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Headlines:

Three-Day Filing Window Opens July 3 for H-2B Applications With October 1 Start Dates – The three-day filing window to submit an H-2B Application for Temporary Employment Certification requesting a work start date of October 1, 2023, will open on July 3, 2023, and close on July 5, 2023.

OFLC To Provide Additional Info on New 2023 H-2A Hourly AEWs for Non-Range Occupations Using OEWS – OFLC soon will provide information about Occupational Employment and Statistics Survey-based AEWs for (1) the field and livestock workers (combined) category in Alaska, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands, and (2) job opportunities outside of that category throughout the United States and its territories.

USCIS Seeks Comments on 'E-Verify NextGen' – The internet-based project "will permit employees to create their own secure account, resolve E-Verify tentative non-confirmations (also referred to as "mismatches") in advance and directly with the government, instead of through their employer, and then receive an electronic verification response that they can use and update with subsequent employers."

Updated Wage Data Published for Northern Marianas – OFLC has approved the 2023 Commonwealth of Northern Mariana Islands (CNMI) Prevailing Wage Study survey for 417 occupations and will issue updated CW-1 prevailing wages using these data from July 1, 2023, through June 30, 2024. The updated wage table includes prevailing wage data for 848 occupations.

CIS Ombudsman Releases Annual Report for 2023 – Among other topics, the CIS Ombudsman reviewed requests for evidence (RFEs) in L-1 intracompany transferee petitions, specifically looking at RFEs issued for extension petitions for the L-1A and L-1B nonimmigrant categories.

EOIR To Relocate Chicago Immigration Court's Main Location – The Chicago Immigration Court's main location at 525 West Van Buren Street will close for relocation on July 13, 2023. During the closure, scheduled detained and non-detained hearings will take place at the Chicago Immigration Court's satellite location.

I-9 Verification Flexibilities Ending Soon – Employers will have an additional 30 days to comply with Form I-9 requirements after COVID-19 flexibilities sunset on July 31, 2023.

DHS Publishes Details of TPS Reinstatement/Extension for El Salvador, Honduras, Nepal, Nicaragua – Following the Department of Homeland Security's (DHS) recent announcement reinstating and extending for 18 months the temporary protected status designations for El Salvador, Honduras, Nepal, and Nicaragua, DHS has provided eligibility criteria, timelines, and procedures.

Supreme Court Rules Texas and Louisiana Lack Standing to Block Biden Immigration Enforcement Guidelines – The U.S. Supreme Court ruled 8-1 that Texas and Louisiana lacked standing to block Biden administration immigration enforcement guidelines that prioritize national security, public safety, and border security threats over focusing on deporting anyone in the United States without authorization.

DHS Reinstates, Extends TPS Designations for El Salvador, Honduras, Nepal, and Nicaragua – The Department of Homeland Security has rescinded the Trump administration's terminations of the temporary protected status (TPS) designations for El Salvador, Honduras, Nepal, and Nicaragua, and extended TPS for these countries for 18 months.

USCIS Provides Guidance on EADs Based on Compelling Circumstances – U.S. Citizenship and Immigration Services has released policy guidance on the eligibility criteria for initial and renewal applications for an employment authorization document in compelling circumstances.

Premium Processing Expanded for Nonimmigrants Seeking a Change to F, M, J Status – U.S. Citizenship and Immigration Services (USCIS) is expanding premium processing for applicants filing Form I-539, Application to Extend/Change Nonimmigrant Status, and seeking a change of status to F-1, F-2, M-1, M-2, J-1, or J-2 nonimmigrant status. Online filing of Form I-907, Request for Premium Processing Service, will also be available for these applicants, USCIS said. This phase of premium processing service is only available for change-of-status requests.

Labor Dept. Updates H-2A Hourly AEWRs for Certain Non-Range Occupations – Effective July 1, 2023, the Department of Labor's Employment and Training Administration has updated the adverse effect wage rates (AEWRs) under the H-2A temporary agricultural employment program that apply to a limited set of H-2A job opportunities for which the AEWR is determined using the Bureau of Labor Statistics' Occupational Employment and Wage Statistics survey.

USCIS Updates Policy on Its Role in Adjudicating Waivers and Change-of-Status for J Nonimmigrant Exchange Visitors – U.S. Citizenship and Immigration Services (USCIS) has updated policy guidance regarding the nonimmigrant exchange visitor (J) visa classification, including USCIS's role in the adjudication of waivers of the two-year foreign residence requirement and change-of-status requests.

ICE Online Change-of-Address Tool Is Fully Operational – The new system gives noncitizens the option to update their information online instead of doing so by phone or in person.

July Visa Bulletin Shows EB-3 Final Action Date Retrogressions for Multiple Countries – Retrogressions have been necessary for the employment-based third preference (EB-3) category for India, Mexico, Philippines, and Rest of World.

DHS Updates Guidance on Parole Periods, Work Authorization for Certain Afghan and Ukrainian Parolees – The Department of Homeland Security has released updated guidance on parole periods and employment authorization for certain Afghan and Ukrainian parolees.

Certain Individuals Requesting Parole Can Now File Applications for Travel Documents Online – U.S. Citizenship and Immigration Services announced that certain individuals requesting parole based on urgent humanitarian reasons or significant public benefit can file Form I-131, Application for Travel Document, online.

Lockbox Filing Location Webpage Expanded to Include Service Center Filing Location Updates – U.S. Citizenship and Immigration Services has updated the Lockbox Filing Location Updates page on its website to include service center filing location updates.

Passport, Visa Issuances Surge, State Dept. Takes 'Extraordinary Measures': House Hearing – At a hearing on June 7, 2023, of the House Subcommittee on Oversight and Accountability, Rena Bitter, Assistant Secretary of State for the Bureau of Consular Affairs, said the Bureau and the Department of State have taken "extraordinary measures" to meet current U.S. passport and visa demand.

ABIL Global: Türkiye – This article discusses anticipated changes to the processing of montaj-AMS visas for Türkiye.

