

# IMMIGRATION INSIDER

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## Headlines:

**Boycott Florida? Truckers Protest New Law** – According to reports, some Latino truckers are threatening to boycott Florida over its passage of a new law. FL 1718, effective July 1, 2023, imposes new penalties and restrictions on undocumented persons and their employers.

**State Dept. Updates Diversity Visa 2024 Guidance on Document Submission** – For the Diversity Visa (DV) program for fiscal year 2024 (DV-2024) and onward, selectees only need initially to submit to the Kentucky Consular Center the DS-260 immigrant visa application form for themselves and any accompanying family members.

**OFLC Solicits Input for Annual Determination of Labor Supply States** – To make a determination regarding labor supply and the positive recruitment needed to reach qualified workers within a state, the Office of Foreign Labor Certification Administrator requests information from the public regarding the availability of qualified workers and the appropriate, effective means of recruiting those workers.

**Filing Location and Documentation Requirements Changed for Certain Affirmative Asylum Applications** – U.S. Citizenship and Immigration Services has changed the filing location and documentation requirements for certain affirmative asylum applications, and will soon release an updated Form I-589, Application for Asylum and for Withholding of Removal.

**Labor Dept. Requests Comments on Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers** – The Department of Labor invites public comments on the information collection request by June 30, 2023.

**USCIS Releases Filing Tips for Supporters and Beneficiaries of Uniting for Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans** – U.S. Citizenship and Immigration Services (USCIS) released filing tips for supporters and beneficiaries of Uniting for Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans. USCIS said it has been receiving many duplicate filings of Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, and related inquiries.

**'Devastating' Florida Law Imposes Wide-Ranging Restrictions, New Requirements for Employers** – The new law includes many provisions related to employers, including, for example, mandatory E-Verify for private employers with more than 25 employees.

**State Dept. Delays Effective Date of Consular Fee Rule** – The Department of State is delaying until June 17, 2023, the effective date of its rule raising consular fees for most nonimmigrant visas and special visas.

**OFLC Announces ETA 9089 Case Submission for PERM in FLAG, Requires New Application Form/Process as of June 1** – On May 26, 2023, the Department of Labor's Office of Foreign Labor Certification announced Form ETA 9089 case submission for PERM in the Foreign Labor Application Gateway, and related technical guidance.

**ICE Reminds SEVIS Users About Updated Visa Issuance Guidance and Fee Increase** – U.S. Immigration and Customs Enforcement issued a broadcast message to all Student and Exchange Visitor Information System users to remind them about updated visa issuance guidance and a fee increase. The fee for student and exchange visitor visas will increase from \$160 to \$185 on June 17, 2023.

**Biden Administration Publishes Final Rule on Asylum Ineligibility, Seeks Comments** – The Departments of Homeland Security and Justice published a final rule, "Circumvention of Lawful Pathways," effective May 11, 2023.

**USCIS Updates Review Process for Cubans, Haitians, Nicaraguans, and Venezuelans** – U.S. Citizenship and Immigration Services (USCIS) announced an updated process for granting advance travel authorization for up to 30,000 noncitizen Cubans, Haitians, Nicaraguans, and Venezuelans each month to come to the United States to seek parole on a case-by-case basis. USCIS said that due to high interest, it updated the review process effective May 17, 2023.

**OFLC Releases Program Statistics, Data, H-2B Labor Recruiter List** – The Department of Labor's Office of Foreign Labor Certification has released public disclosure data and selected program statistics, and updated its H-2B labor recruiter list.

**EOIR Announces 19 New Immigration Judges** – The Department of Justice's Executive Office for Immigration Review announced the appointment of 19 immigration judges, including one assistant chief immigration judge, to immigration courts in Arizona, California, Illinois, Louisiana, Massachusetts, New York, and Texas.

**As Title 42 Expired, Biden Administration Released Final Rule on Asylum Ineligibility, Fact Sheet on 'Additional Sweeping Measures'; Challenges Emerge** – The Departments of Homeland Security (DHS) and Justice released a final rule, "Circumvention of Lawful Pathways," effective May 11, 2023. DHS and the Department of State also released a related fact sheet.

**June Visa Bulletin Reports India Employment-Based Retrogressions** – The Department of State's Visa Bulletin for June 2023 reports a retrogression for the India EB-5 category and a likely retrogression soon for the India EB-3 category.

**OFLC Postpones Date for Submitting Revised PERM and CW-1 Forms in FLAG** – The Department of Labor's Office of Foreign Labor Certification is postponing to June 1, 2023, the date for filers to begin submitting the new, revised applications for permanent employment certification and CW-1 applications for temporary employment certification in the Foreign Labor Application Gateway system.

**CBP No Longer Requires Proof of Vaccination for Air Travelers** – As has been recently reported, U.S. Customs and Border Patrol's Carrier Liaison Program announced that the COVID-19 vaccination requirement for noncitizen nonimmigrant air travelers was terminated as of May 12, 2023.

**CDC Updates COVID-19 Vaccination Requirements for Civil Surgeons** – On May 12, 2023, the Centers for Disease Control and Prevention updated guidance on COVID-19 vaccination requirements for civil surgeons.

**CIS Ombudsman Releases Tips on Avoiding Delays for F-1 Students Seeking OPT** – The Office of the Citizenship and Immigration Services Ombudsman released tips on how F-1 students seeking Optional Practical Training can avoid delays in processing the Form I-765, Application for Employment Authorization.

**ABIL Global: Canada** – Housing shortages have led to political pressures and a new law and regulations that could have a chilling effect on the ability of employers to attract foreign talent.

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## Boycott Florida? Truckers Protest New Law

According to reports, some Latino truckers are threatening to boycott Florida over its passage of a new law. FL 1718, effective July 1, 2023, imposes new penalties and restrictions on undocumented persons and their employers. Among other things, it imposes new E-Verify requirements and specifies that certain driver's licenses and permits issued by other states exclusively to "unauthorized immigrants" are not valid in Florida.

