



IMMIGRATION INSIDER

Vol. 15, No. 4B • April 7, 2019

Headlines:

USCIS Reaches FY 2020 H-1B Regular Cap – USCIS has received a sufficient number of petitions to reach the 65,000 H-1B visa regular cap for fiscal year 2020.

New Study Shows Companies Pay Billions in Job Training, Scholarships for U.S. Students Through H-1B Fees – The study by the National Foundation for American Policy also details how expensive it has become to petition for an H-1B professional.

USCIS Launches Data Hub on H-1B Employers – The data hub allows the public to search for H-1B petitioners by fiscal year, NAICS code, employer name, city, state, or zip code.

Justice Department Settles Immigration-Related Discrimination Claim Against Housing Authority in Texas – The Housing Authority improperly demanded that the worker present more documents than necessary and rejected the documentation he presented, then terminated him based on his lack of U.S. citizenship.

Brazil to Allow Visa-Exempt Travel for Australian, Canadian, Japanese, and U.S. Citizens – Effective June 17, 2019, nationals of Australia, Canada, Japan, and the United States will be able to travel to Brazil without a visa for stays of up to 90 days as a visitor.

USCIS Proposes to Revise Fee Waiver Requirements – USCIS is allowing an additional 30 days for public comments on a proposed revision that would no longer require proof of whether an individual receives a means-tested benefit.

USCIS Publishes Notices on Extension of Liberian DED 'Wind-Down' Period, EADs – USCIS has published related notices in the Federal Register.

USCIS Outlines Changes in InfoPass Appointment Process, Reducing In-Person Support – A goal is to limit in-person support to those who truly need assistance that can be provided only in person, the agency said.

Foreign Nationals Serving in U.S. Military Challenge Trump Administration – Several foreign-national soldiers have sued the government, challenging the lawfulness of Trump administration policies adversely affecting their naturalization based on military service.

Also in this issue:

[New Publications and Items of Interest](#)

[Member News](#)

[Government Agency Links](#)

[Back to Top](#)

USCIS Reaches FY 2020 H-1B Regular Cap

U.S. Citizenship and Immigration Services (USCIS) has received a sufficient number of petitions projected as needed to reach the 65,000 H-1B visa regular cap for fiscal year 2020. USCIS said it will next determine if the agency has received a sufficient number of petitions to meet the 20,000 H-1B visa U.S. advanced degree exemption, known as the master's cap.

The agency will reject and return filing fees for all unselected cap-subject petitions that are not prohibited multiple filings. USCIS will continue to accept and process petitions that are otherwise exempt from the cap.

Details: USCIS news alert, <https://www.uscis.gov/news/alerts/uscis-reaches-fy-2020-h-1b-regular-cap>

[Back to Top](#)

New Study Shows Companies Pay Billions in Job Training, Scholarships for U.S. Students Through H-1B Fees

New research shows H-1B fees paid by companies have funded approximately \$5 billion since 1999 in training and scholarships for U.S. students and teachers to enter science fields and have funded nearly 90,000 college scholarships in tech fields for U.S. students, as well as about \$2.5 billion in job training through the Department of Labor. The study by the National Foundation for American Policy also details how expensive it has become to petition for an H-1B professional.

Although critics have argued H-1B visa holders represent "cheap labor," employers pay government-imposed fees and attorney costs of up to \$16,560 for an initial H-1B petition and \$28,620 for the combined cost of an initial H-1B petition and an extension.

Details: Study, <https://nfap.com/wp-content/uploads/2019/04/Employer-Paid-H-1B-Visa-Fees.NFAP-Policy-Brief.April-2019-2.pdf>

[Back to Top](#)

USCIS Launches Data Hub on H-1B Employers

U.S. Citizenship and Immigration Services (USCIS) has launched an H-1B Employer Data Hub to provide information on employers petitioning for H-1B workers. The data hub will allow the public to search for H-1B petitioners by fiscal year (back to FY 2009), NAICS code, employer name, city, state, or zip code.

The new hub gives the public the ability to calculate approval and denial rates and to review which employers are using the H-1B program.

Details: USCIS news alert, <https://www.uscis.gov/news/alerts/uscis-launches-h-1b-employer-data-hub>; H-1B Employer Data Hub, <https://www.uscis.gov/h-1b-data-hub>; data broken down by fiscal year, <https://www.uscis.gov/tools/reports-studies/h-1b-employer-data-hub-files>; summary and description, <https://www.uscis.gov/tools/reports-studies/understanding-our-h-1b-employer-data-hub>.