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Three-Day Filing Window Opens July 3 for H-2B Applications With October 1 Start Dates

The Department of Labor's Office of Foreign Labor Certification (OFLC) reminded employers and other interested stakeholders that the three-day filing window to submit an H-2B Application for Temporary Employment Certification (Form ETA-9142B and appendices) requesting a work start date of October 1, 2023, will open on July 3, 2023, at 12 a.m. ET and close on July 5, 2023, at 11:59 p.m. ET. October 1, 2023, is the first day of the semiannual visa allotment for the first half of fiscal year 2024. Applications will be denied if they are filed before July 3.

OFLC said that after the three-day filing window has closed, the agency will randomly order applications for assignment to analysts for review and processing. OFLC provided filing tips:

- Only one application per job opportunity should be filed to prevent duplicate filings and delayed processing.
- If "yes" is selected for "Board, Lodging, or Other Facilities" under section F.d.5, Form ETA-9142B, and deductions other than those required by law may be made from the worker's pay, details should be included about the deductions and amounts to cover the reasonable cost of board, lodging, and other facilities in section F.d.6.
- The employer must submit with its application a copy of the job order being submitted concurrently to the State Workforce Agency (SWA) serving the area of intended employment. The job order submitted must be a copy of the actual job order or a completed job order form used by the SWA for posting in its job clearance systems.
- Original signatures and dates on Appendix B must be current.

Details:

- "Office of Foreign Labor Certification Reminds Employers and Stakeholders of the H-2B Application Filing Timelines for October 1, 2023, Start Dates of Work," OFLC (June 30, 2023). <https://www.dol.gov/agencies/eta/foreign-labor>

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OFLC To Provide Additional Info on New 2023 H-2A Hourly AEWRs for Non-Range Occupations Using OEWS

A Federal Register notice published on June 16, 2023, by the Department of Labor's Employment and Training Administration (ETA) updated the Adverse Effect Wage Rates (AEWRs) under the H-2A temporary agricultural employment program that apply to a limited set of H-2A job opportunities for which the AEWR is determined using the Bureau of Labor Statistics Occupational Employment and Statistics Survey (OEWS). The notice provided OEWS-based AEWRs for (1) the field and livestock workers (combined) category in Alaska, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands, and (2) job opportunities outside of that category throughout the United States and its territories.

ETA said it will publish a separate notice in December 2023 providing updated AEWRs for this category in the 49 states for which the Department of Agriculture's Farm Labor Survey provides data. Updated information will be posted on OFLC's [AEWR page](#) on the Foreign Labor Application Gateway in July, OFLC said.

Details:

- "Office of Foreign Labor Certification Provides Additional Information on New 2023 H-2A Hourly Adverse Effect Wage Rates (AEWR) for Non-Range Occupations Using the

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USCIS Seeks Comments on 'E-Verify NextGen'

U.S. Citizenship and Immigration Services (USCIS) seeks comments by August 28, 2023, on "E-Verify NextGen" (I-9NG), a new online "demonstration project" intended to further integrate the Form I-9, Employment Eligibility Verification, process with the E-Verify electronic work eligibility confirmation process "to create a more secure and less burdensome employment eligibility verification process overall for employees and employers." This internet-based project "will permit employees to create their own secure account, resolve E-Verify tentative non-confirmations (also referred to as "mismatches") in advance and directly with the government, instead of through their employer, and then receive an electronic verification response that they can use and update with subsequent employers," USCIS said.

The goal of E-Verify NextGen is "to streamline the employment eligibility verification and confirmation process for employers and employees" by:

- Resolving E-Verify mismatches and electronically issuing an employment authorized result to individuals who E-Verify finds to be work authorized;
- Allowing employees to receive notification of and resolve E-Verify mismatches directly with the government without requiring the employer to be an intermediary; and
- Removing the employer's primary role in the mismatch resolution process. While employers would be informed about their employee's mismatch, this process removes employers as the intermediary to communicate a mismatch to the employee. Affected employees are instead notified directly and provided the instructions required to resolve the mismatch.

Details:

- USCIS notice, 88 Fed. Reg. 42093 (June 29, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-06-29/pdf/2023-13786.pdf>

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Updated Wage Data Published for Northern Marianas

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) said it has received the 2023 Commonwealth of Northern Mariana Islands (CNMI) Prevailing Wage Study survey from the governor of the CNMI for the CW-1 program. OFLC has approved the survey for 417 occupations and will issue updated CW-1 prevailing wages using these data from July 1, 2023, through June 30, 2024. The updated wage table includes prevailing wage data for 848 occupations.

The Northern Mariana Islands U.S. Workforce Act of 2018 requires DOL to use or make available an occupational wage survey conducted by the CNMI governor. DOL said it must determine whether the survey meets the statistical standards for determining prevailing wages on an annual basis. Wages that meet the regulatory standards are used as prevailing wages under the CW-1 program. The agency explained that the absence of an approved wage in the governor's survey for a given occupation, the prevailing wage is the occupation's Occupational Employment and Wage Statistics (OEWS) mean wage in Guam. Where there is no Guam OEWS mean wage available, the prevailing wage is the national mean wage, adjusted for

purposes of the CW-1 visa program, DOL noted.

Details:

- OFLC Updated CW-1 Wage Table (July 1, 2023).
https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/DOL-OFLC_CW1_Wage_Table_2023.pdf

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CIS Ombudsman Releases Annual Report for 2023

The Office of the Citizenship and Immigration Services (CIS) Ombudsman's Annual Report for 2023 examines the effects of backlogs and additional challenges facing the agency. It recommends actions USCIS can take to address the human consequences and detrimental effects on the agency of backlogs.

Among other topics, the CIS Ombudsman reviewed requests for evidence (RFEs) in L-1 intracompany transferee petitions, specifically looking at RFEs issued for extension petitions for the L-1A and L-1B nonimmigrant categories. The report notes that the CIS Ombudsman has received stakeholder reports of overly broad and burdensome RFEs, duplicative RFEs, inconsistent adjudications, lack of deference to previous decisions, and a misunderstanding of the standard of proof.