### Details:

- "Truckers Threaten to Boycott Florida Over Immigration Law," NewsNation (May 16, 2023). <https://www.newsnationnow.com/us-news/immigration/truckers-threaten-to-boycott-florida-over-immigration-law/>
- "'My Truck Won't Move.' Are Truckers Boycotting Florida Over DeSantis' New Immigration Law?," Tallahassee Democrat (May 19, 2023). <https://www.tallahassee.com/story/news/politics/2023/05/15/florida-trucker-boycott-floridas-strict-new-immigration-law-draws-response/70217625007/>
- FL 1718. <https://m.flsenate.gov/Session/Bill/2023/1718/BillText/er/PDF>

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## State Dept. Updates Diversity Visa 2024 Guidance on Document Submission

The Department of State (DOS) announced on May 30, 2023, that for the Diversity Visa (DV) program for fiscal year 2024 (DV-2024) and onward, selectees only need initially to submit to the Kentucky Consular Center (KCC) the DS-260 immigrant visa application form for themselves and any accompanying family members. Once a DS-260 is received from the selectee, KCC will review it for completeness and process the data contained in both the application and the entry. After that, the case will be eligible to be scheduled for a visa interview if the selectee's visa case number is current as reflected in the Visa Bulletin, DOS said.

All [supporting documents](#) for DV-2024 selectees will be collected and evaluated in connection with the interview at the embassy or consulate where the visa application is made. DOS said it strongly encourages applicants to be prepared to demonstrate eligibility for the visa at the time of interview by bringing all required documents, which differ by country.

### Details:

- Diversity Visa 2024 Update (May 30, 2023). <https://travel.state.gov/content/travel/en/News/visas-news/diversity-visa-2024-update.html>

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## OFLC Solicits Input for Annual Determination of Labor Supply States

The 2022 H-2A Final Rule, effective November 14, 2022, implemented a new process for the Department of Labor's Office of Foreign Labor Certification (OFLC) Administrator's determination of labor supply states (i.e., additional states in which an employer's job order will be circulated and, if appropriate, where additional recruitment may be required). Under that rule, the OFLC Administrator will gather and review public input annually about labor supply and related recruitment mechanisms and will publish a labor supply state determination on the OFLC website. The labor supply state determination will become effective on the date of publication for employers who have not begun recruitment after receiving a Notice of

Acceptance. It will remain valid until the OFLC Administrator publishes a new determination on the website.

To make a determination regarding labor supply and the positive recruitment needed to reach qualified workers within a state, the OFLC Administrator requests information from the public regarding the availability of qualified workers and appropriate, effective means of recruiting those workers. Information the OFLC said could be helpful includes, for example:

- The type of qualified workers available (e.g., tomato harvest workers);
- The state and area within the state where the workers may be found (e.g., city, county, regional non-metropolitan area);
- The methods for apprising the workers of a job opportunity (e.g., local newspaper or periodical, posting with a particular community organization engaged with those workers); and/or
- Contact information for the person or entity to be contacted to conduct the recommended recruitment activity.

OFLC seeks this information by July 31, 2023. OFLC will only consider electronic submissions to [H2ALaborSupply@dol.gov](mailto:H2ALaborSupply@dol.gov).

#### Details:

- OFLC notice. <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to May 31, 2023).

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## **Filing Location and Documentation Requirements Changed for Certain Affirmative Asylum Applications**

U.S. Citizenship and Immigration Services (USCIS) has changed the filing location and documentation requirements for certain affirmative asylum applications, and will soon release an updated Form I-589, Application for Asylum and for Withholding of Removal.

### **New Filing Location Details**

USCIS has changed the filing location for certain affirmative asylum applications submitted by mail. Applicants should now mail Form I-589 to the lockbox that has jurisdiction over their place of residence, instead of to the service center. If filing by mail, an applicant should file at the appropriate lockbox location to ensure timely receipt of the application. However, USCIS said it will accept Forms I-589 submitted to a service center "until we formalize this change through a Federal Register notice." See the "Where to File" section of the [Form I-589 webpage](#) to learn where to file the application.

Applicants who submit a properly filed Form I-589 to a lockbox will receive two notices: (1) acknowledgement that the lockbox has received and forwarded the Form I-589 to USCIS; and (2) after USCIS accepts the application, a standard Form I-589 receipt notice. Both notices will include the same receipt date that is used to determine eligibility for employment authorization based on a pending asylum application and for purposes of the one-year filing deadline, USCIS said.

The following categories of affirmative asylum applicants must continue to mail their asylum applications directly to the Asylum Vetting Center, following the instructions on the Form I-589 page, USCIS said:

- Loss of Derivative Status After Asylum Approval but Before Adjustment of Status (Nunc Pro Tunc)

- Loss of Derivative Status After Initial Filing but Before Final Decision
- Simultaneous Filing as a Principal Applicant and a Derivative Applicant
- Previously Issued a Final Action by USCIS on a Form I-589
- Previously in Immigration Court Proceedings

USCIS noted that online filing is also [available](#) and encouraged for affirmative asylum applicants who are not in immigration court proceedings and who do not have to submit their applications to the Asylum Vetting Center as indicated above.

### **New Form I-589 and Documentation Requirements**

USCIS has published a new edition of Form I-589, dated 03/01/23. Starting July 31, 2023, USCIS will accept only the 03/01/23 edition of the form. Until then, the agency will continue to accept the 10/12/22 edition of Form I-589.

Effective immediately, when submitting the Form I-589, an applicant no longer needs to submit a passport-style photo, multiple copies of the form, or multiple copies of the supporting documentation. See the [Instructions for Form I-589](#) for more information.

#### Details:

- USCIS alert (May 31, 2023). <https://www.uscis.gov/newsroom/alerts/uscis-changes-filing-location-and-documentation-requirements-for-certain-affirmative-asylum>

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### **Labor Dept. Requests Comments on Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers**

The Department of Labor (DOL) is submitting to the Office of Management and Budget for review and approval an Employment and Training Administration (ETA)-sponsored information collection request (ICR) for attestations for employers seeking to employ H-2B nonimmigrant workers. DOL invites public comments on the ICR by June 30, 2023.

The ICR supports the temporary final rule, "Exercise of Time-Limited Authority to Increase the Numerical Limitation for FY 2023 for H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking to Change Employers," which is being promulgated by DOL and the Department of Homeland Security (DHS).

