



# IMMIGRATION INSIDER

Vol. 15, No. 9B • September 8, 2019

## Headlines:

**OFLC Announces Schedule for E-Filing of LCAs** – Affected LCA programs include the H-1B, H-1B1, and E-3 visa classifications.

**USCIS Proposes Deleting Time Limits on Work Authorization Processing for Asylum Applicants** – USCIS has announced a proposed rule to remove the 30-day time limit on granting or denying an initial application for an employment authorization document. USCIS also proposes to remove the provision requiring applicants to submit their renewal requests to USCIS 90 days before the expiration of their work authorization.

**Reciprocity Schedule for France Revised for E Treaty Trader/Investor Visas** – Effective September 26, 2019, the reciprocity schedule for France will be revised for E visas (treaty traders and investors).

**USCIS Reopens Previously Pending Deferred Action Requests** – USCIS announced that it will reopen all non-military deferred action cases that were pending on August 7, 2019.

**State Dept. Issues Reminder About Uses of Passport Books/Cards Under 'Real ID'** – The Department of State recently issued a reminder about upcoming changes to domestic air travel documentation requirements under the Real ID Act, which requires all state-issued identification documents to meet a set of minimum security standards.

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## **OFLC Announces Schedule for E-Filing of LCAs**

The Department of Labor's Office of Foreign Labor Certification (OFLC) has announced its schedule for electronic filing of labor condition applications (LCAs) in the Foreign Labor Application Gateway (FLAG) System. Affected LCA programs include the H-1B, H-1B1, and E-3 visa classifications. OFLC noted:

- Beginning September 16, 2019, the FLAG System's LCA Program Module will be enabled and stakeholders will be able to begin preparing H-1B, H-1B1, and E-3 applications using the Form ETA-9035E. However, the FLAG System will not permit the submission of LCA applications until 12 noon ET on October 1, 2019.
- OFLC will continue to accept online submissions of the Form ETA-9035E through the iCERT System until 11:59 a.m. ET on October 1, 2019. The ability to submit LCA applications using the iCERT System will be deactivated at 12 noon ET on that date.
- OFLC will process all LCA applications submitted through the iCERT System, and stakeholders will be able to access their iCERT System accounts to check the status of applications submitted through the iCERT System.

OFLC has created instructional videos on how to create and manage a FLAG System account and prepare the Form ETA-9035E, to be posted by September 13, 2019, at the OFLC notice link below. Additionally, OFLC will host an instructional webinar on Wednesday, September 18, 2019, to provide technical assistance to employers and authorized attorneys or agents. More information is available at the links below.

Details: OFLC notice (scroll to September 5), <https://www.foreignlaborcert.doleta.gov/news.cfm>; September 18 webinar, <https://bit.ly/2IHw7cw> (meeting password: Welcome!24, call-in number: 888-469-1548; participant passcode: 2477817)

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## **USCIS Proposes Deleting Time Limits on Work Authorization Processing for Asylum Applicants**

U.S. Citizenship and Immigration Services (USCIS) has announced a proposed rule to remove the 30-day time limit on granting or denying an initial application for an employment authorization document (EAD) in affirmative asylum applications. USCIS also proposes to remove the provision requiring applicants to submit their renewal requests to USCIS 90 days before the expiration of their work authorization. The notice of proposed rulemaking is expected to be published in the Federal Register on September 9, 2019.

USCIS said that elimination of the 30-day processing timeframe for such EADs is intended to ensure that the agency has sufficient time to receive, screen, and process these applications, and to reduce opportunities for fraud and protect the security-related processes undertaken for each EAD application. USCIS said that timeframes achieved in FY 2017 (prior to a court order mandating adherence to the 30-day timeframe set by regulation) "are sustainable and USCIS intends to meet these timeframes if the proposed rule is adopted." USCIS said that during that period in FY 2017, it adjudicated approximately 78 percent of such applications within 60 days.

Details: Proposed rule (unpublished version available as of September 7), <https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-19125.pdf>

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## Reciprocity Schedule for France Revised for E Treaty Trader/Investor Visas

Effective September 26, 2019, the reciprocity schedule for France will be revised for E visas (treaty traders and investors). The reciprocity tables will be updated to reflect this change. Reportedly, the maximum validity for E-1 and E-2 visas will be decreased from 60 months to 15 months.

Details: U.S. Embassy Paris, France notice, <https://fr.usembassy.gov/visas/nonimmigrant-visas/treaty-trader-investor/>; Department of State's visa reciprocity page, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country.html>

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## USCIS Reopens Previously Pending Deferred Action Requests

U.S. Citizenship and Immigration Service (USCIS) announced that it will reopen all non-military deferred action cases that were pending on August 7, 2019. Deferred action is a discretionary decision to temporarily postpone the removal from the United States of a person who is unauthorized to stay.