To improve the quality of RFEs in L-1 petitions, the CIS Ombudsman recommends that USCIS take steps to:

- Develop and provide training that ensures adjudicators understand how to apply the preponderance of evidence legal standard to the evidence typically presented in each type of case;
- Develop and provide annual training to ensure that adjudicators know how to comply with applicable regulations for L-1 extension cases;
- Streamline the L-1 extension petition adjudication for cases involving the same facts with no material changes (such as the same petitioner/beneficiary/job);
- Update RFE templates and systems to ensure that they are current, understandable, and concise; and
- Establish a robust quality assurance program for RFEs.

Details:

- CIS Ombudsman's Annual Report 2023 (June 30, 2023).
https://www.dhs.gov/sites/default/files/2023-06/2023%20Annual%20Report%20to%20Congress_0.pdf

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EOIR To Relocate Chicago Immigration Court's Main Location

The Chicago Immigration Court's main location at 525 West Van Buren Street will close for relocation on July 13, 2023. During the closure, scheduled detained and non-detained hearings will take place at the Chicago Immigration Court's satellite location at 536 South Clark Street, Suite 340. The satellite location will also remain open to accept Chicago Immigration Court

filings and answer phone calls. The new Chicago Immigration Court's main location will reopen on Monday, July 24, 2023, at 8:30 a.m. for all court business, EOIR said. Affected hearings will be rescheduled and parties will be notified by EOIR.

The new location is: Chicago Immigration Court, 55 East Monroe Street, Suite 1500, Chicago, IL 60603. Hours of operation will be 8:30 a.m. to 4 p.m. Monday through Friday. The telephone number is 312-697-5800.

Details:

- EOIR notice (June 29, 2023). <https://rb.gy/ktupp>

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I-9 Verification Flexibilities Ending Soon

Employers will have an additional 30 days to comply with Form I-9 requirements after COVID-19 flexibilities sunset on July 31, 2023, according to the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE). These flexibilities were first announced in March 2020 due to the COVID-19 pandemic and subsequently extended several times. DHS encourages employers who have been using these temporary flexibilities "to plan ahead to ensure that all required physical inspection of identity and employment eligibility documents is completed" by August 30, 2023.

The flexibilities deferred the requirement that employers review employees' identities and employment authorization documents in the employees' physical presence, instead allowing that to occur remotely, with the expectation that physical inspection would occur within three business days after normal operations resumed. ICE said employers could continue to implement the flexibilities "until affected employees undertake non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated, whichever is earlier."

Under the flexibilities, employers could examine the employees' documents remotely (e.g., over video link, fax, or email) and enter "COVID-19" as the reason for the physical examination delay in the Section 2 Additional Information field on the Form I-9 when physical examination took place in the future. Once the employees' documents were physically examined, the employer would add "documents physically examined" with the date of examination to the Section 2 Additional Information field on the Form I-9, or in Section 3, as appropriate.

Details:

- "ICE Updates Form I-9 Requirement to Grant Employers More Time to Comply With Requirements," ICE news release (May 4, 2023). <https://www.ice.gov/news/releases/ice-updates-form-i-9-requirement-flexibility-grant-employers-more-time-comply>

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DHS Publishes Details of TPS Reinstatement/Extension for El Salvador, Honduras, Nepal, Nicaragua

Following the Department of Homeland Security's (DHS) recent announcement that it was rescinding the Trump administration's terminations of the temporary protected status (TPS) designations for El Salvador, Honduras, Nepal, and Nicaragua, and reinstating and extending TPS for these countries for 18 months, DHS has published notices for each country in the Federal Register providing the eligibility criteria, timelines, and procedures necessary for current

beneficiaries to re-register for TPS and renew their employment authorization documents (EADs).

Re-registration is limited to individuals who previously registered for and were granted TPS under the prior designations of El Salvador, Honduras, Nepal, and Nicaragua. Those who arrived in the United States after the continuous residence dates for these designations are not eligible for TPS, DHS said. The continuous residence dates are February 13, 2001 (El Salvador); December 30, 1998 (Honduras); June 24, 2015 (Nepal); and December 30, 1998 (Nicaragua).

Details:

- DHS news release (June 20, 2023). <https://www.uscis.gov/newsroom/news-releases/temporary-protected-status-designations-for-el-salvador-honduras-nepal-and-nicaragua-reinstated-and>
- El Salvador, 88 Fed. Reg. 40282 (June 21, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13018.pdf>
- Honduras, 88 Fed. Reg. 40304 (June 21, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13017.pdf>
- Nepal, 88 Fed. Reg. 40317 (June 21, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13019.pdf>
- Nicaragua, 88 Fed. Reg. 40294 (June 21, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-06-21/pdf/2023-13246.pdf>

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Supreme Court Rules Texas and Louisiana Lack Standing to Block Biden Immigration Enforcement Guidelines

On June 23, 2023, the U.S. Supreme Court ruled 8-1 in *U.S. v. Texas* that Texas and Louisiana lacked standing to block Biden administration immigration enforcement guidelines that prioritize national security, public safety, and border security threats over focusing on deporting anyone in the United States without authorization.

Writing for the majority, Justice Kavanaugh said, "The States have brought an extraordinarily unusual lawsuit. They want a federal court to order the Executive Branch to alter its arrest policies so as to make more arrests. Federal courts have not traditionally entertained that kind of lawsuit; indeed, the States cite no precedent for a lawsuit like this." Justice Kavanaugh also said that the Executive Branch "does not possess the resources necessary to arrest or remove all of the noncitizens covered by" federal law. "For the last 27 years since [the laws] were enacted in their current form, all five Presidential administrations have determined that resource constraints necessitated prioritization in making immigration arrests." Justice Alito dissented.

Homeland Security Secretary Alejandro Mayorkas said that the Department of Homeland Security (DHS) would reinstate the guidelines, which were paused last summer by the Supreme Court. He said this would "enable DHS to most effectively accomplish its law enforcement mission with the authorities and resources provided by Congress." Texas Gov. Greg Abbott said that Texas would "continue to deploy the National Guard to repel [and] turn back illegal immigrants trying to enter Texas illegally."