#### Details:

- DOL notice of availability, 88 Fed. Reg. 34896 (May 31, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-05-31/pdf/2023-11454.pdf>

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### **USCIS Releases Filing Tips for Supporters and Beneficiaries of Uniting for Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans**

U.S. Citizenship and Immigration Services (USCIS) released filing tips for supporters and beneficiaries of Uniting for Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans. USCIS said it has received many duplicate filings of Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, and related inquiries. Some potential supporters are filing multiple Forms I-134A for the same beneficiary. "This adds to our workload, which delays processing," USCIS said, noting that potential supporters who wish to support more than one beneficiary must file one Form I-134A for each beneficiary.

USCIS also has been receiving many Forms I-134A with multiple typos and errors, which also slows processing. Common mistakes include misspelling the beneficiary's name, incorrect dates of birth, incorrect passport numbers, and incorrect email addresses.

As of January 6, 2023, potential supporters must use the new Form I-134A, instead of Form I-134, Declaration of Financial Support. Those who filed before January 6 do not need to submit a new form.

#### Details:

- USCIS notice (May 2, 2023). <https://www.aila.org/infonet/uscis-provides-filing-tips-for-supporters>

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### **'Devastating' Florida Law Imposes Wide-Ranging Restrictions, New Requirements for Employers**

FL 1718, effective July 1, 2023, was signed into law by Gov. Ron DeSantis. The legislation specifies that certain driver licenses and permits issued by other states exclusively to "unauthorized immigrants" are not valid in Florida; requires certain hospitals to collect patient immigration status information on admission or registration forms; and requires the Department of Economic Opportunity to enter an order and require repayment of economic development incentives if the department finds or is notified that an employer has knowingly employed an unauthorized person without verifying the employment eligibility of such person, among other provisions.

The new law includes many provisions related to employers. For example, it:

- Requires an employer to verify a new employee's employment eligibility within 3 business days after the first day the new employee begins working for pay;
- Requires public agencies to use the E-Verify system to verify a new employee's employment eligibility;
- Requires private employers with more than 25 employees to use the E-Verify system to verify a new employee's employment eligibility;
- Requires employers to certify use of the E-Verify system on unemployment compensation or reemployment assistance system returns;
- Requires employers to use a certain form if the E-Verify system is unavailable;
- Requires employers to retain specified documentation for a certain number of years;
- Prohibits an employer from continuing to employ an unauthorized noncitizen after obtaining knowledge that a person is or has become unauthorized, with an exception;
- Authorizes specified persons or entities to request, and requires an employer to provide, copies of specified documentation;
- Requires a public agency to require in any contract that a contractor or subcontractor register with and use the E-Verify system;
- Prohibits a public agency, contractor, or subcontractor from entering into a contract unless each party to the contract registers with and uses the E-Verify system; and

- Requires the Florida Department of Economic Opportunity to impose fines against employers under certain circumstances.

The American Immigration Lawyers Association (AILA) noted that "while the full impact of FL 1718 on Florida residents is difficult to quantify, its impact on the state's economy is likely to be devastating." AILA cited a [2019 report](#) by the Migration Policy Institute estimating that more than 700,000 undocumented individuals are in the Florida workforce and that almost one in four workers in the construction industry are undocumented. Similarly, AILA noted, a 2021 report by the [New American Economy Research Fund](#) estimated that approximately 42 percent of Florida's farmworkers are undocumented.

The National Immigration Forum said the legislation "is likely to have a detrimental effect on Florida residents and institutions, including the state's faith community, health care industry, and businesses."

#### Details:

- FL 1718. <https://m.flsenate.gov/Session/Bill/2023/1718/BillText/er/PDF>
- AILA statement (May 22, 2023). <https://www.aila.org/infonet/fl-1718-florida-anti-immigrant-legislation>
- "Florida's Immigration Enforcement Legislation: Five Key Concerns," National Immigration Forum. <https://immigrationforum.org/article/floridas-immigration-enforcement-legislation-five-key-concerns/>
- Statement From Ron DeSantis. <https://flgov.com/2023/05/10/governor-ron-desantis-signs-strongest-anti-illegal-immigration-legislation-in-the-country-to-combat-bidens-border-crisis/>

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### **State Dept. Delays Effective Date of Consular Fee Rule**

The Department of State (DOS) is delaying until June 17, 2023, the effective date of its rule raising consular fees for most nonimmigrant visas and special visas, published on March 28, 2023. DOS said this was to "provide for a 60-day delay in the effective date after receipt of the final rule in the Congress."

Under the final rule, most consular service fees will be raised, although the fee increases are smaller than those proposed in the notice of proposed rulemaking due to revised projections for fiscal year (FY) 2022–2024 demand, DOS said.

Below are the adjustments that DOS will implement under the final rule:

- The application processing fee for non-petition-based nonimmigrant visas (NIVs) (except the E category) will increase from \$160 to \$185.
- The application processing fee for H, L, O, P, Q, and R category NIVs will increase from \$190 to \$205.
- The processing fee for Border Crossing Cards for Mexican citizens aged 15 and over will increase from \$160 to \$185.
- The fee for E category NIVs will increase from \$205 to \$315.

- The fee for the exchange visitor waiver of two-year residency requirement will stay at \$120, instead of the proposed \$510.

#### Details:

- DOS final rule, delay of effective date, 88 Fed. Reg. 34084 (May 26, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-05-26/pdf/2023-11420.pdf>
- DOS final rule, 88 Fed. Reg. 18243 (Mar. 28, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-03-28/pdf/2023-06290.pdf>

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### **OFLC Announces ETA 9089 Case Submission for PERM in FLAG, Requires New Application Form/Process as of June 1**

On May 26, 2023, the Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) announced Form ETA 9089 case submission for PERM in the Foreign Labor Application Gateway (FLAG), and related technical guidance.

OFLC had previously announced a delay to the date on which it would transition PERM submission and processing to FLAG and concurrently implement the revised Form ETA 9089 (now June 1, 2023). In response to stakeholder requests, OFLC used the delay to work with DOL's Office of the Chief Information Officer to provide filers the option to link prevailing wage determinations to a PERM application where users no longer have access to the FLAG account from which the prevailing wage request was submitted. Information and guidance on how to use this option is in the addendum to the Form ETA 9089 User Guide on the [PERM program page](#) on FLAG.