[Back to Top](#)

Justice Department Settles Immigration-Related Discrimination Claim Against Housing Authority in Texas

The Department of Justice reached a settlement agreement with the Housing Authority of Victoria, Texas, resolving a complaint that the latter discriminated against a lawful permanent resident when it rejected his valid employment documents and fired him. The Housing Authority improperly demanded that the worker present more documents than necessary and rejected the documentation he presented, then terminated him based on his lack of U.S. citizenship.

"Employers should not reject valid employment documents because of a lawful permanent resident's citizenship status," said Assistant Attorney General Eric Dreiband of the Civil Rights Division.

Details: Settlement agreement, <https://www.justice.gov/opa/press-release/file/1149396/download>; DOJ media release, <https://www.justice.gov/opa/pr/justice-department-settles-immigration-related-discrimination-claim-against-housing-authority>

[Back to Top](#)

Brazil to Allow Visa-Exempt Travel for Australian, Canadian, Japanese, and U.S. Citizens

Effective June 17, 2019, nationals of Australia, Canada, Japan, and the United States will be able to travel to Brazil without a visa for stays of up to 90 days as a visitor.

Such visitors to Brazil with valid passports may engage in certain business activities, transit through Brazil, vacation, and participate in artistic or sports activities, among other things. They can apply to extend their stay for an additional 90 days but may not stay in Brazil for longer than 180 days in any 12-month period.

Details: Statement from Consulate General of Brazil: <http://cgwashington.itamaraty.gov.br/en-us/News.xml>; related alert: <https://www.fosterglobal.com/brazil-visa-exempt-travel-for-australian-canadian-u-s-and-japanese-citizens/>

[Back to Top](#)

USCIS Proposes to Revise Fee Waiver Requirements

U.S. Citizenship and Immigration Services is allowing an additional 30 days for public comments on a proposed revision that would reduce the evidence required for a fee waiver to only a person's household income and no longer require proof of whether an individual receives a means-tested benefit. The waiver requirements will retain the poverty-guideline threshold and financial hardship criteria.

Details: Federal Register notice, <https://www.govinfo.gov/content/pkg/FR-2019-04-05/html/2019-06657.htm>

[Back to Top](#)

USCIS Publishes Notices on Extension of Liberian DED 'Wind-Down' Period, EADs

Following announcements that Deferred Enforced Departure (DED) is extended for certain eligible Liberians through March 30, 2020, and that those Liberians' employment authorization documents (EADs) are extended through September 27, 2019, with an option to obtain EADs for the remainder of the DED wind-down period, U.S. Citizenship and Immigration Services has published related notices in the Federal Register.

Details: Notice on continuation of employment authorization and automatic extension of existing EADs for eligible Liberians before DED ends, <https://www.govinfo.gov/content/pkg/FR-2019-04-03/html/2019-06577.htm>; notice reproducing text of memorandum on the extension of DED for Liberians, <https://www.govinfo.gov/content/pkg/FR-2019-04-03/html/2019-06576.htm>.

[Back to Top](#)

USCIS Outlines Changes in InfoPass Appointment Process, Reducing In-Person Support

U.S. Citizenship and Immigration Services (USCIS) recently explained changes in the way it provides support services to applicants under an initiative called the "Information Services Modernization Program" (InfoMod). A goal is to limit in-person support to those who truly need assistance that can be provided only in person, such as issuing emergency documents, providing ADIT stamps, and conducting in-person interviews, the agency said.

InfoMod will enable USCIS to shift applicant support services from self-scheduled InfoPass appointments toward support services provided online or through USCIS Contact Centers. The agency encouraged users to visit myUSCIS, an online public portal.

Details: USCIS teleconference summary, <https://www.dhs.gov/blog/2019/04/02/teleconference-summary-updates-uscis-applicant-support-services>

[Back to Top](#)

Foreign Nationals Serving in U.S. Military Challenge Trump Administration

Service members who enlisted through the Military Accessions Vital to the National Interest (MAVNI) program and who have not yet become naturalized U.S. citizens may be affected by litigation in the United States District Court for the District of Columbia and elsewhere. Several MAVNI soldiers brought two lawsuits (*Kirwa* and *Nio*) against the Department of Defense, the Department of Homeland Security, U.S. Citizenship and Immigration Services, and certain government officials challenging the lawfulness of Trump administration policies affecting their naturalization based on military service.

The MAVNI program, authorized in 2008, brought individuals considered assets to the U.S. military, including those with needed medical and language skills, into the U.S. Armed Forces in exchange for expedited U.S. citizenship. The Trump administration froze the program in 2016, and in 2018, the U.S. Army began discharging MAVNI soldiers. Lawsuits have followed. The Army also reportedly accidentally leaked sensitive information on 4,200 immigrant recruits between 2017 and 2018, many from China and Russia, risking interception by their autocratic governments.

