



IMMIGRATION INSIDER

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Headlines:

State Dept. Establishes, Retrogresses August Employment-Based Final Action Dates – The Visa Bulletin for August 2019 notes a steadily increasing level of employment-based applicant demand since late May for adjustment-of-status cases filed with USCIS, although the State Department is hoping to return priority dates to what they've been before July 2019 after the new fiscal year begins in October.

USCIS Is Rejecting Nonimmigrant Worker Petitions That Lack Required Name and Address – USCIS is subjecting all requests for nonimmigrant classifications filed on Form I-129 to this rejection criteria, including the time-sensitive H-2A visa classification for temporary agricultural workers.

Court Grants Summary Judgment for Plaintiffs in LexisNexis H-1B Denial Case – The plaintiffs, RELX, Inc., d/b/a LexisNexis USA, and a data analyst for Lexis Nexis in F-1 student status, alleged that the California Service Center, USCIS; the Department of Homeland Security; and others violated the Administrative Procedure Act when they denied LexisNexis' H-1B petition on behalf of the data analyst.

ICE Conducts Secretive Workplace Raids in Mississippi – Six hundred agents took part in raids of chicken processing plants that netted nearly 700 detainees and left some children stranded after school or day care because their parents were taken into custody.

USCIS Plans to Close 13 International Field Offices and Three District Offices – The first planned closures are the field offices in Monterrey, Mexico, and Seoul, South Korea, at the end of September 2019.

State Dept. Releases DV-2020 Results – Approximately 83,884 applicants have been registered and notified and may now make an application for an immigrant visa. Since it is likely that some of the persons registered will not pursue their cases to visa issuance, DOS said this larger figure should ensure that all DV-2020 numbers will be used during fiscal year 2020.

USCIS Extends Comment Period for Tip Form – USCIS has extended the comment period until September 9, 2019, for a new USCIS Tip Form to facilitate the collection of information from the public regarding "credible and relevant claims of immigration benefit fraud impacting both open adjudications as well as previously approved benefit requests where the benefit remains valid."

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State Dept. Establishes, Retrogresses August Employment-Based Final Action Dates

The Department of State's Visa Bulletin for August 2019 notes a steadily increasing level of employment-based applicant demand since late May for adjustment-of-status cases filed with U.S. Citizenship and Immigration Services, with no indication that this increase will end in the near future. Therefore, the bulletin states, "it has been necessary to establish or retrogress many of the August Final Action Dates in an effort to hold worldwide number use within the maximum allowed under the respective FY-2019 annual limits."

The implementation of these dates is expected to be temporary. For October, the first month of fiscal year 2020, the agency said "every effort will be made to return these final action dates to those which applied for July."

Details: Visa Bulletin for August 2019, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html>

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USCIS Is Rejecting Nonimmigrant Worker Petitions That Lack Required Name and Address

U.S. Citizenship and Immigration Services (USCIS) recently issued a reminder that as of August 5, 2019, it is rejecting Form I-129 nonimmigrant worker petitions that do not include the petitioner's or applicant's name and primary U.S. office address in Part 1 of the form.

USCIS is subjecting all requests for nonimmigrant classifications filed on Form I-129 to this rejection criteria, including the time-sensitive H-2A visa classification for temporary agricultural workers. USCIS said it recognizes that in certain circumstances, the person signing Part 8 of Form I-129 may be an employee of the petitioning entity and have the same address as that of the petitioner named in Part 1 of the form. In such a case, USCIS would not reject the I-129 because of the duplicate addresses.

Details: USCIS notice, <https://www.uscis.gov/news/alerts/reminder-uscis-rejecting-form-i-129-petitions-lack-required-name-and-address>

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Court Grants Summary Judgment for Plaintiffs in LexisNexis H-1B Denial Case

The U.S. District Court for the District of Columbia recently granted summary judgment for plaintiffs and denied defendants' motion to dismiss in an H-1B case, *RELX, Inc. v. Baran*. The plaintiffs, RELX, Inc., d/b/a LexisNexis USA, and a data analyst for Lexis Nexis in F-1 student status, alleged that the California Service Center, U.S. Citizenship and Immigration Services (USCIS); the Department of Homeland Security; and others violated the Administrative Procedure Act when they denied LexisNexis' H-1B petition on behalf of the data analyst.