OFLC noted that filers have been able to use FLAG's case creation functionality in the PERM module since April 24, 2023. OFLC has received and reviewed numerous help desk inquiries about filing the revised version of Form ETA 9089. OFLC reminded users that it does not provide case-specific guidance on filing procedures and said it "strongly encourages all applicants to review the PERM regulations, the frequently asked questions (FAQs), and the Instructions to the Form ETA 9089 for general guidance. OFLC will continue to review received Help Desk inquiries and will provide additional guidance in the form of new FAQs."

OFLC said one question has been so common that OFLC believes it should be addressed before full deployment of the PERM module in FLAG "to prevent confusion when filers try to submit PERM applications":

**Q: I'm filling out work experience in Appendix A.E - Foreign Worker Work Experience. What should I enter for the "end date" when the worker is presently working for the employer?**

A: You can enter the current month and year for when you're completing the application. Make sure to select "Yes" to question 1.j. Present.

OFLC added the notice below that users see when they log into their PERM accounts:

Effective May 31, 2023, 7:00 PM Eastern Standard Time, the Office of Foreign Labor Certification will not accept the previous version of Form ETA-9089 electronically or submitted by non-electronic methods (mail, email, or fax). All new versions of Form ETA-9089 must be submitted electronically in the Foreign Labor Application Gateway (FLAG) system after 6:59 PM on May 31, 2023, or by mail with a postmark date June 1, 2023 or later. Go to <https://www.dol.gov/agencies/eta/foreign-labor> for additional information.



### Details:

- OFLC announcements. <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to May 26, 2023).

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## **ICE Reminds SEVIS Users About Updated Visa Issuance Guidance and Fee Increase**

U.S. Immigration and Customs Enforcement (ICE) issued a broadcast message to all Student and Exchange Visitor Information System (SEVIS) users to remind them about updated visa issuance guidance and a fee increase.

The message notes that in February 2023, the Department of State (DOS) provided updated guidance that consular officers can now issue an F or M student visa up to 365 days before an international student's program start date. The message notes that students can only enter the United States 30 days before the program start date listed on their Form I-20: "Students who attempt to enter the United States more than 30 days before their program start date may be found inadmissible by U.S. Customs and Border Protection." The message includes details on what students and school officials should confirm before a student arrives at a U.S. port of entry.

The message also reminded SEVIS users that the fee for student and exchange visitor visas would increase from \$160 to \$185 on May 30, 2023, but a separate rule from the Department of State delayed implementation of this fee increase to June 17, 2023.

### Details:

- ICE Broadcast Message: "U.S. Department of State Provides Updated Visa Issuance Guidance," No. 2305-01 (May 2, 2023). <https://www.ice.gov/doclib/sevis/pdf/bcm2305-01.pdf>
- "U.S. Department of State Guidance on Visa Issuance FAQ" (n.d.) [https://www.ice.gov/doclib/sevis/pdf/VisaGuidance\\_FAQ.pdf](https://www.ice.gov/doclib/sevis/pdf/VisaGuidance_FAQ.pdf)
- DOS guidance (Feb. 21, 2023). <https://travel.state.gov/content/travel/en/us-visas/study/student-visa.html>
- "Publication of Final Rule on Nonimmigrant Visa Fee Increases," DOS press release (Mar. 28, 2023). <https://www.state.gov/publication-of-final-rule-on-nonimmigrant-visa-fee-increases/>

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## **Biden Administration Publishes Final Rule on Asylum Ineligibility, Seeks Comments**

On May 16, 2023, the Departments of Homeland Security (DHS) and Justice (DOJ) published a final rule released on May 10, 2023, "Circumvention of Lawful Pathways," which was effective May 11, 2023. The rule introduces a rebuttable presumption of asylum ineligibility for "certain noncitizens who neither avail themselves of a lawful, safe, and orderly pathway to the United States nor seek asylum or other protection in a country through which they travel." The rule applies "only to those who enter during a limited, specified date range at the southwest land border or adjacent coastal borders."

The Departments request comments by June 15, 2023, on whether the rebuttable presumption should extend to noncitizens who enter the United States at a maritime border without documents during the same temporary time period.

#### Details:

- "Circumvention of Lawful Pathways," joint DHS-DOJ final rule, 88 Fed. Reg. 31314 (May 16, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-05-16/pdf/2023-10146.pdf>

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### **USCIS Updates Review Process for Cubans, Haitians, Nicaraguans, and Venezuelans**

On May 18, 2023, U.S. Citizenship and Immigration Services (USCIS) announced an updated process for granting advance travel authorization for up to 30,000 noncitizen Cubans, Haitians, Nicaraguans, and Venezuelans each month to come to the United States to seek parole on a case-by-case basis. USCIS said that due to high interest, it updated the review process effective May 17, 2023.

USCIS noted that the number of supporters who have submitted [Form I-134A, Online Request to be a Supporter and Declaration of Financial Support](#), is "significantly higher than the 30,000 monthly travel authorizations available." Under the new review process, USCIS will randomly select about half of the monthly total, regardless of filing date, from the entire pending workload of Forms I-134A to determine whether the case can be confirmed. USCIS will review the other half of the monthly total of Forms I-134A "based on when the case was submitted under the first-in, first-out method, which prioritizes the oldest Forms I-134A for review."

#### Details:

- USCIS alert (May 18, 2023). <https://www.uscis.gov/newsroom/alerts/uscis-updates-review-process-for-the-processes-for-cubans-haitians-nicaraguans-and-venezuelans>

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### **OFLC Releases Program Statistics, Data, H-2B Labor Recruiter List**

The Department of Labor's Office of Foreign Labor Certification (OFLC) has released public disclosure data and selected program statistics, and updated its H-2B labor recruiter list:

#### **Statistics/Data**

The public disclosure data and program statistics were drawn from employer applications requesting prevailing wage determinations and labor certifications for the PERM, LCA (H-1B, H-1B1, E-3), H-2A, H-2B, CW-1, and Prevailing Wage programs. The public disclosure files include all final determinations OFLC issued for these programs during the October 1, 2022, through March 31, 2023, reporting period of fiscal year 2023. OFLC has also released selected program statistics for the first quarter of fiscal year 2023 for the PERM, LCA (H-1B, H-1B1, E-3), H-2A, H-2B, CW-1, and Prevailing Wage programs.

