

# IMMIGRATION JUSTICE CAMPAIGN

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## **Employment Authorization for Afghan Parolees and Asylum Seekers**

**Last Updated: November 10, 2022**

### **I. What it Means to have an Employment Authorization Document (“EAD”)**

Many Afghan arrivals who were paroled into the United States as a part of Operation Allies Welcome have already applied for or obtained work authorization. For the remaining Afghan arrivals who have not yet initiated the employment authorization document (“EAD”) process, they are likely eligible to apply either as a parolee or asylum seeker. EADs, commonly referred to as work permits, are official U.S. government documents issued by U.S. Citizenship and Immigration Services (USCIS) that provide temporary employment authorization to noncitizens in the United States. To request an EAD, qualifying parolees or asylum applicants may file Form I-765, Application for Employment Authorization, along with required supporting documents, with USCIS.

This practice advisory will discuss when Afghans now in the U.S., who were paroled into the United States from Afghanistan as part of Operation Allies Welcome, are eligible to seek employment authorization, as well as details on how to file.

### **II. Eligibility**

EAD eligibility rules are found in the regulations at 8 CFR § 274a.12. There are two main categories for EAD eligibility for Afghan arrivals. These two categories are found at 8 CFR §274a.12(c)(8), which is for certain people with asylum applications pending, and 8 CFR § 274a.12(c)(11), for certain people who have been allowed into the U.S. in a status known as “parole.” In this Practice Advisory, we will lay out the eligibility requirements, and the filing and documentation requirements for both of these categories, as well as practice pointers and filing considerations.

It is possible that an applicant may be eligible to apply under either the parolee or asylum seeker category, so it is important to consider the information in this practice advisory before choosing under which category to proceed. As a general note, it may be advantageous for Afghan parolees to apply for work authorization under the asylum-seeker eligibility category (c)(8), if they qualify. Asylum seeker EAD’s are valid for an initial period of two years with possibility of automatic renewal whereas parolee (c)(11) EAD’s are only valid throughout the parole period. Afghans paroled into the US were given a two-year parole period which is likely approaching expiration

within the upcoming months. Thus, an asylum seeker EAD would provide for additional time before having to re-apply. However, if the applicant has not yet filed for asylum or are at the very beginning of the mandatory wait time (see information below on the EAD Asylum Clock) it is advised to apply under the parolee (c)(11) eligibility category and subsequently file as an asylum seeker upon its expiration (assuming the applicant chooses to pursue asylum). Distinctions between the parolee and asylum-seeker eligibility categories are discussed throughout this practice advisory.

## ***1. Asylum Pending—Category (c)(8)***

### **1. General Eligibility Rule**

Asylum applicants may be eligible to file for employment authorization under category (c)(8) on the I-765, Application for Employment Authorization form. Prior to February 8, 2022, a Trump-administration rule prohibited asylum applicants from filing I-765s with USCIS until 365 days after their asylum applications were deemed “pending,” minus any delays attributed to the asylum applicants. However, a federal court case called [\*Asylumworks v. Mayorkas\*](#) restored the pre-Trump rules permitting asylum seekers to apply for employment authorization documents (“EADs”) only 150 days after their I-589s began pending and receive the EAD in as soon as 180 days. Further, the *Asylumworks* decision reimposed the requirement that USCIS process initial work permit applications for asylum applicants within 30-days.<sup>1</sup> This favorable ruling significantly shortens the length of time an applicant must wait between submitting an asylum application and becoming eligible for work authorization.

