Chapter 8 - Annual Cap and Waiting List

Guidance

Resources (22)

Appendices (1)

Updates (4)

By Congressional mandate, USCIS may only grant T-1 nonimmigrant status to 5,000 persons in any fiscal year.[1] Derivatives are not subject to this annual cap. However, USCIS does not approve applications for derivative T nonimmigrant status until USCIS has approved T-1 nonimmigrant status for the related principal applicant.

A. Waiting List Procedures

If the annual cap is met in a given fiscal year, USCIS places applicants who receive a bona fide determination but who are not granted T-1 nonimmigrant status due solely to the cap on a waiting list.[2] USCIS determines priority on the waiting list by the date the application was properly filed, with the oldest applications receiving the highest priority.[3] USCIS generally adjudicates applications in the order in which they are received.

In the subsequent fiscal year, USCIS issues a number to each applicant on the waiting list in the order of the highest priority.[4] After USCIS issues T-1 nonimmigrant status to qualifying applicants on the waiting list, USCIS issues any remaining T-1 nonimmigrant numbers for that fiscal year to new qualifying applicants in the order that the applications were properly filed.[5]

B. Unlawful Presence

An applicant for T nonimmigrant status on the waiting list to whom USCIS granted deferred action does not accrue unlawful presence[6] while maintaining deferred action.[7]

C. Removal from the Waiting List

Applicants on the waiting list must remain admissible to the United States and otherwise eligible for T nonimmigrant status. If at any time before final adjudication, USCIS receives information that an applicant is no longer eligible for T nonimmigrant status, USCIS may remove an applicant from

Need Help?
Chat with Emma™

terminate any grant of deferred action or parole at its discretion. USCIS provides notice to the applicant of that decision.[8]

Footnotes

[^ 1] See INA 214(o)(2).

[^ 2] See 8 CFR 214.210(b).

[^ 3] See 8 CFR 214.210(b)(1).

[^ 4] See 8 CFR 214.210(b)(2).

[^ 5] See 8 CFR 214.210(b)(3).

[^ 6] See INA 212(a)(9)(B). See Volume 8, Admissibility, Part O, Aliens Unlawfully Present [8 USCIS-PM O].

[^ 7] See 8 CFR 214.210(c).

[^ 8] See 8 CFR 214.210(d).

Current as of September 26, 2025