



December 1, 2025

Mr. Paul Buono
Chief, Business and Foreign Workers Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services, DHS
5900 Capital Gateway Drive
Camp Springs, MD 20746

Submitted at <https://www.regulations.gov>

Re: **Removal of the Automatic Extension of Employment Authorization Documents, CIS No. 2826–25; DHS Docket No. USCIS– 2025–0271, 90 Fed. Reg. 48799 (Oct. 30, 2025)**

Dear Chief Buono:

Kids in Need of Defense (KIND) respectfully submits the following comments in response to the interim final rule (IFR) and request for public comment titled “Removal of the Automatic Extension of Employment Authorization Documents,” published by the Department of Homeland Security’s (DHS) U.S. Citizenship and Immigration Services (USCIS) on October 30, 2025. KIND strongly opposes the IFR, which upends a vital safeguard designed to prevent and mitigate the impacts of persistent government backlogs on vulnerable populations, employees, employers, and the economy at large.

Forgoing prior public comment and taking immediate effect, the IFR marks a stark and harmful shift from decades of agency policy and rulemaking only months earlier. It posits generalized security concerns as a justification for exposing thousands of people to sudden loss of employment and identification documents--discounting alternatives that could reasonably avert such harms and the rule’s specific impacts on unaccompanied children. In doing so, it heightens risks of trafficking and other harm, including for eligible youth who use work authorization to access safe and lawful opportunities as well as children who rely on employment authorization documents (EAD) for government-issued identification that is often needed to access basic services, even where not used for work purposes. We urge DHS to withdraw the IFR and to restore the automatic extension period for renewal applicants, while undertaking additional efforts to improve government processing and reduce backlogs.

About KIND

KIND is an international organization working to ensure that no child faces immigration court alone. KIND has provided legal representation in immigration matters to more than 17,000 children in U.S. immigration proceedings, provided legal rights education to more than 78,000 children in the United

States, and formed pro bono partnerships with nearly 900 corporations, law firms, law schools, and bar associations to provide children with pro bono representation. KIND's social services program facilitates support for unaccompanied children, including case management, educational support, access to housing and medical care, community referrals, and other services. KIND also works to address the root causes of migration and to promote the safety and well-being of children at every stage.

Many of KIND's clients have fled persecution, abuse, or other harms in their countries of origin and qualify for forms of humanitarian protection. These children may also become eligible for work authorization and EADs—a benefit that not only helps to support the financial wellbeing and career trajectories of older youth, but also provides government-issued identification that is often required for children and youth to access medical care, social services, and other basic needs.¹ In its work with thousands of unaccompanied children, KIND has witnessed the ways in which government delays in adjudicating children's applications for humanitarian protection and employment authorization exacerbate challenges for them, both increasing their vulnerability to exploitation as well as undermining their ability to participate in legal proceedings with significant bearing on their wellbeing and futures.

I. Procedural Concerns and Other Consequences of the IFR

Having taken effect immediately upon publication, the IFR only compounds barriers for children and youth who have fled threats to their lives and wellbeing and who will face potential loss of critical services and jobs, despite their timely filing of EAD renewal applications. These consequences will similarly be felt by the economy at large, as employers may become unable to maintain employment of thousands of valued employees, and as states and localities must provide greater assistance to communities experiencing increased financial insecurity. DHS offers no new economic data to justify a sudden shift away from a policy that DHS made permanent less than a year ago to avert widespread economic harm.

The rule also poses broad confusion and practical burdens for employees and employers due to varying treatment of Form I-797C receipt notices, which may be used to prove the continuing validity of work permits that were automatically extended prior to October 30, 2025, but may not be used for this purpose by people applying for renewals after this time. Predictably, many people whose EADs were automatically extended in advance of the rule and who are not immediately subject to it nevertheless may face barriers in accessing services or maintaining employment if employers, agencies, or service providers misunderstand these differing requirements or altogether cease accepting receipt notices as proof of EAD validity for administrative ease or to avoid inadvertently running afoul of recent changes.