Under the current regulations, asylum seekers with I-589 applications pending as of February 8, 2022, are eligible to apply for employment authorization after the application has been pending for 150 days and receive an EAD after 180 days. However, even if an asylum applicant’s I-589 has been pending for 180 or more days, they may not be eligible to receive a work permit if USCIS determines that the client requested or caused a delay to the “180-Day Asylum EAD Clock.” The 180-Day Asylum EAD Clock, also restored by the *Asylumworks* decision, refers to the period of time USCIS requires applicants to wait between submitting an asylum application and receiving an EAD. Under this rule, an applicant becomes eligible to receive an EAD after a minimum of 180-days following USCIS’s receipt of a complete asylum application or the application is filed with the immigration court.<sup>2</sup> The 180-day waiting period includes the 150-days required between filing for asylum and applying for an EAD, plus an additional 30-day minimum eligibility period before receiving the EAD.<sup>3</sup>

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<sup>1</sup> Despite the *Asylumworks* decision, USCIS fails to process all EADs based on a pending asylum application within 30 days. If applying after the required 150-day waiting period, your client has had a pending EAD application for longer than 25 days without response, it is possible they may qualify for expedite as a [\*Rosario v. USCIS\*](#) class member. Reference [USCIS’s information about the Rosario class action](#) for eligibility information.

<sup>2</sup> A “complete” asylum application is one submitted to USCIS or the immigration court in the manner described by the [Instructions to the Form I-589, Application for Asylum and for Withholding of Removal](#).

<sup>3</sup> Reference [USCIS’s 180-Day Asylum EAD Clock Notice](#), revised 06/2022, for additional information.

If USCIS determines the applicant caused or requested a delay, the 180-Day Asylum EAD Clock pauses and the applicant stops accruing days toward the 180-day waiting requirement. The Clock remains paused until the delay is resolved, thus extending the amount of time one must wait before receiving work authorization. The following examples are reasons USCIS may find an “applicant-caused delay” for cases pending with an asylum office:

- Request to transfer a case to a new asylum office or interview location;
- Request to re-schedule an interview for a later date;
- Failure to appear at an interview or biometrics appointment;
- Failure to provide a competent interpreter at an interview; and
- Submission of large volumes of evidence immediately before an asylum interview.

For cases pending with EOIR, examples of applicant-caused delays include:

- Asking for additional time to prepare a case at a hearing;
- Requesting administrative closure of the case at a hearing; and
- Filing a motion to change venue or request a continuance.<sup>4</sup>

## 2. Ongoing Processing Delays and Updated Forms for Asylum-Seeker Applicants

In recent discussion with the [Asylum Seeker Advocacy Project](#) (“ASAP”), USCIS presented a goal to consistently process all asylum-seeker EAD applications within 30 days by the end of September 2022. As of November 2022, USCIS continues to fail to process asylum seekers’ initial work permits within 30-days as case processing data shows an average wait of over one year.

However, USCIS has [updated the work authorization application, Form I-765](#), and [instructions](#) to display accurate, updated information to reflect the *Asylumworks* decision. This version of the form no longer includes questions about an applicant’s method of entry, as recorded in the former version of the form at questions 30b.-g. Further, the official instructions now make it clear that 1) asylum seekers can apply for work authorization 150 days after filing an asylum application and 2) that asylum seekers’ initial work permits *should* be processed within 30-days.<sup>5</sup>

## 3. Updates to Rules Excluding Certain Asylum Seekers from Obtaining Work Permits

The August 2020 revised work permit regulations barred certain categories of asylum applicants from obtaining work permits based on their pending I-589 applications. As a result of the 2022 *Asylumworks* decision, the regulations have reverted to the pre-Trump version to restore work authorization eligibility for several sub-populations of asylum-seeker applicants:

- ***Applicants with pending asylum cases are no longer barred from receiving employment authorization if they entered or attempted to enter the United States***

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<sup>4</sup> See [USCIS’s 180-Day Asylum EAD Clock Notice](#), revised 06/2022, for additional information on applicant-caused delays in both affirmative and defensive proceedings.

<sup>5</sup> See [Updates for ASAP Members about Work Permit Advocacy, October 13, 2022](#).