The government responded to the H-1B petition with a request for evidence (RFE) related to whether the data analyst position was a specialty occupation, finally denying the petition after LexisNexis sent documentation. Plaintiffs filed suit, but shortly before they filed their opening motion, the government reopened the petition without notifying defendants or providing a reason. Plaintiffs then moved for summary judgment, seeking an order from the court directing USCIS to grant the H-1B petition, but the government filed a motion to dismiss in light of the fact that it had reopened the case.

Among other things, the court noted that an agency's failure to set forth its reasons for a decision constitutes arbitrary and capricious action, and the court must undo the agency action. The court also noted that the government issued an RFE requesting nearly identical information

as it did when it last reviewed the petition. Also, upon imminent expiration of the data analyst's F-1 visa, she would have lost her job and been required to leave the United States for an extended period of time, thus causing "significant hardship," the court observed. Because the agency failed to request any new information when it attempted to reopen the petition, the court found the circumstances of the reopening "highly suspect and contrary to the regulations." Finding that the LexisNexis position was "a distinct occupation which required a specialized course of study," as supported by a "mountain of evidence" that "more than meets the preponderance of the evidence standard," the court concluded that the agency's decision to deny the H-1B petition was not based on a consideration of the relevant factors, was a clear error of judgment, and that USCIS "acted arbitrarily, capriciously, and abused its discretion in denying employer's petition for H-1B visa status" on behalf of the data analyst.

Details: Case text, <https://casetext.com/case/relx-inc-v-baran>

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ICE Conducts Secretive Workplace Raids in Mississippi

U.S. Immigration and Customs Enforcement (ICE) conducted mass raids on workplaces in the first week of school in Mississippi. According to reports, the operation was conducted without much advance notice, even to the White House. Six hundred agents took part in raids of chicken processing plants that netted nearly 700 detainees and left some children stranded after school or day care because their parents were taken into custody. About half of those detained were released the next day, as they were determined not to be a public threat, and some were taken back to their workplaces with a summons to appear later in immigration court. The action drew criticism because of the timing—just days after a mass shooting in El Paso, Texas, targeting Hispanic immigrants.

Details: News articles, https://www.washingtonpost.com/national/us-defends-secretive-miss-ice-raids-as-local-state-officials-decry-effect-on-children/2019/08/08/485d6240-ba21-11e9-b3b4-2bb69e8c4e39_story.html; <https://www.npr.org/2019/08/09/749932968/chicken-plants-see-little-fallout-from-immigration-raids>

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USCIS Plans to Close 13 International Field Offices and Three District Offices

U.S. Citizenship and Immigration Services (USCIS) has announced plans to close 13 international field offices and three district offices between now and August 2020. The first planned closures are the field offices in Monterrey, Mexico, and Seoul, South Korea, at the end of September 2019.

USCIS said that many functions currently performed at international offices "will be handled domestically or by USCIS domestic staff on temporary assignments abroad." As part of this shift, the Department of State (DOS) will assume responsibility for certain in-person services that USCIS currently provides at international field offices. USCIS said it is working closely with DOS "to minimize interruptions in immigration services to affected applicants and petitioners."

USCIS said it plans to maintain operations at its international field offices in Beijing and Guangzhou, China; Nairobi, Kenya; New Delhi, India; Guatemala City, Guatemala; Mexico City, Mexico; and San Salvador, El Salvador.

Details: USCIS notice, <https://www.uscis.gov/news/news-releases/uscis-will-adjust-international-footprint-seven-locations>

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State Dept. Releases DV-2020 Results

The Department of State's (DOS) Kentucky Consular Center in Williamsburg, Kentucky, has registered and notified the winners of the DV-2020 diversity lottery. Approximately 83,884 applicants have been registered and notified and may now make an application for an immigrant visa. Since it is likely that some of the persons registered will not pursue their cases to visa issuance, DOS said this larger figure should ensure that all DV-2020 numbers will be used during fiscal year 2020 (October 1, 2019, to September 30, 2020).

Applicants registered for the DV-2020 program were selected at random from 14,722,798 qualified entries (23,182,554 with derivatives) received during the 34-day application period that ran in late 2018. The visas were apportioned among six geographic regions with a maximum of seven percent available to persons born in any single country.