#### **H-2B Labor Recruiter List**

The updated list of foreign labor recruiters for the H-2B program includes the name and location of persons or entities identified on Appendix C of the Form ETA-9142B that were hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their H-2B applications. The H-2B Foreign Labor Recruiter List includes only those names and locations associated with H-2B applications that were processed or issued a final decision during October 1, 2022, through March 31, 2023.

### Details:

- OFLC announcement. <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to May 15, 2023).

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## **EOIR Announces 19 New Immigration Judges**

On May 12, 2023, the Department of Justice's Executive Office for Immigration Review (EOIR) announced the appointment of 19 immigration judges, including one assistant chief immigration judge, to immigration courts in Arizona, California, Illinois, Louisiana, Massachusetts, New York, and Texas.

Attorney General Merrick B. Garland appointed Rhana Ishimoto as an assistant chief immigration judge and the following individuals as immigration judges: Maria T. Baldini-Potermín, Vicenta I. Banuelos-Rodríguez, Patrick D. Barrett, Elisa C. Brasil, Yul-mi Cho, Roger H. Dinh, Colin P. Eichenberger, Gabrielle D. Jones, Hannah B. Kubica, Kalenna Lee, Katie G. Mullins, Angela Munro, Nicolas Orechwa, Adrian N. Roe, Lucero M. Saldana Mistry, Jacob J. Stender, Abdias E. Tida, and Jami L. Vigil.

Individuals interested in these positions are invited to sign up for job alerts that are sent when new immigration judge job opportunities become available.

### Details:

- EOIR notice (includes biographical information on each appointee) (May 12, 2023). <https://tinyurl.com/yskxjs7j>

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## **As Title 42 Expired, Biden Administration Released Final Rule on Asylum Ineligibility, Fact Sheet on 'Additional Sweeping Measures'; Challenges Ensur**

The Departments of Homeland Security (DHS) and Justice (DOJ) released a final rule on May 10, 2023, "Circumvention of Lawful Pathways," which was effective May 11, 2023, and published May 16, 2023. DHS and the Department of State (DOS) also released a related fact sheet.

### **DHS/DOJ Final Rule**

The rule introduces a rebuttable presumption of asylum ineligibility for "certain noncitizens who neither avail themselves of a lawful, safe, and orderly pathway to the United States nor seek asylum or other protection in a country through which they travel." The rule "will apply only to those who enter during a limited, specified date range at the southwest land border or adjacent coastal borders." Specifically, the rule applies to noncitizens who enter the United States without authorization from Mexico at the southwest land border or adjacent coastal borders on or after the date of termination of the Title 42 public health order, May 11, 2023, and before a specified date 24 months from the rule's effective date. However, the rule will continue to apply to such noncitizens who entered the United States during the 24-month timeframe in their Title 8 proceedings and in any subsequent asylum applications, except for those applications filed after the two-year period by those who entered the United States as minors and who apply as principal applicants, the rule states.

The Departments requested comments on whether applicability of the rebuttable presumption should be extended to noncitizens who enter the United States without documents sufficient for

lawful admission during the same temporary time period at a maritime border.

## DHS/DOS Fact Sheet

The DHS/DOS fact sheet, released May 10, 2023, announced "additional sweeping measures" to manage the border as part of the "comprehensive, multi-agency, multi-country plan to prepare for the return to processing migrants under Title 8 authorities." The measures include:

- Opening the first regional processing centers to direct individuals to lawful pathways, with eventual plans to open about 100 such centers in key locations in the Western Hemisphere;
- Deploying additional troops to support the Border Patrol at the southwest border;
- Surging additional resources to manage increased encounters;
- Expanding access to the CBPOne app and transitioning to a new appointment scheduling system;
- Implementing the final rule noted above; and
- Ramping up efforts to counter misinformation disseminated by smugglers.

In related news, a federal judge granted Florida's request for a temporary restraining order blocking the Biden administration's plan to release certain migrants on parole. Also, the American Civil Liberties Union and immigration groups sued to block the new asylum limits.

### Details:

- "Circumvention of Lawful Pathways," joint DHS-DOJ final rule (advance copy). <https://public-inspection.federalregister.gov/2023-10146.pdf>
- "Department of State and Department of Homeland Security Announce Additional Sweeping Measures to Humanely Manage Border through Deterrence, Enforcement, and Diplomacy," DHS fact sheet. <https://www.dhs.gov/news/2023/05/10/fact-sheet-additional-sweeping-measures-humanely-manage-border>
- "Federal Judge Blocks Biden Move to Release Migrants on 'Parole' Ahead of Title 42 End," The Hill (May 12, 2023). <https://thehill.com/regulation/court-battles/4001528-federal-judge-blocks-biden-move-to-release-migrants-on-parole/>
- *Florida v. Mayorkas*, temporary restraining order (May 11, 2023). <https://storage.courtlistener.com/recap/gov.uscourts.flnd.464923/gov.uscourts.flnd.464923.10.0.pdf>
- "ACLU Sues to Block New Asylum Restrictions," The Hill (May 12, 2023). <https://thehill.com/homenews/administration/4001833-aclu-sues-to-block-new-asylum-restrictions/>

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## June Visa Bulletin Reports India Employment-Based Retrogressions

The Department of State's (DOS) Visa Bulletin for June 2023 reports a retrogression for the India EB-5 category and a likely retrogression soon for the India EB-3 category:

Steady number use and high demand in the EB-3 category for India will most likely necessitate retrogression of the EB-3 final action date for India as early as next month to hold number use within the maximum allowed under the FY 2023 annual limit. This situation will be continually monitored, and any necessary adjustments will be made accordingly.