***between ports of entry (commonly referred to as “entered without inspection” or “EWI’d”).***

- Information about the method of entering the U.S. (inspected, admitted, paroled, etc.) is not considered as part of the EAD adjudication process based on the (c)(8) category. Questions eliciting this information are no longer present on the most current version of the I-765.
- ***Filing for asylum after the one-year filing deadline is no longer automatic grounds for ineligibility for work authorization.***
  - Asylum seekers who file asylum applications after one year from entering the United States remain eligible for receiving an EAD based on a pending asylum application.
- ***Certain criminal acts and convictions are no longer grounds for ineligibility.***
  - The Trump-era rules vacated by *Asylumworks* prevented asylum-seekers convicted of certain crimes from pursuing work authorization. Now, only aggravated felony convictions will bar an applicant from eligibility for work authorization based on a pending asylum application.
  - “Aggravated felony” is an immigration law term that describes a wide category of criminal convictions under state and federal law. It is very important to be aware that crimes that may not be classified as an “aggravated felony” under state or federal law (and may in fact be classified as misdemeanors under the applicable law) fall under the immigration law heading of “aggravated felony.” If your client was convicted of a crime, it will be extremely important to obtain your client’s criminal records and analyze any convictions to see if they are classified under immigration law as an “aggravated felony.” If you are not experienced with criminal immigration issues, it will be important to consult an experienced mentor.
- ***If USCIS denies the asylum application, the EAD will not automatically terminate on the denial date.***
  - ***If the applicant who was denied asylum is in lawful immigration (most relevantly, parole) status,*** the EAD issued based on the asylum application will terminate 60 days after the denial decision, or on the expiration date of the EAD, whichever is later.
  - ***If the applicant is referred to the immigration judge and is not in lawful immigration status,*** the EAD remains valid through the date of expiration.<sup>6</sup>

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<sup>6</sup> For more information, see [USCIS Stops Applying Certain EAD Provisions for Asylum Applications](#).

#### 4. *212(d)(5) Parole, Category (c)(11)*

##### 1. Eligibility

Not all Afghans who entered through the Operation Allies Welcome (“OAW”) program will be immediately eligible for an asylum- pending EAD, either because they have not yet filed an asylum application, or because their asylum application has not been pending for long enough. For those who are not eligible (or not yet eligible) for an EAD in the asylum pending category, there is another EAD category under which they may apply: parole.

Typically, “parole” is a temporary immigration status that DHS can give people either at the border or when ICE releases them from detention. Similarly, “[humanitarian parole](#)”<sup>7</sup> is a form of parole the U.S. makes discretionarily available to those outside of the United States based on urgent humanitarian or significant public benefit reasons. The statutory authority for this type of parole is found at INA 212(d)(5), which says, “The Attorney General may...in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States.”

People who entered the U.S. as part of the OAW program should have been given 212(d)(5) parole upon arrival for a period of two years.<sup>8</sup> Your client’s electronic I-94 record should indicate that your client was paroled into the U.S. under INA Sec. 212(d)(5). You can retrieve a copy of your client’s electronic I-94 [here](#).<sup>9</sup> If your client was paroled into the U.S., the “class of admission” on the I-94 will be listed as “OAR” or “OAW”.<sup>10</sup>

People granted this type of parole are eligible for work authorization under category c (11). The relevant text in the regulations (8 CFR 274a.12(c)(11)) provides that:

“(11) Except as provided in paragraphs (b)(37) and (c)(34) of this section, [8 CFR 212.19\(h\)\(4\)](#), and except for aliens paroled from custody after having established a credible fear or reasonable fear of persecution or torture under [8 CFR 208.30](#), an alien paroled into the [United States](#) temporarily for urgent humanitarian reasons or significant public benefit pursuant to section 212(d)(5) of the [Act](#) [is eligible to apply for employment authorization].”

##### 1. Special Considerations for Afghan Parolee Applicants

There are several caveats to note for Afghan applicants when applying for an EAD in the (c)(11)

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<sup>7</sup> See also USCIS’s page titled [Information for Afghan Nationals on Requests to USCIS for Humanitarian Parole](#).

<sup>8</sup> See CLINIC’s [Guide to Client Documentation and Benefits for Afghan Parolees](#) for examples of documentation.

<sup>9</sup> Instructions on accessing the I-94 can be found [here](#).