Separately, the Pentagon has ordered the armed services to send green card-holding troops to recruit training, following a preliminary injunction in California.

Details: Federal class action litigation updates, <http://dcfederalcourtmavniclasslitigation.org/>; summary, <https://www.thebalancecareers.com/military-accessions-mavni-program-3354096>; Army Times article on data leaks, <https://www.armytimes.com/news/your-army/2019/03/08/army-reportedly-leaked-sensitive-info-about-thousands-of-immigrant-recruits-and-now-some-may-be-at-risk/>; Stars and Stripes article on training resuming for green card holders, <https://www.stripes.com/news/us/after-losing-court-battle-pentagon-to-send-green-card-holders-to-recruit-training-1.559132>.

[Back to Top](#)

New Publications and Items of Interest

Immigrant and Employee Rights webinars. The Department of Justice's Immigrant and Employee Rights Section is offering free webinars to the public in April. The webinars are for workers, employers, and advocates. For more information or to register, see <https://www.justice.gov/crt/webinars>.

E-Verify webinars. E-Verify recently made the following announcement: "E-Verify has resumed operations. Given that E-Verify was unavailable for over a month, we ask for your patience as we reinstate the service." Information is available at <https://www.e-verify.gov/about-e-verify/e-verify-webinars>. The March 2019 E-Verify webinar calendar is at https://www.e-verify.gov/calendar-field_date_and_time/month/201903. For more on E-Verify, see <https://www.e-verify.gov/>.

Alliance of Business Immigration Lawyers:

- The latest immigration news is at <http://www.abil.com/news.cfm>.
- The latest published media releases include:
 - ABIL Says Proposed Change to Public Charge Rule Would Exclude Immigrants from Government Programs: https://www.prweb.com/releases/abil_says_proposed_change_to_public_charge_rule_would_exclude_immigrants_from_government_programs/prweb15737932.htm
 - New Data Show Increase in H-1B Denials and RFEs: https://www.prweb.com/releases/new_data_show_increase_in_h_1b_denials_and_rfes/prweb15673632.htm
 - ABIL Urges Administration to Change "Buy American and Hire American" Executive Order: <http://www.prweb.com/releases/2018/05/prweb15485457.htm>
 - ABIL Member Kuck Baxter Immigration Commercial Nominated for an Emmy: <http://www.prweb.com/releases/2018/05/prweb15485460.htm>
 - ABIL Members Note Immigration Threats for Employers in 2018: <http://www.prweb.com/releases/2018/03/prweb15261255.htm>
- ABIL is available on Twitter: @ABILImmigration.
- Recent ABIL member blogs are at <http://www.abilblog.com/>.

Organizations seeking non-lawyer and lawyer volunteers. Cornell Law School has compiled a list of organizations seeking non-lawyer and lawyer volunteers to help migrants in U.S. detention and deportation proceedings. The list, which is updated on an ongoing basis, is at <http://www.lawschool.cornell.edu/MigrationandHumanRightsProgram/Organizations-seeking-non-lawyer-and-lawyer-volunteers.cfm>.

Nation of immigrants. Podcasts on U.S. immigration history and what it means to be an immigrant in America:

- Statutes of Liberty: <http://bit.ly/2thMM9O> (new episodes: A Prescription for Success: EB-1 for Physicians, <https://bit.ly/2J7oSjV>; The Best, Brightest, and Backlogged, discusses the backlog, who it affects, how to read the Visa Bulletin, and strategies for EB-1 visas, <https://bit.ly/2E6vamz>)
- Code Switch Podcast: What Does It Mean To Be A 'Nation of Immigrants'? : <http://n.pr/2FeWWg4>
- Hidden Brain: The Huddled Masses and the Myth of America: <http://n.pr/2Fbo9kC>
- American Pendulum I: <http://bit.ly/2FbYKY3>

Advisories and tips:

- Community Advisory: Social Media, Criminalization, and Immigration has been published by the National Lawyers Guild's National Immigration Project. This advisory summarizes ways in which immigration agents may use social media against those in removal proceedings or involved in criminal cases. The advisory is at

https://www.nationalimmigrationproject.org/PDFs/community/2017_03Apr_comm-adv-social.pdf.

- How to safeguard your data from searches at the border is the topic of several recent articles and blogs. See, for example, <https://www.nytimes.com/2017/03/21/technology/personaltech/crossing-the-border-heres-how-to-safeguard-your-data-from-searches.html> and <https://www.aclu.org/blog/free-future/can-border-agents-search-your-electronic-devices-its-complicated>.
- Listings and links to cases challenging executive orders, and related available pleadings, are available at <https://lawfareblog.com/litigation-documents-resources-related-trump-executive-order-immigration>.