¹ See, e.g., USCIS, Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants, 89 Fed. Reg. 24628, 24645 (Apr. 8, 2024) (“In addition, having unexpired employment authorization and EADs is necessary for certain noncitizens such as asylum applicants and TPS beneficiaries when they apply for benefits that require proof of identity or immigration status. The only acceptable document available to some noncitizens such as asylum applicants and TPS beneficiaries to establish identity for other purposes, such as obtaining a REAL ID-compliant driver's license or identification card, may be an unexpired EAD. REAL ID-compliant driver's licenses as well as identification cards are used for other official purposes including access to Federal facilities and boarding federally regulated commercial aircraft.”); USCIS, Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, 48809 n. 112 (Oct. 30, 2025).

DHS justifies the IFR's sweeping departure from years-long policy and its permanent increase in the automatic extension period in a rule months earlier by citing to generalized security concerns and to a specific incident in June 2025. USCIS does not provide any data or explanation regarding how terminating automatic extension of EADs for renewal applicants would have prevented the referenced incident or for its assumption that thousands of people who have been previously vetted by USCIS and approved for work authorization will become security risks in the period prior to USCIS's renewal of this benefit. DHS similarly neglects to detail how the automatic extension policy impedes USCIS's existing authority to investigate security concerns or revoke work authorization,² if for example, security risks come to light in an individual case; indeed, it does not. Nevertheless, DHS maintains that it must eliminate the automatic extension policy to enable the agency additional time to complete security checks, yet understates the likelihood of future backlogs and the rule's consequent impacts. DHS's proposed expansion of vetting--which purports to protect U.S. security by ensuring applicants "do not bear hostile attitudes toward its citizens, culture, government, institutions, or founding principles, and do not advocate for, aid, or support designated foreign terrorists and other threats to our public safety and national security"³—is not accompanied by criteria to ensure it is not applied indiscriminately or unlawfully in violation of constitutional and other individual rights. Even without such specificity it is likely that any such proposed steps would add to current backlogs, increasing, rather than decreasing the importance of extending the validity of work authorization for individuals USCIS already approved for such authorization.

USCIS also fails to consider alternatives to eliminating the automatic extension of EADs for all renewal applicants, such as redoubling resources and staffing to reduce backlogs and to minimize harmful impacts. DHS acknowledges in passing potential differences between various EAD categories and underlying benefits requests but explains that it opted for a "uniform approach" to minimize confusion among employers and the public and in recognition of the "non-secure" nature of the Form I-797C receipt notice.⁴ DHS does not consider actions it could take to prevent confusion or lend greater clarity, for example, by issuing unique, secure documentation to some or all EAD renewal applicants. DHS further fails to consider how other DHS rulemaking, including a regulation proposed within days of this one that directs broad biometrics collections and ongoing vetting of all individuals applying for immigration benefits,⁵ relates to the concerns raised by DHS here. DHS's reliance on generalized assumptions and generalized security concerns that did not affect its rulemaking just months earlier do not constitute sound policymaking or warrant significant harms to thousands of children and others.

At a minimum, the foreseeable risks and impacts of the IFR and the agency's abrupt shift in course necessitate public notice and comment before the rule may take effect. DHS asserts that it has "good cause" for forgoing those critical safeguards here based on the urgency of its national security concerns as underscored by an incident in June 2025, which make a prior notice and comment period

² See generally 8 C.F.R. § 274a.14(b)(1)(i)-(ii) (Termination of employment authorization) (providing the District Director with authority to terminate employment authorization prior to expiration where it appears "any condition upon which it was granted has not been met or no longer exists, or for good cause shown; or . . . [u]pon a showing that the information contained in the application is not true and correct.").

³ 90 Fed. Reg. at 48807.

⁴ See *id.*; *id.* at 48810.

⁵ USCIS, Collection and Use of Biometrics by U.S. Citizenship and Immigration Services, 90 Fed. Reg. 49062 (Nov. 3, 2025).

impracticable and contrary to the public interest. Yet DHS’s own promulgation of the IFR after nearly four months’ time from the cited incident and without evidence grounding its assumption that thousands of previously vetted individuals newly pose a security risk belies this claim.