<sup>10</sup> Several other admissions codes also refer to parole, including “CH.” If you are unsure whether your client was paroled into the United States, please consult a mentor.

parole category. First, applicants must typically pay a fee of \$410, absent qualifying for a fee waiver. However, Afghan parolees applying under this category are exempt from paying this fee for an initial EAD and the fee is automatically waived. Second, a parole-based EAD is only granted until the date of the parole's expiration, while an asylum-based EAD is granted for two years. While asylum-based EAD's have automatic employment authorization extensions for timely-filed renewals, extending parole to also extend employment authorization is often a challenge. Without an extension of the parole status, an asylum seeker will be not eligible for extensions of a parole-based EAD.

Nevertheless, for those completely ineligible for an asylum-pending EAD, the parole category will be the only way to obtain an EAD unless and until the applicant is granted long-term immigration relief, such as asylum. For applicants who have asylum applications pending, you and your client will want to evaluate whether it is worth applying in the parole category. If, for example, your client has two months until she is eligible for an asylum-pending EAD, it might make sense to wait to apply under the (c)(8) asylum pending eligibility category.

- ❖ **Practice Pointer:** If your client is currently eligible for a work permit under (c)(11) as a parolee but has not reached the 150-day mark to apply under category (c)(8), they may want to apply for an EAD under (c)(11) first. Then, when their (c)(11) permit expires, they can apply under (c)(8).

### **III. How to Apply**

#### ***1. Form I-765: Application for Employment Authorization***

To obtain employment authorization, an asylum applicant must file a signed [Form I-765<sup>11</sup>](#), Application for Employment Authorization, and supporting documents with USCIS. If you are an attorney representing a client in their I-765 application, you must file a [G-28](#) (Notice of Entry of Appearance as an Attorney) along with the I-765.

The [instructions](#) for Form I-765 are lengthy and complicated. We have distilled some of the most important pieces of information below. However, it is crucial that you also consult the I-765 instructions at the time of filing your client's I-765 to ensure you have all the requisite documentation and proper filing address.

The [Information for Afghan Nationals](#) page and [USCIS web page on the I-765](#) also contains important information about where to file, how to complete the form, and more. Make sure to carefully review the information on that page before filing.

#### ***2. Required documents***

1. Asylum Pending, (c)(8)

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<sup>11</sup> USCIS updated the Form I-765 on October 31, 2022. Make sure you are submitting the most current version.



- a. Completed and signed [I-765, Application for Employment Authorization](#)<sup>12</sup>
- b. Copy of receipt of your application from USCIS or other evidence that the asylum applicant's I-589 was filed.
  - Some clients may have a date-stamped copy of the first page of the I-589. If so, you will want to send a copy of that page.
- c. A copy of one of the following identity documents:
  - A printout of the asylum applicant's [electronic Form I-94](#) OR
  - Asylum applicant's passport OR
  - Asylum applicant's travel document
- d. Two identical color passport-style photos
- e. Documentation relating to arrests, convictions, and criminal charges (if applicable)<sup>13</sup>
  - Documentation relating to traffic incidents where there was no physical arrest and the fine was less than \$500 does not need to be submitted unless the incident resulted in criminal charges or involved alcohol, drugs, or injury to a person or property.
  - If the asylum applicant has any criminal history in the United States and you are not an experienced immigration practitioner, we recommend that you consult with a mentor.<sup>14</sup>
  - ***Evidence of arrests and convictions***
    - If the asylum applicant was EVER arrested or detained by a law enforcement officer for *any reason in any country*, they must submit an original or certified copy of the complete arrest report and an official statement by the arresting authority or an applicable court order that indicates the final disposition of the arrest or detention.
  - ***Evidence of criminal charges***
    - If the asylum seeker was ever charged for *any reason in any country*, they need to provide (1) an original or certified copy of the complete arrest report, (2) certified copies of the indictment information, or other formal charging document, and (3) the final disposition of each charge.
  - ***Evidence Relating to Alternative Sentencing or Rehab Programs***
    - If the asylum seeker was ever convicted or placed in an alternative sentencing or rehab program (i.e. drug treatment, community service, etc.) in *any country*, they need to provide: (1) an original or certified copy of the arrest

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<sup>12</sup> See [IJC's Sample EAD for Afghan Asylum Cases](#)

<sup>13</sup> We recommend submitting only official, court documentation related to criminal activity – not police reports.