During the visa interview, principal applicants must provide proof of a high school education or its equivalent, or show two years of work experience in an occupation that requires at least two years of training or experience within the past five years. Those selected will need to act on their immigrant visa applications quickly, DOS said. Applicants should follow the instructions in their notification letters.

Details: Visa Bulletin for August 2019, including the country-by-country breakdown, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html>

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USCIS Extends Comment Period for Tip Form

U.S. Citizenship and Immigration Services (USCIS) has extended the comment period until September 9, 2019, for a new USCIS Tip Form to facilitate the collection of information from the public regarding "credible and relevant claims of immigration benefit fraud impacting both open adjudications as well as previously approved benefit requests where the benefit remains valid." The estimated total number of respondents is 55,000.

Details: Federal Register notice, <https://www.govinfo.gov/content/pkg/FR-2019-08-08/html/2019-17022.htm>

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New Publications and Items of Interest

How to prepare for immigration raids. Cornell University's immigration technology clinic has developed an automated online interview to help people prepare if they or others are worried about being detained or deported. It can help people prepare their family, manage their property, close out their bank accounts, and perform other emergency preparations. The online interview is available in English and Spanish at https://www.immi.org/en/Home/make_a_plan.

Responding to large-scale immigration raids. The Immigration Justice Campaign and the American Immigration Lawyers Association have released information on what to do in the event of large-scale interior enforcement actions. See <https://www.immigrationjustice.us/volunteeropportunities/raids-preparation-teams> and <https://www.aila.org/advo-media/issues/all/featured-issue-2019-large-scale-enforcement>.

CBP accountability. A new website documents litigation across the United States in an effort to establish U.S. Customs and Border Protection (CBP) accountability and transparency. The website, which also directs readers to additional resources, is a joint project of the American Civil Liberties Union of San Diego and Imperial Counties, the American Immigration Council, the National Immigration Project of the National Lawyers Guild, and the Northwest Immigrant Rights

Project. See <https://holdcbpaccountable.org/>.

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

Alliance of Business Immigration Lawyers:

- ABIL is available on Twitter: @ABILImmigration
- Recent ABIL member blogs are at <http://www.abilblog.com/>

Organizations providing help at the southern border and seeking non-lawyer and lawyer volunteers. Cornell Law School's Migration and Human Rights Program has compiled a list of organizations providing help at the southern border, and seeking donations and 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>.

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ABIL Member/Firm News

Charles Foster, of **Foster LLP**, was featured along with some of the nation's experts on immigration reform in the "Rational Middle Immigration Documentary Series, exploring how to solve the United States' immigration challenges and remake the U.S. economy while protecting U.S. values, workers, and families. The first season is a collection of short films. The series is at <https://bit.ly/31hb28a>.

William Stock, of **Klasko Immigration Law Partners, LLP**, was placed on Human Resource Executive Magazine's and Lawdragon's annual joint publication of the "best of" lawyer list for its 12th year. In 2018, the firm's managing partner, H. Ronald Klasko, was inducted into Lawdragon's Hall of Fame. See <https://www.klaskolaw.com/team-member/william-a-stock/> and <http://www.lawdragon.com/2019/03/23/corporate-employment-lawyers-hall-of-fame-for-2019/>.

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) was quoted by *Law360* in "How Attorneys Can Brace for Rising EB-5 Compliance Checks." Mr. Paparelli said that unannounced site visits can be unstructured, but a regional center should establish a formal procedure for communicating with officials from U.S. Citizenship and Immigration Services (USCIS) and take charge of the process. He said a designated representative from the center should ask officers to identify themselves, whether they have a judicial subpoena or warrant, and what specifically they are seeking. He said they should also engage counsel and suggest following up via email to provide requested documentation in an organized manner. A lawyer can then act as an intermediary to narrow the scope of the site visit, asking whether USCIS is interested in a particular investor or investment project, he noted. The article is available by registering at <https://www.law360.com/articles/1185679/how-attorneys-can-brace-for-rising-eb-5-compliance-checks>.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by *Axios* in "Lutheran Denomination Claims it is the First 'Sanctuary Church Body'." Mr. Yale-Loehr noted that although U.S. Immigration and Customs Enforcement officers frequently stay out of a church if undocumented immigrants are staying there, churches do not provide federal legal sanctuary. "I think for publicity reasons, immigration enforcement does not like to go into churches," he said. The article is at <https://bit.ly/2KJfRAi>.

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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/>

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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.

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