II. The Importance of EADs for Unaccompanied Children

Many unaccompanied children and youth currently have work authorization and EADs on the basis of pending asylum or adjustment of status applications, or having been granted T or U visa status. Expirations and renewal delays mean that eligible youth who are currently employed may be unable to retain lawful positions or experience interruptions in social services and medical or mental health treatment that support them in addressing prior trauma or other chronic or preventative needs.

A. Use for Identification and Access to Essential Services

Applying for humanitarian relief is a multi-step and challenging process for children, including children represented by attorneys. Like other protection seekers, children must prepare and submit an application and attend interviews or proceedings in which they may have to testify or be questioned about traumatic events giving rise to their claims for protection. Undertaking these steps often requires that children develop sufficient trust to be able to disclose prior harm and threats. This often necessitates psychosocial support and services, including to minimize risk of re-traumatization as children process painful experiences and participate in their legal protection case over time. Social services and other care also help children navigate other life necessities, from adjusting to new living arrangements and a new school to learning English. Frequently, however, these services are inaccessible without government-issued identification. For many children, EADs currently meet this need, including for children who are not yet eligible to work. In many cases, EADs are the only form of government-issued identification a child may have or be able to obtain while their legal cases remain pending.

In 2023, the Office of Refugee Resettlement (ORR) recognized the barriers unaccompanied children leaving its care commonly experience in accessing government-issued identification. Accordingly, ORR piloted a new card version of its Verification of Release form with certain care providers.⁶ This effort did not, however, reach all children and it is uncertain whether state, local, and federal agencies and other service providers widely accepted these cards as proof of identity. The current status of this initiative is unknown. In contrast to ORR’s earlier efforts, the IFR would abruptly curtail, rather than expand, access to identification, without providing for alternate forms of identification for adversely impacted children.

Without specifically referencing children, DHS acknowledges that EADs may be used to prove identity for people such as asylees and TPS beneficiaries and may be necessary to obtain a REAL ID-compliant driver’s license or ID card.⁷ While referencing this fact as part of its earlier support for the automatic extension of EADs, DHS newly articulates its belief that “it is utterly unwise” to permit people access to EADs and driver’s licenses—and potentially to federal facilities and airports--on the basis of an expired EAD and USCIS receipt notice without recently assessing an individual’s “continued eligibility and potential for security risk.”⁸ Minimizing potential harms posed by the rule, the notice states that the IFR does not eliminate the ability of eligible individuals to apply for an EAD renewal and work authorization

⁶ ORR, Field Guidance 25 (Dec. 7, 2023), <https://acf.gov/sites/default/files/documents/orr/fg-25-vor-card-guidance-selected-grantees.pdf>.

⁷ See 90 Fed. Reg. at 48809 & n. 112.

⁸ *Id.* at 48809 n. 112.

or to seek an EAD for proof of identity.⁹ Instead, DHS explains, renewal EADs largely depend “on the applicant’s timely application for a renewal EAD,” and “proper planning...and monitoring of EAD processing time” may allow a person to file as soon as eligible and “may mitigate the risk that [they] could experience a lapse in their validity and have to temporarily stop working.”¹⁰

In practice, however, unaccompanied children and hundreds of thousands of other people will predictably face government delays, with sweeping ramifications, even when they timely file their renewal applications. Presently, the processing time for an EAD renewal application by an asylum seeker may exceed six months, and data indicate that, as of June 30, 2025, the (c)(8) EAD renewal applications of more than 47,000 people applying for asylum have been pending for 180 days or longer.¹¹ This is only a subset of the more than 165,000 people from all application categories whose renewal applications remain pending 180 days or longer.¹² The notice does not exude confidence that these backlogs will be eliminated and states, for example, that “DHS is unsure what backlogs may continue in the future; however, DHS anticipates due to other DHS actions, described in Section IV. B. of this preamble, it is possible the backlog may end.”¹³