Details:

- *U.S. v. Texas* (June 23, 2023). https://www.supremecourt.gov/opinions/22pdf/22-58_i425.pdf
- "The Supreme Court Sides With the Biden Administration in a Fight Over Immigration," National Public Radio (June 23, 2023). <https://www.npr.org/2023/06/23/1182015382/supreme-court-ruling-immigration>
- "Supreme Court Says White House Can Continue to Set Deportation Priorities," Washington Post (June 23, 2023). <https://www.washingtonpost.com/politics/2023/06/23/supreme-court-immigration-deportation-biden/> (subscription)

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DHS Reinstates, Extends TPS Designations for El Salvador, Honduras, Nepal, and Nicaragua

The Department of Homeland Security (DHS) has rescinded the Trump administration's terminations of the temporary protected status (TPS) designations for El Salvador, Honduras, Nepal, and Nicaragua, and extended TPS for these countries for 18 months.

Upcoming Federal Register notices will explain the eligibility criteria, timelines, and procedures necessary for current beneficiaries to re-register for TPS and renew their employment authorization documents (EADs). Once the notices are published, existing TPS beneficiaries under the four designations will be able to re-register to continue their TPS throughout the 18-month extension, DHS said. Those who arrived in the United States after the continuous residence dates for these designations are not eligible for TPS. Those dates are February 13, 2001 (El Salvador); December 30, 1998 (Honduras and Nicaragua); and June 24, 2015 (Nepal).

Below are details about the date ranges for the extension and re-registration period for each country:

- **El Salvador.** DHS is extending the designation of El Salvador from September 10, 2023, through March 9, 2025. The new extension allows approximately 239,000 current TPS beneficiaries to re-register to retain TPS through March 9, 2025. Existing TPS beneficiaries who wish to extend their status through that date must re-register during the 60-day re-registration period from July 12, 2023, through September 10, 2023.
- **Honduras.** DHS is extending the designation of Honduras for TPS from January 6, 2024, through July 5, 2025. The new extension allows approximately 76,000 existing TPS beneficiaries to re-register to retain TPS through July 5, 2025. Existing TPS beneficiaries who wish to extend their status through that date must re-register during the 60-day re-registration period from November 6, 2023, through January 5, 2024.
- **Nepal.** DHS is extending the designation of Nepal for TPS from December 25, 2023, through June 24, 2025. The new extension allows approximately 14,500 existing TPS beneficiaries to re-register to retain TPS through June 24, 2025. Existing TPS beneficiaries who wish to extend their status through that date must re-register during the 60-day re-registration period from October 24, 2023, through December 23, 2023.
- **Nicaragua.** DHS is extending the designation of Nicaragua for TPS January 6, 2024, through July 5, 2025. The new extension allows approximately 4,000 current TPS beneficiaries to re-register to retain TPS through July 5, 2025. Existing TPS beneficiaries

who wish to extend their status through that date must re-register during the 60-day re-registration period from November 6, 2023, through January 5, 2024.

Details:

- DHS news release (June 13, 2023). <https://www.dhs.gov/news/2023/06/13/dhs-rescinds-prior-administrations-termination-temporary-protected-status>

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USCIS Provides Guidance on EADs Based on Compelling Circumstances

U.S. Citizenship and Immigration Services (USCIS) has released policy guidance on the eligibility criteria for initial and renewal applications for an Employment Authorization Document (EAD) in compelling circumstances. An applicant must meet the following eligibility requirements to be eligible for an initial EAD based on compelling circumstances:

- The principal applicant is the principal beneficiary of an approved Form I-140, Immigrant Petition for Alien Workers, in either the first, second, or third employment-based preference category;
- The principal applicant is in valid E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant status or an authorized grace period when they file the Form I-765, Application for Employment Authorization;
- The principal applicant has not filed an adjustment of status application;
- An immigrant visa is not available to the principal applicant based on the applicant's priority date according to the relevant Final Action Date in the Department of State's Visa Bulletin in effect when they file Form I-765;
- The applicant and dependents provide biometrics as required;
- The applicant and dependents have not been convicted of a felony or two or more misdemeanors; and
- USCIS determines, as a matter of discretion, that the principal applicant demonstrates compelling circumstances that justify the issuance of employment authorization.

The guidance provides a non-exhaustive list of situations that could lead to a finding that compelling circumstances exist, including serious illness and disability, employer dispute or retaliation, other substantial harm to the applicant, or significant disruption to the employer. The guidance also provides details on evidence an applicant could submit to demonstrate one of these compelling circumstances.

Details:

- USCIS alert (June 14, 2023). <https://www.uscis.gov/newsroom/alerts/uscis-provides-guidance-on-employment-authorization-documents-based-on-compelling-circumstances>

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Premium Processing Expanded for Nonimmigrants Seeking a Change to F, M, J Status

U.S. Citizenship and Immigration Services (USCIS) is expanding premium processing for applicants filing [Form I-539, Application to Extend/Change Nonimmigrant Status](#), and seeking a change of status to [F-1, F-2, M-1, M-2, J-1, or J-2 nonimmigrant status](#). Online filing of [Form I-907, Request for Premium Processing Service](#), will also be available for these applicants,

USCIS said. This phase of premium processing service is only available for change-of-status requests. Premium processing is not available for individuals seeking an extension of stay in M-1 or M-2 status.

The premium processing expansion for certain Form I-539 applicants will occur in phases, the agency said. Nonimmigrants requesting premium processing should not file before these dates:

- **Beginning June 13**, USCIS now accepts Form I-907 requests, filed via paper form or online, for applicants seeking a change of status to F-1, F-2, M-1, M-2, J-1, or J-2 status, who have a pending Form I-539.
- **Beginning June 26**, USCIS will accept Form I-907 requests, filed either via paper form or online, for applicants seeking a change of status to F-1, F-2, M-1, M-2, J-1, or J-2 status, when filed together with Form I-539.

