



draft

Department of Labor (DOL)

DOL's Office of Foreign Labor Certification (OFLC) will stop operations during a government shutdown, disabling the Foreign Labor Application Gateway (FLAG) system. DOL will not process prevailing wage requests, LCA (labor condition applications for H-1B, H-1B1, and E-3 cases), H-2A and H-2B temporary labor certifications, or labor certification (PERM) green card process-related applications. Data previously uploaded from FLAG into other government systems may still be accessible, allowing some H-2 and PERM-based I-140 petitions to be adjudicated.

Practical Guidance:

- H-1B, H-1B1, and E-3 cases will be delayed as these visa categories require the processing of an LCA by DOL prior to applying for the visa. This includes new, change of status, extension/renewal, and amended visa cases.
 - Pending LCA's will remain frozen until DOL resumes operations.
- If unable to file a DOL application or request within a required deadline, document the timeline of attempts to file and be ready to file when DOL operations resume.
- Employers should expect backlogs in DOL processing once operations resume.

The board of directors has three primary legal duties known as the “duty of care,” “duty of loyalty,” and “duty of obedience.”

1. **Duty of Care:** Requires a director to be familiar with the organization's finances and activities and to participate regularly in its governance. In carrying out this duty, the directors must act in “good faith” using the “degree of

diligence, care and skill” which prudent people would use in similar positions and under similar circumstances.a) Some text here some text here some text here

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3. Duty of Loyalty: Requires a director to act in the interest of the organization. Any conflict of interest, real or possible, must be disclosed in advance of joining the board of a non-profit organization, and they must also be disclosed whenever new conflicts arise. Many states (including New York) require non-profit organizations to maintain a written “Conflicts of Interest Policy” that define the circumstances constituting a conflict of interest and setting forth the procedures for disclosing and dealing with the conflict.
4. Duty of Obedience: Requires a director to ensure the organization complies with applicable laws and regulations, its mission and its internal governance documents and policies. Directors should ensure:
 - The organization dedicates its resources to its mission.
 - The organization carries out its purposes and does not engage in prohibited or unauthorized activities (which are outlined below).
 - The organization complies with all applicable laws, including filing annual financial reports with the federal government and any state in which the organization is registered that requires such a filing (e.g., New York and California).

Trusts offer unique benefits that are not provided by the other strategies. Below are some of these benefits:

1. **Broad Definition of Education Expenses.** Unlike 529 plans or direct payment of tuition, a trust’s definition of a qualified education expense can be tailored to the Grantor’s preferences.

Example of a Broad Definition: “Education” means primary, elementary, secondary, post-secondary, graduate, or professional schooling in an accredited institution, public or private, or attendance at other formal programs in furtherance of the beneficiary’s spiritual, athletic, or artistic education, including but not limited to payments for tuition, books, fees, assessments, equipment, tutoring, transportation, and reasonable living expenses.

Example of a Restrictive Definition: “Education” shall include, without limitation, tuition, room and board, books and supplies, library and laboratory fees, special instruction, and other related expenses incurred during university and postgraduate education.

2. Flexibility for Multiple Beneficiaries: Since a trust can have more than one beneficiary, a “Pot Trust” can be created to accommodate different levels of educational expenses. In a Pot Trust, funds are pooled together and distributed unequally among beneficiaries, and later, when all beneficiaries reach a certain age, funds can be distributed into separate trusts for each beneficiary.

Some of the deductions that can be taken on Form 706 include the below:

- **Funeral Expenses.** Certain funeral expenses qualify for a deduction including, but not limited to, costs related to the decedent’s burial or cremation, tombstone, monument, mausoleum, or burial lot.
- **Unpaid Debts of the Decedent:**
 - Debts owed at the time of death, like loans, mortgages, home equity lines of credit, credit cards, outstanding bills are deductible on Form 706.
 - Property taxes accrued prior to the decedent’s death, thus owed at the time of death are deductible on Form 706.
- **Claims Against the Estate**
- **Medical and Dental Expenses.** Expenses related to medical and dental treatment also qualify for deductions if not taken on the decedent’s final Form 1040.
- **Certain Taxes.** Deductions apply to certain taxes, including, but not limited to, state death taxes (estate, inheritance, legacy, or succession taxes paid on any property included in the gross estate as the result of the decedent’s death to any state or the District of Columbia).