<sup>14</sup> Figuring out whether you need to submit documents relating to criminal history can be tricky. Applicants with pending asylum applications are not subject to discretionary denials of EAD applications. They are, however, barred from obtaining an EAD if the crime is considered an aggravated felony or particularly serious crime.

report, (2) certified copies of the formal charging document; any plea agreement; and the final disposition for each incident, and (3) an original or certified copy of the probation or parole record showing that the asylum applicant completed the mandated sentence or program.

- ***Vacated, Sealed, Expunged or Removed Arrests and Convictions***

Asylum applicants who have had arrests or convictions vacated, set aside, sealed, expunged, or otherwise removed from their records need to provide (1) a certified or original copy of the complete arrest report, formal charging document, any plea agreement, and the final disposition of the incident and (2) a certified copy of the court order removing the arrest or conviction from the asylum applicant's record.

If the above evidence cannot be obtained, asylum applicants should submit (1) an explanation explaining why the evidence is not available, (2) secondary evidence showing the disposition of the case, or (3) one or more written statements by someone who has personal knowledge of the disposition.

❖ ***Practice Pointer:*** If your client was arrested, detained, or charged with a crime in their home country, your client may not have any documents relating to this, and it may not be safe for their family members or friends back home to obtain this documentation. In fact, their arrest, detention, and criminal charges may be a reason they are seeking asylum in the United States. You should explain this on the I-765 form.

Also note that if your client was arrested, charged and/or convicted for reasons connected to the request for asylum, it will be very important to ensure that any response on the I-765 to this question is consistent with what your client wrote in the pending I-589 asylum application submitted to the Immigration Court. If you are not an experienced immigration practitioner, it will be important to consult with an experienced practitioner if your client is in this situation.

2. Parole, (c)(11)

a. A copy of one of the following identity documents showing that applicant was paroled into the United States pursuant to INA 212(d)(5):

- A printout of the asylum applicant's [electronic Form I-94](#)<sup>15</sup> OR
- Applicant's passport showing parole stamp OR
- Applicant's travel document

❖ ***Practice Pointer:*** The EAD will only last the length of the asylum applicant's parole period, if they file under the (c)(11) category. If the end of the client's parole period is approaching,

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<sup>15</sup> The I-94 is a document that DHS issues to noncitizens that allows entry into the U.S.; it contains a person's name, the date of entry, and the immigration category in which the person is being allowed to enter the U.S., as well as the date that immigration status will expire. For Afghan arrivals, the I-94 should indicate that they are allowed to enter as an "OAR" parolee.



you should discuss with them whether it is worthwhile to apply for an EAD given the risk that they will not have enough time to actually receive the EAD and/or find employment. If the parole period is approaching its end and the applicant has submitted an asylum application, it may be better to wait until the application has been pending for 150 days and they can apply as an asylum seeker (c)(8) applicant.

b. Two identical color passport-style photos

❖ **Practice Pointer:** Unlike many other eligibility categories, **there is no filing or biometrics fee required for Afghan parolees' initial EAD application.** There is a fee associated with replacing cards lost by the applicant, but no fee to replace cards containing errors or cards never received after dispatch from USCIS (see later section on replacement cards).

#### IV. Filing the Application

Both you and your client must sign the I-765 application form. If an interpreter assisted, the interpreter would also need to sign. Each person must sign his or her own name (in other words, you cannot sign the form you on your client's behalf), but the signature on the form does not have to be original. USCIS explains [here](#) exactly what types of signatures it will and will not accept.