The other actions DHS alludes to include the agency’s recent efforts to rescind or restrict parole and TPS designations, which DHS maintains could lead to a substantial drop in EAD renewal applications in the future.¹⁴ Yet narrowing access to humanitarian protection and work authorization for other vulnerable populations only intensifies, rather than mitigates, fear and uncertainty for current EAD renewal applicants, who now may face the expiration of their work permits, despite their continued eligibility for them, while they navigate a host of other new and restrictive measures. These include new policies that greatly restrict access to federal nutrition assistance, healthcare, and other services by refugees, asylum seekers, and other previously eligible populations.¹⁵ Further, several of the administration’s actions in rescinding protection pathways are the subject of active litigation, such that future court rulings could direct the processing of EAD applications that USCIS has discounted here. DHS also fails to account for the fact that many of the individuals who initially received or were applying for parole or TPS may be eligible for other forms of humanitarian protection or immigration relief and have pending applications for them. This too undercuts DHS’s assertion that backlogs may decline as a result of its other actions.

Further, contrary to DHS’s suggestion, a person’s awareness of the timelines by which USCIS adjudicates EADs and their early filing of an EAD renewal application will not themselves address DHS’s adjudication backlogs. Indeed, early filing could ultimately shorten the usable period of work authorization for a renewal applicant, given that the validity periods overlap, rather than run consecutively. As such, DHS’s proposed solution could foster a rapid cycle of re-renewals that grow, rather than reduce, backlogs.

⁹ *Id.* at 48809.

¹⁰ *Id.* at 48819.

¹¹ USCIS, “Form I-765, Application for Employment Authorization Counts of Pending Applications by Days Pending and by filing type for All Eligibility Categories and (c)(8) Pending Asylum Category (Fiscal Year 2025, Quarter 3),” <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data> (last visited 11/19/2025).

¹² *Id.*

¹³ 90 Fed. Reg. at 48818.

¹⁴ *See id.* at 48809.

¹⁵ *See, e.g.*, H.R. 1, One Big Beautiful Bill Act, Pub. L. 119-21 (July 4, 2025), <https://www.congress.gov/bill/119th-congress/house-bill/1/text>; Nat’l Immigration Law Center, *The Anti-Immigrant Policies in Trump’s Final “Big Beautiful Bill,” Explained*, <https://www.nilc.org/wp-content/uploads/2025/07/The-Anti-Immigrant-Policies-in-Trumps-Final-Big-Beautiful-Bill-Explained-.pdf>.

DHS's efforts to transfer to vulnerable populations responsibility for mitigating the impacts of its own delays and policy shifts are unavailing.

B. Access to safe, lawful work opportunities

In addition to their use for identification purposes, EADs facilitate critical access to jobs and training opportunities for older youth. By enabling youth to build resources and community, safe and lawful work can assist young people in advancing their financial wellbeing and individual growth and help to reduce vulnerability to exploitative jobs, human trafficking, and homelessness. In recent years, news investigations of child labor exploitation across industries have garnered due attention to the potential risks facing unaccompanied children. Eliminating the automatic extension of EADs amid ongoing backlogs will imperil youth's continued employment in lawful jobs that provide a measure of stability and will narrow access to secure means of meeting basic needs and achieving safety.

DHS gives these concerns only short shrift and states summarily that the country's interest in national security outweighs the rule's potential impacts, including potential effects on the disposable income of families and children. DHS acknowledges in a footnote that "loss of employment authorization for asylum applicants may pose additional challenges given that they may be in a precarious financial situation due to circumstances such as fleeing persecution in their home country."¹⁶ However, DHS does not expound further on or seek to mitigate these harms. Exposing tens of thousands of children and vulnerable populations to financial insecurity and heightened risk of trafficking and exploitation merits far greater consideration and undermines, not advances, public safety and security.

Conclusion

KIND is deeply concerned that the IFR will exacerbate challenges and risks currently facing thousands of unaccompanied children by impeding access to necessary identification and services and disrupting lawful employment opportunities for eligible youth that can reduce their vulnerability to exploitation and human trafficking. The rule also threatens confusion and broad impacts for employers, service providers, and state and local agencies left to navigate growing needs in their communities. We strongly urge DHS to withdraw the IFR and to restore the policy of automatically extending renewal EADs to avert these significant harms.

Sincerely,

/s/

Jennifer Podkul
Chief, Global Policy and Advocacy
Kids in Need of Defense

¹⁶ 90 Fed. Reg. at 48809 n. 111.