Applicants must submit Form I-907 the same way they submit Form I-539. For example, those who mailed a paper Form I-539 to USCIS must mail a paper Form I-907; those who submitted Form I-539 online must submit Form I-907 online. Also, applicants must submit their biometrics before premium processing can begin for these specific categories. USCIS said it may reject an applicant's Form I-907 and/or Form I-539 if submitted with another benefit request, including multiple Forms I-907 requests filed together.

Details:

- USCIS alert (June 12, 2023). <https://www.uscis.gov/newsroom/alerts/uscis-expands-premium-processing-for-applicants-seeking-to-change-into-f-m-or-j-nonimmigrant-status>

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Labor Dept. Updates H-2A Hourly AEWRs for Certain Non-Range Occupations

Effective July 1, 2023, the Department of Labor's Employment and Training Administration has updated the adverse effect wage rates (AEWRs) under the H-2A temporary agricultural employment program that apply to a limited set of H-2A job opportunities for which the AEWR is determined using the Bureau of Labor Statistics' Occupational Employment and Wage Statistics survey.

Details:

- ETA notice, 88 Fed. Reg. 39482 (June 16, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-06-16/pdf/2023-12896.pdf>
- OFLC notice, <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to June 16, 2023).

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USCIS Updates Policy on Its Role in Adjudicating Waivers and Change-of-Status for J Nonimmigrant Exchange Visitors

U.S. Citizenship and Immigration Services (USCIS) has updated policy guidance regarding the nonimmigrant exchange visitor (J) visa classification, including USCIS's role in the adjudication of waivers of the two-year foreign residence requirement and change-of-status requests. The guidance:

- Provides general information about the exchange visitor (J) visa classification and explains USCIS's role in adjudicating change-of-status requests and applications for employment authorization for J-2 family members.

- Explains the INA § 212(e) foreign residence requirement and provides information about USCIS's adjudication of available waivers, including for foreign medical graduates.

Details:

- USCIS Policy Alert, PA-2023-17 (June 8, 2023). <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230608-ExchangeVisitors.pdf>

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ICE Online Change-of-Address Tool Is Fully Operational

U.S. Immigration and Customs Enforcement (ICE)'s [online change-of-address form](#) for noncitizens is now fully operational, ICE announced on June 13, 2023. The new system gives noncitizens the option to update their information online instead of doing so by phone or in person. ICE said it "will enable noncitizens to comply with their immigration obligations more easily and improve the accuracy of address information reported to ICE by utilizing address autofill to ensure U.S. Postal Service standardization."

After successfully entering a valid mailing address, if the noncitizen is in removal proceedings, the online form shows the noncitizen information on how to also change their address with the immigration court as required, using the Executive Office for Immigration Review's (EOIR) [Form EOIR-33, Change of Address/Contact Information](#), which may be submitted by mail, in person at the immigration court, or online through EOIR's Respondent Access. The EOIR-33 is available in English, Spanish, Chinese, Haitian Creole, Portuguese, and Punjabi.

ICE's news release includes additional details about how the system processes requests and handles aspects like Notices to Appear and noncitizens in removal proceedings.

Details:

- ICE news release (June 13, 2023). <https://www.ice.gov/news/releases/ice-online-change-address-tool-noncitizens-fully-operational>

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July Visa Bulletin Shows EB-3 Final Action Date Retrogressions for Multiple Countries

The Department of State's Visa Bulletin for July notes that due to high demand, retrogressions have been necessary for the employment-based third preference (EB-3) category for India, Mexico, Philippines, and Rest of World. The Rest of World, Mexico, and Philippines EB-3 final action dates have retrogressed to 01FEB22. EB-3 applicants from India are subject to a final action date of 01JAN09.

Details:

- Dept. of State Visa Bulletin (July 2023). <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2023/visa-bulletin-for-july-2023.html>

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DHS Updates Guidance on Parole Periods, Work Authorization for Certain Afghan and Ukrainian Parolees

The Department of Homeland Security (DHS) has released updated guidance on parole periods and employment authorization for certain Afghan and Ukrainian parolees:

Extension of Parole Period

Effective June 9, 2023, through July 31, 2024, DHS will consider, on a case-by-case basis for urgent humanitarian reasons or significant public benefit, a two-year extension of the original parole period for Afghan parolees who have already applied for asylum or for adjustment to lawful permanent resident (LPR) status (such as adjustment of status as a special immigrant). These Afghan parolees who have already applied for asylum or LPR status do not need to apply for re-parole. If approved, USCIS will extend their original employment authorization and send a Form I-797C, Notice of Additional Action, to their last address of record with USCIS. If these Afghan parolees require an updated Employment Authorization Document (EAD) in addition to the Form I-797C, they may file a fee-exempt [Form I-765, Application for Employment Authorization](#), with USCIS under category (c)(11).

Employment Authorization Incident to Parole

Also, effective June 8, 2023, certain additional Afghan and Ukrainian parolees are work authorized incident to parole, including:

- Afghan parolees whose unexpired Form I-94 contains a class of admission of "OAR" or "PAR" and indicates Afghanistan as the country of citizenship on the document. Eligible Afghan parolees paroled into the United States on or after July 31, 2021, who did not receive an "OAR" or "PAR" class of admission on their Forms I-94 should email U.S. Customs and Border Protection (CBP) at oawi94adjustments@cbp.dhs.gov to update their class of admission, if appropriate;
- Ukrainian parolees whose unexpired Form I-94 contains a class of admission of "UHP"; and
- Ukrainian parolees whose unexpired Form I-94 contains a class of admission of "DT" issued between February 24, 2022, and September 30, 2023, and indicates Ukraine as the country of citizenship on the document.

For these parolees, DHS said, their unexpired Form I-94 is an acceptable receipt they may present to their employer to show their identity and employment authorization for the purposes of Form I-9 employment eligibility verification. This satisfies the Form I-9 requirement for up to 90 days from the date of hire (or in the case of reverification, the date employment authorization expires), DHS said.