On August 7, USCIS stopped considering deferred action for non-military requestors and sent denial letters to applicants, which led to controversy as many cases were based on medical need. A lawsuit was filed subsequently on behalf of the Irish International Immigrant Center by the American Civil Liberties Union and Lawyers for Civil Rights. A hearing on this issue, to be held before the House Subcommittee on Civil Rights and Civil Liberties, is scheduled for September 11, 2019.

Deferred action related to military members and Deferred Action for Childhood Arrivals cases were not affected by the August 7 action. USCIS said "consideration of such cases is ongoing."

Details: USCIS announcement, <https://www.uscis.gov/news/alerts/uscis-re-opens-previously-pending-deferral-requests>; lawsuit, <https://d279m997dpfwgl.cloudfront.net/wp/2019/09/Deferred-Action-Suit.pdf>; news article, <https://www.wbur.org/news/2019/09/05/aclu-lawsuit-medical-deferred-action>; denial letter sent by USCIS to a deferred action applicant, <https://www.wbur.org/news/2019/08/26/medical-deferment-immigration-program-ended>

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## State Dept. Issues Reminder About Uses of Passport Books/Cards Under 'Real ID'

The Department of State recently issued a reminder about upcoming changes to domestic air travel documentation requirements under the Real ID Act, which requires all state-issued identification documents to meet a set of minimum security standards. IDs that do not meet these standards will not be accepted for federal purposes, including as ID for boarding domestic flights. State IDs, such as driver's licenses, may need updating.

The reminder notes that the U.S. passport book and U.S. passport card are both accepted by the Transportation Security Administration as ID for domestic flights. The passport card cannot be used for international air travel. In addition to its acceptance as ID for domestic flights, the passport card can be used for entering the United States at land border crossings and sea ports of entry from Canada, Mexico, the Caribbean, and Bermuda. The passport card costs \$30 for adults who have a passport book, and \$65 for first-time adult applicants. The card has the same validity period as the book (valid for 10 years for those over 16).

Details: Department of State reminder, <https://travel.state.gov/content/travel/en/News/passports/how-a-passport-can-help-you-fly->

[domestically.html](#); Real ID website to check state status, <https://web.archive.org/web/20171231015609/https://www.dhs.gov/real-id>; Real ID FAQ, <https://web.archive.org/web/20171013054330/https://www.dhs.gov/real-id-public-faqs>

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## New Publications and Items of Interest

[LCA e-filing instructions](#). The Department of Labor's Office of Foreign Labor Certification has created instructional videos on how to create and manage a FLAG System account for filing labor condition applications and how to prepare the Form ETA-9035E, to be posted by September 13, 2019, at the OFLC notice link below. Additionally, OFLC will host an instructional webinar on Wednesday, September 18, 2019, to provide technical assistance to employers and authorized attorneys or agents. More information is available from OFLC (scroll to September 5), <https://www.foreignlaborcert.doleta.gov/news.cfm>; September 18 webinar, <https://bit.ly/2IHw7cw> (meeting password: Welcome!24, call-in number: 888-469-1548; participant passcode: 2477817).

[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](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](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

Partners **H. Ronald Klasko**, **William A. Stock**, and **Elise A. Fialkowski** have been included in 26th edition of *Best Lawyers in America* in the area of immigration law.

**Robert Loughran** (bio: <http://www.abil.com/lawyers/lawyers-loughran.cfm>) was named the Best Lawyers 2020 Immigration Law "Lawyer of the Year" in Austin, Texas, for the third year. Recognition was based on the consensus of almost 50,000 leading lawyers about the professional abilities of their colleagues within the same geographical area and legal practice area. Mr. Loughran is the Managing Partner of **Foster LLP's** Austin office with a concentration in corporate immigration, investor immigration, and emigration to third countries. Mr. Loughran presents frequently before legal, professional, and academic organizations on the topics of U.S. and foreign work authorization, employer sanctions, maintenance of status, and changes in government proceedings.

**Cora-Ann Pestaina**, of **Cyrus D. Mehta & Partners PLLC**, has authored a new blog entry. "Recent H-1B Case Brings Hope that Reliance of the Umbrella 'All Other' Occupational Classification Need Not Be Fatal" is at <https://bit.ly/32fenF2>.

**Greg Siskind**, of **Siskind Susser**, has been included in the 26<sup>th</sup> edition of *Best Lawyers in America* in the area of immigration law.

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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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