You will file the application with USCIS. Make sure to send the application using a method that allows you to track delivery of the application. Initial Afghan parolee applications should be mailed to the following addresses:

**If sent via U.S. Postal Service (USPS):**

USCIS

Attn: AOS

PO Box 805877

Chicago, IL 60680

**If sent via FedEx, UPS, or DHL:**

USCIS

Attn: AOS (Box 805887)

131 South Dearborn – 3<sup>rd</sup> Floor

Chicago, IL 60603-5517

##### 1. Streamlined Processing for Parolees

USCIS recently introduced its plan to implement a streamlined adjudication process for all new EAD applications for those applying under the (c)(11) eligibility category. With this process, USCIS intends to employ “technological solutions and efficiencies to reduce processing times” by allowing parolees to file Form I-765 online through the individual’s [myUSCIS](#) account.<sup>16</sup> Submission through myUSCIS also allows applicants to communicate with USCIS about the application through a secure inbox in lieu of navigating the burdensome USCIS customer service

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<sup>16</sup> See USCIS news alert, [Parolees Can Now File Form I-765 Online](#), July 28, 2022.

phone system.<sup>17</sup> If possible, it may be in the applicant’s best interest to file online.

## **V. What to Expect After Filing EAD Application**

### ***1. EAD adjudication overall***

USCIS adjudicates EAD applications at several “Service Centers” around the country. USCIS officers adjudicate the applications. Typically within one month, but possibly longer, after filing an EAD application, both the attorney recorded on the G-28 and the applicant should receive a [Form I-797C, Notice of Action](#) from the USCIS Service Center that is processing the case. The Notice of Action serves as a physical receipt that your client filed an I-765 application and will show the date it was received at the Service Center. Following the Notice of Action, you may receive either a Request for Evidence (RFE) requesting further documents, a denial of the application, a biometrics notice, or your client’s EAD card if the application is approved.

The Notice of Action also contains a receipt number. Using this number, applicants can look up the status of their case using [USCIS’s Case Status Online](#) tool.<sup>18</sup> This tool will show at what stage the application is in the adjudication process. Several outcomes are possible when requesting a case status update with this tool. Most commonly, the search results will show the case remains pending, an RFE has been issued, an EAD has been mailed or delivered, or that the EAD application has been denied.

If USCIS requires biometrics, the applicant will receive correspondence in writing detailing the location and time of the biometrics appointment. At this appointment, the applicant can expect to have their photograph, fingerprints, and/or signature recorded in order for USCIS to verify their identity, conduct background checks, or obtain additional information.

If at any point the applicant’s address changes, file an [AR-11](#) within 10-days of the move. Updating USCIS with a current address is required to maintaining parole status and avoiding delay in receiving the EAD once the application is approved.

### ***2. Issues to watch out for***

#### ***1. Receipt delays***

When an applicant sends an EAD application to USCIS, USCIS should soon thereafter issue a Notice of Action that serves as a receipt that the application was received and is now in process. Especially since the start of the pandemic, this process has drastically slowed at some service

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<sup>17</sup> Online filing of I-765 applications remains unavailable to those filing based under eligibility category (c)(8) based on a pending asylum application. See USCIS’s [Forms Available to File Online page](#) for additional categories eligible for online filing.

<sup>18</sup> Reference [USCIS’s Instructions for Checking Your Case Status Online](#) for more information.

centers, and numerous advocates have experienced months-long delays in receiving Notices of Action from USCIS Service Centers.

## 2. Requests for Evidence (RFEs)

At some point after the Notice of Receipt is issued, a USCIS adjudications officer will review the case and either make a decision or request further evidence in order to make the decision. If that officer believes that one or more pieces of required evidence is missing from the file, he or she may issue a Request for Evidence, known as an RFE. An RFE should contain a list of the documents the adjudicator believes is missing. The RFE will also have a deadline for responding to it.

It is not uncommon to receive an RFE for a document that you already sent with the initial application. If this happens, you must still respond to the RFE by the deadline. Best practice is to make another copy of the requested document and include that with your response.