As readers were informed was possible in Item F of the May 2023 Visa Bulletin, it has become necessary to retrogress the EB-5 final action date for India effective in June. India's number use in the family and employment preference categories for FY 2023 is subject to prorating under INA § 202(e). Number use has been consistently robust throughout the fiscal year in the family and employment preference categories, and it has been determined that India is approaching its prorated limit for EB-5 numbers. Thus, applicants from India are subject to a final action date of 01APR17. This situation will be continually monitored, and any necessary adjustments will be made accordingly.

### Details:

- DOS Visa Bulletin for June 2023. <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2023/visa-bulletin-for-june-2023.html>

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## OFLC Postpones Date for Submitting Revised PERM and CW-1 Forms in FLAG

The Department of Labor's Office of Foreign Labor Certification (OFLC) postponed to June 1, 2023, the date for filers to begin submitting the new, revised applications for permanent employment certification and CW-1 applications for temporary employment certification in the Foreign Labor Application Gateway (FLAG) system.

### Details:

- OFLC announcement. <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to May 11, 2023).

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## CBP No Longer Requires Proof of Vaccination for Air Travelers

As has been recently reported, U.S. Customs and Border Patrol's (CBP) Carrier Liaison Program announced on May 11, 2023, that under a Presidential Proclamation, the COVID-19 vaccination requirement for noncitizen nonimmigrant air travelers was terminated as of May 12, 2023.

The rescission took effect for flights departing to the United States from a foreign country on or after 12:01 am ET on May 12, 2023. Noncitizen nonimmigrant air passengers no longer must show proof of being fully vaccinated with an accepted COVID-19 vaccine to board a flight to the United States, CBP said.

### Details:

- "Rescinding Requirement for Proof of Covid-19 Vaccination for All Airline or Other Aircraft Passengers Arriving into the United States From any Foreign Country," CBP (May 11, 2023). <https://www.aila.org/infonet/cbp-no-longer-requires-proof-covid-19-vaccination>
- "A Proclamation on Revoking the Air Travel COVID-19 Vaccination Requirement," White House (May 9, 2023). <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/05/09/a-proclamation-on-revoking-the-air-travel-covid-19-vaccination-requirement/>

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## **CDC Updates COVID-19 Vaccination Requirements for Civil Surgeons**

On May 12, 2023, the Centers for Disease Control and Prevention (CDC) updated guidance on its Immigrant, Refugee, and Migrant Health webpage on COVID-19 vaccination requirements for civil surgeons:

- The applicant must receive one dose of the COVID-19 vaccine if a dose is due at the time of the exam according to current CDC guidance. Additional doses are no longer required, and applicants do not have to postpone completion of the exam to complete the primary series of the COVID-19 vaccine.
- Applicants who have completed any approved primary COVID-19 series before the exam require no additional COVID-19 doses for immigration. Those who have not yet done so should receive a bivalent vaccine.
- Applicants who have received one or more doses but have not completed the primary series and are not yet due for the next dose in the series at the time of the exam should use the "Insufficient time interval between doses" blanket waiver.

[Details:](#)

- COVID-19 Vaccination Requirement, CDC (May 12, 2023). <https://www.cdc.gov/immigrantrefugeehealth/civil-surgeons/vaccinations.html# covid-19-vaccination>

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## **CIS Ombudsman Releases Tips on Avoiding Delays for F-1 Students Seeking OPT**

The Office of the Citizenship and Immigration Services (CIS) Ombudsman released tips on how F-1 students seeking Optional Practical Training (OPT) can avoid delays in processing the Form I-765, Application for Employment Authorization. The tips include:

- Check USCIS' website for updates before you submit Form I-765.
- Make sure Form I-20, Certification of Eligibility for Nonimmigrant Student Status, is signed, dated, and endorsed for employment authorization.
- Apply online.
- Submit Form I-765 within 30 days or 60 days of the Date Issued by the Designated School Official on the Form I-20.
- Submit a properly completed Form I-20 together with Form I-765 at the same time.
- Update your mailing address with both USCIS and the U.S. Postal Service (USPS)

[Details:](#)

- "How F-1 Students Seeking Optional Practical Training Can Avoid Form I-765 Delays," CIS Ombudsman. <https://www.dhs.gov/sites/default/files/2023-05/How%20F-1%20Students%20Seeking%20OPT%20Can%20Avoid%20Form%20I-765%20Delays.pdf>

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## **ABIL Global: Canada**

*Housing shortages have led to political pressures and a new law and regulations that could have a chilling effect on the ability of employers to attract foreign talent.*

Canada is welcoming more immigrants than ever before. Last year was a record year for processing immigration applications. In 2022, Canada welcomed a record-breaking 431,000 new permanent residents, surpassing the record of 405,000 set in 2021. This number is expected to grow to half a million by 2025. Canadians used to fear immigrants stealing their jobs, but these days some Canadians are concerned that newcomers will take their homes.

The housing shortage has become an acute problem, primarily due to a significant shortage of workers in construction and supporting trades, and a shortage of construction materials. The increase in both temporary and permanent newcomers is also fueling greater demand for housing, and in turn resentment and fear of newcomers.

The federal government could have addressed the housing shortage with sound immigration policy—specifically, to regularize those workers without status in Canada who were already working in construction trades, and to facilitate the selection of construction trade workers as temporary workers and new immigrants. Current immigration policy favors applicants with post-secondary education and strong English or French language skills, which most construction trade workers lack. Immigration Refugee Citizenship Canada (IRCC) might also have considered reducing the number of foreign students admitted to Canada as this category of temporary residents has ballooned since 2015, and many will not have a path to permanent residence in any event. The federal government seems to lack the political will to address many issues related to the foreign student program, likely because the foreign student industry is big business.

Instead, the government of Canada passed the *Prohibition On the Purchase of Residential Property by Non-Canadians Act* (the Act), a new law supposedly to help make more homes affordable for people living in Canada. This law has a serious negative implication for newcomers to Canada, in addition to seriously impeding the ability to attract talent to Canada to address labor shortages. The Act came into force on January 1, 2023, and prevents non-Canadians (those who are neither Canadian citizens nor permanent residents of Canada) from buying residential property in Canada for two years, including preventing non-Canadians from using corporate structures to avoid the prohibition. The Act defines residential property as buildings with three homes or fewer, as well as parts of buildings like a semi-detached house or a condominium unit. The law does not prohibit the purchase of larger buildings with multiple units. The Act includes a \$10,000 fine for any non-Canadian or anyone who knowingly assists a non-Canadian and is convicted of violating the Act. Further, if a court finds that a non-Canadian has done this, they may order the sale of the house.