[Back to Top](#)

ABIL Member/Firm News

Laura Devine Solicitors has won the UK LexisNexis 2019 Award for Wellbeing. The award recognizes the law firm or other legal organization that "has demonstrated the strongest commitment to providing or promoting a working environment that supports the mental and physical health of its staff, members or colleagues and enables them to maintain a healthy balance between their work pressures and home life." Details:

<https://www.lexisnexislegalawards.co.uk/ehome/legalawards/2019-winners/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted in several publications regarding President Trump's threat to close the U.S. border with Mexico:

- CNN: Mr. Yale-Loehr noted that the President would run into problems if he closed the entire border to green card holders and U.S. citizens: "They could argue that doing so violates their First Amendment rights to freedom of association and travel." <https://www.cnn.com/2019/04/01/politics/fact-check-can-trump-close-the-border/index.html>
- Univision (Spanish): "Las amenazas de Trump en la frontera y el corte de la ayuda a los países centroamericanos (como castigo por no detener las oleadas de inmigrantes en busca de asilo) pueden ser ilegales y, desde luego, una tontería." <https://www.univision.com/noticias/inmigracion/veto-migratorio-parte-dos-cerrar-la-frontera-sur-solo-agravara-los-problemas>
- Sinclair Broadcast Group, many newspapers: "Any effort to close the U.S.-Mexico border or cut off aid is doomed to failure. It is like stopping funding for cancer research on the theory that fewer cancers will occur. We need more foreign aid, not less, to attack the root conditions of poverty and violence in Central America so fewer people in those countries will flee to the United States." <https://abcnews4.com/news/nation-world/trump-looks-to-cut-aid-and-close-border-but-dems-experts-call-moves-counterproductive>
- Law360: Mr. Yale-Loehr noted that the first version of President Trump's travel ban raised similar concerns. If the President issued a narrower proclamation closing the border only for asylum-seekers, they could argue that this violates INA 208(a)(1), which provides that any migrant physically present in the United States or who arrives in the United States, whether or not at a designated port of arrival, can apply for asylum. Available by registering or subscribing at <https://www.law360.com/articles/1145316/trump-proposal-to-close-border-could-create-legal-quagmire>
- USA Today: "We'd be shooting ourselves in the foot by closing the border. It's like stopping funding for cancer research on the theory that we'll get fewer cancers." <https://www.usatoday.com/story/news/politics/2019/04/03/donald-trump-faces-logistical-nightmare-closing-u-s-mexico-border/3337332002/>

- Business Insider: "The legal challenges to a border declaration will depend on what President Trump does. If President Trump closed the border to green card holders and U.S. citizens, they could argue that doing so violates their First Amendment rights to freedom of association and travel." <https://www.businessinsider.com/us-mexico-border-closed-what-could-happen-2019-4>

Mr. Yale-Loehr was quoted by *WENY* regarding a failed EB-5 project in upstate New York. <https://www.weny.com/story/40231467/lawsuit-horseheads-hotel-project-is-illusion-for-foreign-investors-looking-for-green-cards>

Mr. Yale-Loehr was quoted by *Bloomberg Law* regarding a 10 percent immigration surcharge proposal in the Trump administration's budget request to Congress. It "seems minimal," he noted, but "would have a real detrimental impact on many people who can ill afford these increased filing fees." He said the surcharge is likely "dead on arrival," noting that even the Trump administration thinks "that such a change will only occur with congressional approval" and "the Democrats would never agree to this." Further, he noted, "Some employers already are balking at the high filing fees for needed employees. Adding a 10 percent surcharge will make it even more financially onerous. We may see fewer H-1B petitions being filed as a result." Available by registering or subscribing at <https://news.bloomberglaw.com/daily-labor-report/big-immigration-impact-could-come-from-modest-deficit-proposal>.

Mr. Yale-Loehr was quoted by *Voice of San Diego* in an article about a California county's asylum policy lawsuit. Mr. Yale-Loehr agreed that the federal government's failure to follow rulemaking procedures was the county lawsuit's most potent argument. "I think it's a good lawsuit and they raise serious allegations. We'll just have to wait to see which judge they get." <https://www.voiceofsandiego.org/topics/government/heres-what-legal-experts-think-is-the-strongest-argument-in-the-countys-asylum-policy-lawsuit/>

[Back to Top](#)

Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS Service Center processing times online:
<https://egov.uscis.gov/cris/processTimesDisplay.do>

Department of State Visa Bulletin: <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Visa application wait times for any post: <https://travel.state.gov/content/visas/en/general/wait-times.html/>

[Back to Top](#)

About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 370 member lawyers and their more than 800 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.

Disclaimer/Reminder

This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

Copyright © 2019 Alliance of Business Immigration Lawyers. All rights reserved.

[Back to Top](#)