## 3. Adjudication delays

Throughout the preceding two years, applicants and advocates have experienced increasingly long delays in the adjudication of EAD applications. USCIS publishes the current processing times for all case types [here](#). As of August 2022, USCIS reported processing times of between 5.5 and 12.5 months for EAD applications, including EAD applications for asylum seekers and parolees. Despite a mandate to process EADs based on pending asylum applications for all (c)(8) applicants within 30 days, significant delays remain common. If you are representing an asylum applicant in applying for an initial EAD that has not been processed within 30 days, please consult [this](#) practice advisory created by the American Immigration Council and colleague organizations.

## 4. Errors in Biographical Information on EAD Card

Applicants for work authorization may notice biographical information errors upon receipt of the physical EAD card. Most commonly, cards may show a misspelled name or incorrect date of birth. ***You do not have to submit a new Form I-765 or pay a fee to request a corrected card.***

If your client's EAD contains incorrect information or an error, you must submit to USCIS:

- The original card containing the error;
- A detailed explanation of the card error (such as incorrect name, date of birth, etc.);
- Applicant's U.S. mailing address; and
- Copies of supporting documentation of the correct information.

Supporting documentation could include primary or secondary documents with the correct information. If submitting any of the secondary documents listed below, you should also include an explanation about why primary documents are unavailable.

- Primary documents:
  - Passport;
  - Foreign identification document (Tazkera);
  - Birth certificate.
- Secondary documents:
  - Driver’s license;
  - Biographic information or supporting documents provided for prior USCIS or U.S. government applications or petitions, or other official records including:
    - Form I-589;
    - Religious or medical records containing applicant’s name and date of birth; or
    - School or employment records containing applicant’s name and date of birth; or
  - A notarized affidavit of birth, which should include:
    - Applicant’s date of birth, place of birth, and correct, full name spelling;
    - The full names of both of applicant’s parents; and
    - How the affiant knows of applicant’s birth.

If you are unable to provide any of the above requested documents or notarized affidavits, provide a detailed written explanation describing why you are unable to provide them.<sup>19</sup> Include the following information in your explanation:

- Applicant’s correct full name, date of birth, and place of birth; and
- Applicant’s parents’ full names, their dates of birth, and their place of birth.

The applicant should also attest to the validity of the statement that you are unable to provide primary or secondary documentation. The attestation should state that the information in the statement provided is valid. You must sign your attestation, but it does not need to be notarized.

Send this information to the service center originally responsible for adjudicating the EAD application.

#### 5. Non-delivery or Non-Receipt of Mailed EAD

If USCIS case tracking information shows the EAD has been delivered or indicates a significant mailing delay, the applicant should submit an online inquiry with USCIS using the [e-Request – Non-Delivery of Card self-service tool](#). There is no fee to request a replacement for non-delivery or non-receipt.

If USCIS does not have records of non-delivery, they may ask you to submit Form I-765 to request a replacement EAD. Complete the following steps to submit a new Form I-765 requesting a replacement card:

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<sup>19</sup> Sample [Explanation of Unavailability of Documents](#) including attestation.

- In Part 1, Reason for Applying, select “1.b., Replacement of lost, stolen, or damaged employment authorization document, or correction ...”
- In Part 2, Item Number 27, Information About Your Eligibility Category, write in “(c)(11).” This is the category number for parolees. For more information, see the Form I-765 webpage.
- Locate a copy of the Form I-94, Arrival Departure Record, passport, or other travel document showing the applicant was paroled into the United States for urgent humanitarian reasons or reasons of significant public benefit under INA 212(d)(5), which should have an Afghan parole notation, such as “OAW” or “OAR.”
  - For more information on obtaining a Form I-94, see CBP’s Form I-94 webpage.
  - If the applicant does not have a passport, he or she can use the A-Number to retrieve Form I-94 online from the CBP site above by choosing “Get Most Recent I-94.” Enter the A-Number in the Passport Number field and enter “USA” in the Passport Country of Issuance field.
- To avoid delay, it is recommended to file online, but if filing via mail send the replacement application to the address where the original application was also sent.