Clearly the prohibition could have a chilling effect on the ability of Canadian businesses to attract foreign talent, especially when combined with provincial legislation that taxes the purchase of residential properties by foreign nationals. In Ontario, that tax is 25 percent of the value of the property, although the foreign national can apply for a tax rebate if they become a permanent resident within four years of making the purchase. The regulations under the Act set out specific exceptions. These exemptions included properties in very rural locations, but unfortunately few foreign workers and immigrants settle in rural areas. Initially, when enacted on

January 1, 2023, foreign workers who held a work permit or were authorized to work under section 186 of the Immigration Refugees Protection Regulations, and had worked in Canada a minimum of three years within the four years preceding the year in which the purchase was made, filed income tax returns, and had not purchased more than one residential property, were exempted.

A ban targeting foreign home buyers will not necessarily prevent speculation in real estate markets, especially since nonresidents only make up 2.2 percent of residential property owners in Ontario and 3.1 percent in British Columbia. Newcomers have to live somewhere, so if they are prohibited from buying a home, they will rent a house or apartment and potentially take up valuable living space for Canadians who may not be able to afford to buy and must rent. Rents in Canada have increased by 10 percent on average across Canada in the last year.

Amendments to the regulations allow more flexibility in certain circumstances. Work permit holders can now purchase residential property, for example, as long as they have 183 days or more of validity remaining on their work permit at the time of purchase and have not purchased more than one residential property. The initial requirements for tax filings and previous work experience in Canada were repealed. They are still subject to any applicable provincial tax.

For many foreign nationals living in Canada temporarily, becoming a permanent resident of Canada is a priority. Without permanent resident status, they may still be subject to the Act and/or provincial taxes. Typically, most foreign nationals do not qualify for permanent residence until they have worked in Canada for a Canadian company for at least one year. Further, there is no ability to apply for permanent residence at will; instead, applicants must be invited to apply for permanent residence by IRCC. Consequently, there is a great deal of uncertainty around qualifying and when to apply for permanent residence, which makes it difficult to provide newcomers with any assurance about their eligibility to buy residential property in Canada without restrictions. Foreign workers should seek legal advice from a Canadian lawyer about their eligibility for permanent residence soon after they arrive in Canada.

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## New Publications and Items of Interest

### 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](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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**Charles Foster** was awarded the title of "Dean Emeritus" by the Executive Committee of the Consular Corps of Houston for his services as interim and acting Dean of the Consular Corps of Houston in recent years. He is also the Honorary Consul-General of the Kingdom of Thailand. Mr. Foster is the chairman of **Foster LLP**. His law practice focuses primarily on representing multinational companies and foreign investors in U.S. immigration law matters.

**Charles Kuck** (bio: <https://www.abil.com/abil-lawyers/charles-kuck/>) authored a new blog post: "The Unintended Consequences of USCIS' New 'Family Reunification Program.'" <https://www.immigration.net/2023/05/17/the-unintended-consequences-of-uscis-new-family-reunification-program/>

**Mr. Kuck** was quoted by Atlanta News First in "Georgia Immigration Attorney Discusses Impacts of Title 42 Expiring." He discussed the processes in place for migrants arriving at the southern border, including being detained "for a hearing generally in a phone booth at a detention center," removal if they can't prove a credible fear of persecution if returned to their home countries, or asylum processing if they can prove a credible fear. "After they have filed their asylum application, they can file for a work permit...when that work permit comes, typically [for] about six months they can work. Which means that for these open jobs, employers here in Georgia [will] now have workers to do those jobs," he said. At the next court date, Mr. Kuck said, migrants "are required to bring evidence and if you don't have evidence other than a suspicious story, you're not going to win asylum." <https://www.atlantaneewsfirst.com/2023/05/10/georgia-immigration-attorney-discusses-impacts-title-42-expiring/>

**Mr. Kuck** was quoted by 11Alive in "Title 42 Ending, Georgia Getting Ready for Expected Increase in Migrants Across Southern Border." He said, "What will happen? You will see videos of lots of people coming to the border, thousands of them, because they've been lining up in Mexico for weeks in anticipation of the much built-up end of Title 42. And we will see a massive surge because the one thing that nobody is talking about is—why are there so many people at the border all of a sudden? And it's because we have unprecedented levels of refugee crises in Latin America that we've never seen in our history. So, the migrants are not generally Mexicans coming in. These are from Central and South America, where crises in their own countries are compelling them to come forward." He said that without Title 42 restrictions, "people will again start to be deported to their home countries. They're going to deport you back to Peru, or they're going to deport you back to Colombia. This enables that process. And that's the message that needs to be delivered to those countries. Desiring a better life is not asylum. You will not be allowed to stay in the U.S. if just wanting a better life is why you're coming to America." <https://www.11alive.com/article/news/local/georgia-prepares-for-additional-migrants/85-9f0e3835-e53f-486e-8398-edc2b19bdd8b>

**Cyrus Mehta** (bio: <https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) authored a new blog post: "Remembering Mark Von Sternberg Through Matter of Recinas." <http://blog.cyrusmehta.com/2023/05/remembering-mark-von-stenberg-through-matter-of-recinas.html>

**Mr. Mehta** and **Kaitlyn Box** co-authored several new blog posts: "Although Section H.10-B Has Disappeared in the New ETA-9089, Will Its Ghost Continue to Haunt Us?," <http://blog.cyrusmehta.com/2023/06/although-section-h-10-b-has-disappeared-in-the-new-eta-9089-will-its-ghost-continue-to-haunt-us.html>; "Kellogg Has Reared its Ugly Head in the New Labor Certification Fork: How Do We Deal With Alternate Requirements?," <http://blog.cyrusmehta.com/2023/05/kellogg-has-reared-its-ugly-head-in-the-new-labor-certification-form-how-do-we-deal-with-alternate-requirements.html>; and "Answering Tricky Questions on the Revised Labor Certification Form on Dual Representation and Familial Relationships," <http://blog.cyrusmehta.com/2023/05/answering-tricky-questions-on-the-revised-labor-certification-form-on-dual-representation-and-familial-relationships.html>