Details:

- "Applications for Re-Parole and Work Authorization Renewal Are Fee-Exempt for Certain Afghan Nationals," USCIS alert (June 9, 2023). <https://www.uscis.gov/newsroom/alerts/applications-for-re-parole-and-work-authorization-renewal-are-fee-exempt-for-certain-afghan>
- "Certain Afghan Parolees Are Employment Authorized Incident to Parole," USCIS alert (June 8, 2023). <https://www.uscis.gov/newsroom/alerts/certain-afghan-parolees-are-employment-authorized-incident-to-parole>

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Certain Individuals Requesting Parole Can Now File Applications for Travel Documents Online

U.S. Citizenship and Immigration Services (USCIS) announced on June 9, 2023, that certain individuals requesting parole based on urgent humanitarian reasons or significant public benefit can file [Form I-131, Application for Travel Document](#), online.

The following individuals are eligible to file Form I-131 online:

- Individuals requesting parole based on urgent humanitarian reasons or significant public benefit for an individual outside the United States (under application types 1.e. or 1.f. on the paper Form I-131) who are not seeking initial parole under a USCIS family reunification parole process (i.e., under the Cuban Family, Haitian Family, or Filipino World War II Veterans Parole Programs); or
- Individuals already paroled inside the United States who are requesting a new period of parole, or re-parole (under application types 1.e. or 1.f. on the paper Form I-131), to remain in the United States.

USCIS said it will deny applications and not refund fees paid for those who file Forms I-131 online but are not eligible to do so.

Details:

- USCIS alert (June 9, 2023). <https://www.uscis.gov/newsroom/alerts/certain-individuals-requesting-parole-can-now-file-form-i-131-online>

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Lockbox Filing Location Webpage Expanded to Include Service Center Filing Location Updates

U.S. Citizenship and Immigration Services (USCIS) has updated the Lockbox Filing Location Updates page on its website to include service center filing location updates.

USCIS explained that it sometimes changes or adjusts filing locations among its service centers or lockbox facilities "to balance our incoming workload for timely processing. We may also refine filing addresses to improve internal processes at our service centers or lockbox facilities. Please note that the new filing location may not be where your case is adjudicated."

To receive updates on these filing location changes, users can [subscribe](#) to the "[Lockbox and Service Center Filing Location Updates](#)" GovDelivery distribution list to receive an email each time USCIS updates a filing location.

Details:

- USCIS alert (June 6, 2023). <https://www.uscis.gov/newsroom/alerts/lockbox-filing-location-updates-webpage-expanded-to-include-service-center-filing-location-updates>

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Passport, Visa Issuances Surge, State Dept. Takes 'Extraordinary Measures': House Hearing

At a hearing on June 7, 2023, of the House Subcommittee on Oversight and Accountability, Rena Bitter, Assistant Secretary of State for the Bureau of Consular Affairs, said the Bureau and

the Department of State have taken "extraordinary measures" to meet current U.S. passport and visa demand. Those measures include authorizing 30,000 to 40,000 overtime hours per month; moving personnel to Washington, DC; and hiring more adjudicative staff. The Bureau is requesting almost \$100 million to fill pandemic-related vacancies and add nearly 300 new positions, she said.

Ms. Bitter said current routine passport processing time is 10 to 13 weeks. The Bureau also is "experiencing pent-up demand for U.S. visas resulting from the near shutdown of international travel" during the pandemic.

Forty-six percent of Americans have passports, up from 30 percent in 2008, she said. On the inbound travel side, she noted, in addition to the citizens of more than 40 visa waiver countries, potential travelers to the United States hold more than 49 million valid visitor visas and border crossing cards. "In fact, more foreign visitors have the ability to travel to the United States today than at any time in our history," she noted. In fiscal year 2022, the Bureau issued a record 22 million passport books and cards. She also noted that the Next Generation Passport, which was rolled out in 2022, "uses new technologies to produce a more robust passport with enhanced security features, such as a polycarbonate data page, laser-engraved personalization, and updated artwork."

Details:

- Written statement of Rena Bitter (June 7, 2023).
<https://docs.house.gov/meetings/FA/FA17/20230607/116028/HHRG-118-FA17-Wstate-BitterR-20230607.pdf>

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ABIL Global: Türkiye

This article discusses anticipated changes to the processing of montaj-AMS visas for Türkiye.

Montaj-AMS Visa Highlights

An Assembly and Maintenance Service (AMS, or *montaj*) visa is a very practical work authorization category for technical workers coming to Türkiye for short-term work. Under Turkish immigration regulations, an employee of a foreign company may engage in assembly and maintenance service work for the benefit of a receiving Turkish entity without the need for a work permit for up to 90 days per year.

Appropriate employees include technicians or other technical workers. This category is not suitable for executives or non-technical managers. Employees holding this type of visa must continue being paid outside Türkiye by the foreign entity that sent them. The visa allows the employees to work only in the locale(s) and for the Turkish company that issued the support letter for the visa. If multiple clients or worksites are anticipated, the host letters must reflect this and be issued from each host.

An AMS visa may apply to many categories of "products," including assembly, maintenance, and service (or training) for software, computer hardware, complex machinery, energy equipment, and construction and manufacturing equipment. However, in practice there is significant variation in interpretation at different consular posts. Many non-Organisation for Economic Co-operation and Development (OECD) posts have quite strict interpretations of the business circumstances that qualify to issue this visa. Often the interpretation of the "product" being provided to the Turkish host company may come directly from the foreign employer of the visa applicant. In these cases, extensive additional corporate documents may be needed.

An AMS visa can be issued for a maximum validity of 12 months with a duration of stay of 90 days. The consular posts most often issue 6- or 12-month validity multiple entry AMS visas, although some posts may not grant multiple entry visas or grant visas for a validity of less than 12 months as a matter of discretion. Particularly, many non-OECD-located Turkish consular posts in practice tend to issue single-entry AMS visas with 30-, 60-, or 90-day durations of stay.

