immigration and securities counsel on EB-5 transactions.
- **FIRPTA:** The Foreign Investment in Real Property Tax Act imposes withholding requirements on sales by foreign persons. The immigration status of the seller may be relevant to the FIRPTA analysis.

#### ISSUE-SPOTTING TIPS

- ▶ Ask whether a buyer's immigration status could affect financing options or long-term ability to maintain ownership.
- ▶ If a client mentions detention risk or removal proceedings, connect them with immigration counsel immediately to plan for property disposition.
- ▶ EB-5 transactions require immigration and securities counsel. Do not structure them without both.

## Higher Education and Nonprofit

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Universities and nonprofits face immigration challenges as employers, as sponsors of international students, and as institutions whose missions intersect with the populations most affected by current enforcement. The SEVIS terminations of spring 2025 demonstrated how abruptly federal action can disrupt institutional operations.

- **SEVIS Compliance:** Designated School Officials have compliance obligations under USCIS and ICE. Violations can result in loss of SEVP certification. The administration's mass SEVIS terminations in spring 2025, later blocked by federal courts, showed institutions the operational consequence of abrupt federal action.
- **OPT and STEM OPT Risk:** Both post-graduation work programs are targeted for restriction or elimination. Institutions that rely on OPT as a bridge to employer placement should be developing contingency plans. The impact on enrollment and employer partnerships would be immediate.
- **Faculty and Research Staff:** Research institutions sponsor H-1B and O-1 petitions for faculty and postdoctoral researchers. The adjudication pause affecting nationals of travel-ban countries has frozen pending petitions for some researchers, creating immediate disruption to research programs.
- **Export Controls:** Foreign national researchers raise export control compliance questions in ITAR and EAR-controlled research areas. Immigration status is directly relevant to technology transfer compliance.
- **Sanctuary Policies:** Campus sanctuary or non-cooperation policies face legal questions about enforceability under federal law. Institutions that have adopted such policies should review their scope and limits.

### ISSUE-SPOTTING TIPS

- ▶ Universities should audit their international student population for SEVIS compliance and be prepared to respond to future termination actions.
- ▶ Model the financial impact of OPT and STEM OPT restriction on enrollment and employer partnership revenue.
- ▶ Ensure your export control program accounts for the immigration status of researchers.

## PART III: WHEN TO REFER AND WHAT ETHICS REQUIRE

### Refer to immigration counsel immediately when:

- A client discloses they or a family member is undocumented, in removal proceedings, or has had any ICE or DHS contact.
- A criminal client is not a U.S. citizen and is facing any plea offer.
- An employer receives a Notice of Inspection.

- A divorce client's immigration status is tied to their spouse or a pending petition.
- A corporate transaction involves a foreign national workforce or pending green card petitions.
- A client's TPS, DACA, or parole status has been terminated or is under review.

*When you make a referral, provide immigration counsel with:*

1. Full name, country of birth, and country of citizenship.
2. Current immigration status and supporting documentation.
3. Nature of the underlying matter and any pending deadlines.
4. Whether the client is in removal proceedings or has a prior order of removal.
5. All prior criminal history, including arrests and dispositions, even old or expunged matters.
6. All known facts of their prior immigration history, including prior visa applications, entries, and any prior removal.

### **Ethical Considerations:**

- **Competence (Rule 1.1):** You are not required to be an immigration expert. You are required to recognize when immigration issues are present and to either develop sufficient competence through association with immigration counsel or refer the matter. Failing to recognize obvious immigration consequences in criminal, family, or corporate matters is a competence failure.
- **Communication (Rule 1.4):** If you identify a potential immigration issue in your client's matter, you must communicate it. Silence because the issue falls outside your practice area is not defensible.
- **Padilla (Sixth Amendment):** In criminal matters, failure to advise on immigration consequences is not merely malpractice risk. It is a constitutional violation that can support vacatur of the conviction.
- **Confidentiality (Rule 1.6):** Attorney-client privilege protects client immigration status. You have no obligation to report undocumented status to the government, and doing so would likely violate Rule 1.6.
- **The Standard:** Do not tell a client 'I do not handle immigration' and stop there. Identify the issue, advise the client that it requires specialized attention, document your advice, and refer.

## CONCLUSION

### Immigration Law Is Everyone's Business Now

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The Trump administration's immigration agenda is sweeping, fast-moving, and consequential for clients across every practice area. The goal of this paper is not to make you an immigration lawyer. It is to make you a better lawyer for all of your clients by giving you the knowledge to spot immigration issues when they arise, ask the right questions, and know when to bring in specialized help.

The attorneys who will serve their clients best in this environment are those who can bridge practice areas — who understand enough about immigration to recognize the landmines and who have the professional relationships to defuse them. That is the standard this presentation and this paper are designed to help you meet.

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*This paper is provided for educational purposes to attorneys in non-immigration practice areas.  
It does not constitute legal advice and does not create an attorney-client relationship.  
Immigration law is complex and fact-specific. Consult qualified immigration counsel for specific matters.*