Proposed Changes

In September 2022, the Ministry of Labour (MoL) created an application link on its website in preparation for online adjudication of these exemptions under the Law on International Workforce No. 6735 (and subsequent regulations). As announced on September 30, 2022, AMS and other activities listed in the statute as exempt from a work permit requirement may apply for that exemption via the new online system, which is then used to obtain an AMS visa at the consulate or a work permit exemption domestically in certain conditions. Applicants abroad requesting an exemption via the Turkish consular post must use the online system after appearing at the consular post. If the application is accepted, the consular post issues a reference number, which the applicant uses to complete the online application. Applicants in Türkiye on valid residence permits may file their exemption applications using the online system with information requested regarding their residence permits.

The online exemption system is not yet being used extensively for visa applicants because many consular posts are not yet familiar with the system. The online system appears to be a way for the MoL to have more authority in designating which applicants should be eligible for an exemption, regardless of the location of the consular post.

The new work permit exemption online system lists many statutory exemption activities that have been recognized by the MoL, even before the current version of the law. The list of qualifying activities includes certain internships and certain activities in the arts, sciences, media, tourism, education, and sports sectors, each with defined maximum periods of time. The statute also specifies the maximum validity for each qualifying activity. For instance, student internships have maximum ranges of 4 to 12 months. Tour operators are restricted to a period of 8 months. AMS-montaj activities remain limited to 90 days.

For a complete list of work permit exemption categories, see the MoL webpage:

<https://www.csgeb.gov.tr/media/89896/ingilizce-tablo.pdf>

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New Publications and Items of Interest

USCIS engagement on DED for Hong Kong. U.S. Citizenship and Immigration Services will hold an engagement on deferred enforced Departure (DED) for eligible residents of Hong Kong on Thursday, July 13, 2023, from 2 to 3 p.m. ET. To register, go to

https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new?topic_id=USDHSCIS_826, type your email address and select Submit, and on the next screen, you will see a notification that you successfully subscribed to this event. Questions to be submitted for a response at the event, or questions about registration, should be emailed to public.engagement@uscis.dhs.gov.

Online form for DHS-related civil rights/liberties complaints. The Department of Homeland Security has released an online form to submit allegations about possible violations of civil rights, civil liberties, and human rights by Department of Homeland Security (DHS) programs, activities, personnel, or contractors directly to the DHS Office for Civil Rights and Civil Liberties (CRCL). Submissions may be anonymous and in any language. CRCL "has access to interpreters and translators and can communicate with you in any language." The online form is at https://engage.dhs.gov/crcl-complaint?id=crcl_intake&sys_id=154d32711b4c9110b930628ae54bcb4f&lang=english. For

more information about CRCL's complaint process or to find PDF versions of CRCL's complaint form in multiple languages, see <https://www.dhs.gov/file-civil-rights-complaint>.

Agency Twitter accounts:

- EOIR: @DOJ_EOIR
- ICE: @ICEgov
- Study in the States: @StudyinStates
- USCIS: @USCIS

E-Verify webinar schedule. E-Verify released its calendar of webinars. https://www.e-verify.gov/calendar-field_date_and_time/month

Alliance of Business Immigration Lawyers:

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

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ABIL Member/Firm News

David Isaacson, of **Cyrus D. Mehta & Partners PLLC**, has authored a new blog post: "Canada Announces New Program for Holders of H-1B Visas—But Do They Mean Visas, or H-1B Nonimmigrant Status?" <http://blog.cyrusmehta.com/2023/06/canada-announces-new-program-for-holders-of-u-s-h-1b-visas-but-do-they-mean-visas-or-h-1b-nonimmigrant-status.html>

Cyrus Mehta (bio: <https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) has authored a new blog post: "While Supreme Court Holds That States Have No Standing to Challenge Federal Immigration Enforcement Priorities in United States v. Texas, How Does This Bode for DACA and Other Immigration Policies?" <https://rb.gy/2us90>

Mr. Mehta and **Kaitlyn Box** were quoted by Forbes in "Immigration Agency Releases Guidance for H-1B Visa Holders." They said, "Recipients of [a work permit] based on compelling circumstances will likely need to look for other solutions if they wish to remain and work in the U.S. on a long-term basis until they obtain permanent resident status." They said that a new employer must file a new labor certification and I-140 petition, and "could recapture" the old priority date. Consular processing might be possible when the priority date is available, the article notes. "A new employer could also file a new H-1B visa petition for the foreign worker alongside the new labor certification and I-140 petition," according to Mr. Mehta and Ms. Box. <https://www.forbes.com/sites/stuartanderson/2023/06/20/immigration-agency-releases-guidance-for-h-1b-visa-holders/?sh=3adcb12651d8>

Mr. Mehta also was quoted extensively in the *Times of India* on the USCIS policy broadening the compelling circumstances parameters for Employment Authorization Documents. He said, for example, that the new compelling circumstances measure "is of a very limited scope and can only be used as a stopgap measure when a loss of a job would derail the foreign worker's life in the U.S. It will allow the concerned individual to remain in the U.S. lawfully and not face the re-entry bars owing to overstay. However, it is not a nonimmigrant visa like the H-1B that allows for an extension of status and the ability to adjust this status to a permanent residence (aka green card)." Mr. Mehta also noted that USCIS relaxed the standard on June 14, 2023, "by allowing persons who have lived in the U.S. with family for a significant amount of time to demonstrate that due to job loss they would be forced to sell their home, pull their children out of school, lose their health insurance and [be] forced to relocate to their home country." He noted other technical issues and compelling circumstances, such as "instances where the individual has maxed out of the six-year H-1B visa limit and cannot extend it, or the company's ownership structure has changed and the individual cannot remain in L-1status." In such cases, he said, the employer "would need to show that the resultant job loss would negatively impact projects and result in significant monetary loss or

other disruption to the employer." <https://timesofindia.indiatimes.com/nri/us-canada-news/laid-off-workers-in-us-could-benefit-from-broadening-of-compelling-circumstances-norms/articleshow/101068686.cms?from=mdr>

Mr. Mehta and **Ms. Box** co-authored a blog post: "USCIS Broadens Compelling Circumstances Parameters for Skilled Immigrants in the Green Card Backlogs So That They Can Continue to Work in the U.S. Even After Job Loss." <http://blog.cyrusmehta.com/2023/06/uscis-broadens-compelling-circumstances-parameters-for-skilled-immigrants-in-the-green-card-backlogs-so-that-they-can-continue-to-work-in-the-us-even-after-job-loss.html>

Angelo Paparelli (bio: <https://www.abil.com/abil-lawyers/angelo-paparelli/>) has authored two new blog posts: " 'Imagine' the Improbable: John Lennon, the Supreme Court, and the Resurrection of Prosecutorial Discretion in Immigration Cases," <https://www.nationofimmigrators.com/2023/06/imagine-the-improbable-john-lennon-the-supreme-court-and-the-resurrection-of-prosecutorial-discretion-in-immigration-cases/>; and "America is Losing on Business Immigration," <https://www.nationofimmigrators.com/2023/06/america-is-losing-on-business-immigration/>

Greg Siskind, partner at **Siskind Susser PC**, was quoted by *Bloomberg Law's Daily Labor Report* in "AI Makes Its Way to Immigration With New Tool to Aid Attorneys." He said, "We think [Visalaw.Ai] will be a tremendous time saver for lawyers conducting research on a regular basis." Mr. Siskind is a co-founder of Visalaw.Ai. The article notes that reliance on open-source artificial intelligence (AI) software can lead to bogus results and potentially expose confidential client information. Mr. Siskind said the Visalaw.Ai platform will include a private feature allowing members to draw on information from the platform without sending client information back. Partnering with the American Immigration Lawyers Association (AILA) will also address quality issues by feeding the tool specific information related to immigration law that is drawn from a huge legal library of regulations and secondary sources, he said. Access will be subscription-based. The tool incorporates a vast immigration law library, including major primary law materials as well as AILA's *Practice and Procedures Manual* ("Cookbook"), co-written by Mr. Siskind. "We can stand on the sidelines and let somebody else shape the future for us. Or we can get engaged and determine how this should affect the immigration bar and the practice of immigration law. In this environment, nobody can afford to stand on the sidelines." He noted that Visalaw.Ai is "set to be conservative in how it answers." <https://www.visalaw.ai/> (Visalaw.Ai); <https://news.bloomberglaw.com/daily-labor-report/ai-makes-its-way-to-immigration-with-new-tool-to-aid-attorneys> (article); <https://www.aila.org/advo-media/press-releases/2023/visalawai-and-aila-unveil-gen-a-groundbreaking-a> (AILA press release)

William Stock (bio: <https://www.abil.com/abil-lawyers/william-stock/>) has authored a blog post: "Worksite Ambiguity in the Rise of Work From Home." <https://thinkimmigration.org/blog/2023/06/14/worksite-ambiguity-in-the-rise-of-work-from-home/>

WR Immigration has published a new blog post: "Critical Requirements for New Office L-1 Managerial or Executive Petition." <https://wolfsdorf.com/critical-requirements-for-new-office-l-1-managerial-or-executive-petition/>

Farshad Owji, Partner, **Wolfsdorf Rosenthal LLP (WR Immigration)**, has been elected American Immigration Lawyers Association (AILA) President for 2023. Based in San Francisco, California, Mr. Farshad is a member of the Florida, Minnesota, and District of Columbia bars, as well as the Istanbul Bar Association in Turkey. Born in Tehran, Iran, Mr. Owji received a law degree from Ankara University in 1994, and worked at the United Nations High Commissioner for Refugees (UNHCR) Branch Office in Ankara, Turkey. He obtained his J.D. and LL.M. from the University of Florida's Fredric G. Levin College of Law in 2000. Mr. Owji was a Senior International Associate at Deloitte, LLP, and in 2002, opened his immigration practice in San Francisco's Jackson Square. <https://wolfsdorf.com/farshad-owji-elected-aila-president-2023/>

(WR Immigration release); <https://www.aila.org/advo-media/press-releases/2022/aila-elects-new-officers-for-2022-23-term> (AILA release)

Stephen Yale-Loehr (bio: <https://www.abil.com/abil-lawyers/stephen-yale-loehr/>) was quoted by *USA Today* in "Biden Promised to End Family Separations. So Why is DOJ Fighting Relief Claims in Court?" He said, "It's ironic that while candidate Biden said that family separation was abhorrent, as a president he's allowing his Justice Department attorneys to fight these cases." But, he said, "every administration wants to preserve its flexibility and discretion on immigration, because immigration affects our sovereignty and foreign affairs." <https://www.usatoday.com/story/news/investigations/2023/06/26/separated-families-biden-trump-zero-tolerance/70350466007/>

Mr. Yale-Loehr was quoted by National Public Radio in "The Supreme Court Sides With the Biden Administration in a Fight Over Immigration." He said, "The court's decision was pretty narrow. From a larger legal perspective, it doesn't really resolve the issue of when states can and cannot sue to challenge federal policies, whether they're immigration or otherwise. And so the battle will continue on those fronts." <https://www.npr.org/2023/06/23/1182015382/supreme-court-ruling-immigration>

Mr. Yale-Loehr was quoted by the *Albany Times-Union* in "Asylum-Seekers Face Barriers in Legal Process in New York." Mr. Yale-Loehr said, "Not everyone who applies for asylum will get it. All of immigration law is decided on a case-by-case basis and so you cannot make generalizations." He added that having a good attorney can help, but that for many recent arrivals, securing affordable legal representation will be difficult, with legal service providers in New York already saying they have reached their limits. More generally, he noted that there have not been significant reforms to the U.S. immigration system since the 1990s. "The world has changed, but our immigration system has not. So the whole system is clogged and that poses problems." Mr. Yale-Loehr said that the shortage of immigration lawyers across New York, especially those who do pro bono work, is a challenge, and legal representation is not guaranteed. <https://www.timesunion.com/state/article/asylum-seekers-new-york-happens-next-18130937.php>

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Government Agency Links

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

USCIS case processing times online: <https://egov.uscis.gov/processing-times/>

Department of State Visa Bulletin: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.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 445 member lawyers and their more than 1,100 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 <https://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.

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