**Mr. Mehta** and **Jessica Paszko** co-authored a new blog post: "Termination in the Twilight Zone When the I-485 Application Has Been Pending for Less Than 180 Days."  
<http://blog.cyrusmehta.com/2023/05/termination-in-the-twilight-zone-when-the-i-485-application-has-been-pending-for-less-than-180-days.html>

**Bernard Wolfsdorf** (bio: <https://www.abil.com/abil-lawyers/bernard-wolfsdorf/>) and **Naveen Bhora** co-authored a new blog post: "DV Green Card Lottery Results Out. Hoorah!"  
<https://wolfsdorf.com/dv-green-card-lottery-results-out/>

**Stephen Yale-Loehr** (bio: <https://www.abil.com/abil-lawyers/stephen-yale-loehr/>) was quoted by CBS News in "Trump Vows to End Birthright Citizenship for Children of Undocumented Immigrants If He Wins in 2024." Mr. Yale-Loehr said, "Any executive action that a president might try to end birthright citizenship would be challenged in court and would be likely struck down as unconstitutional." He noted, however, that "it's pretty clear that, for political purposes, he thinks that this kind of announcement will appeal to his base. It shows that he has anti-immigration credentials. And most of his voters don't know or don't care about whether such an executive order would be legal." <https://www.cbsnews.com/colorado/news/trump-birthright-citizenship-children-unauthorized-immigrants/?intcid=CNM-00-10abd1h>

**Mr. Yale-Loehr** coauthored an op-ed in *The Hill* with **Jacob Hamburger**, an incoming visiting assistant professor at Cornell Law School. The op-ed, "To Address the Migration Crisis, State Governments Should Hire the Migrants," concerns the controversy over the migrant influx in New York City and other large cities. The op-ed suggests that states can and should employ recent migrant arrivals without violating federal immigration law. Mr. Yale-Loehr and Mr. Hamburger propose that states create a new Migrant Empowerment Corps, modeled after the Depression-era Civilian Conservation Corps. <https://thehill.com/opinion/immigration/4030557-to-address-the-migration-crisis-state-governments-should-hire-the-migrants/>

**Mr. Yale-Loehr** and **Jacob Hamburger** also coauthored an op-ed in *Slate*: "Biden Will Never Get Us Out of the Trump Era Like This." <https://slate.com/news-and-politics/2023/05/biden-immigration-asylum-border-title-forty-two-covid.html>

**Mr. Yale-Loehr** was quoted by *New York Daily News* in "Texas Judge Hears Arguments in Challenge to Revised DACA Policy." He predicted that if the Texas case makes it to the Supreme Court, the court would not issue a final ruling before June 2025: "Litigation takes time. No one should worry that the DACA program is going to end tomorrow."  
<https://www.nydailynews.com/news/politics/us-elections-government/ny-daca-challenge-texas-judge-hears-arguments-20230602-t7bo6xbinzbgxiw5vpse2ed6ue-story.html>

**Mr. Yale-Loehr** was quoted in a Weill Cornell Medicine press release about recent commentary in a medical journal that he coauthored calling for equal access to health care for Deferred Action for Childhood Arrivals recipients.  
<https://news.weill.cornell.edu/news/2023/06/commentary-calls-for-equal-access-to-healthcare-for-daca-recipients-and-all-immigrants> (a slightly different version was published in *Mirage News*: <https://www.miragenews.com/commentary-urges-equal-healthcare-access-for-1019415/>)

**Mr. Yale-Loehr** was quoted by Univision in "Biden Government Defends Family Separations at the Border in Court During Trump." Mr. Yale-Loehr said, "The forced separation of families during the Trump administration violated the due process rights of families. Many of them are now suing the United States government for damages. The forced separation also set a bad precedent, both for future presidents and for the leaders of other countries who might try the same thing." <https://www.univision.com/noticias/inmigracion/gobierno-biden-defiende-tribunales-separaciones-forzadas-trump-frontera> (Spanish)

**Mr. Yale-Loehr** was quoted by the *Washington Post* in "Tim Scott Hypes 'Terrorist Watch List' Border Crossings." Commenting on remarks by Republican presidential candidate Tim Scott that "hundreds of people" have been crossing the southern border into the United States, Mr. Yale-Loehr said that the phrase "crossing our borders" was an exaggeration. "They were caught at the border, either at a port of entry or between a port of entry. So perhaps 'caught attempting to cross the border' would be more accurate." He also noted that not everyone on the watch list is a terrorist. <https://www.washingtonpost.com/politics/2023/05/24/tim-scott-hypes-terrorist-watch-list-border-crossings/> (available by subscription)

**Mr. Yale-Loehr** was quoted by CNY Central in " 'We Welcome Immigrants,' Cornell Professor Says Influx of Migrants Could Improve Economy." Among other things, Mr. Yale-Loehr said, "I would say we welcome immigrants, we want them to come properly, we want them to come legally. I would co-sign Governor Hochul's letter to the federal immigration agency urging them to decide these work permit applications [more quickly], and I would also urge New York State to appropriate more money to help counties on immigration generally." He said that "the people need to think about the fact that these migrants are actually going to help the economies of upstate New York or wherever else. "We have a job shortage in New York State, and there are many jobs these migrants can do...we should be welcoming them with open arms." Video and article: <https://cnycentral.com/news/local/we-welcome-immigrants-cornell-professor-says-influx-of-migrants-could-improve-economy>

**Mr. Yale-Loehr** was quoted by the Associated Press in "Video Prompts False Claims That Soldier Allowed Migrants to Cross Border Illegally." Mr. Yale-Loehr dismissed as "ludicrous" claims that soldiers' actions that were videotaped in Eagle Pass, Texas, and widely circulated violated 8 U.S.C. §§ 1324 and 1327. He said § 1327 is a "rarely-used provision" prohibiting people from aiding certain criminal and subversive foreign nationals from entering the country, and § 1324, the other statute mentioned in comments posted on the video, penalizes people who "harbor" undocumented migrants. Mr. Yale-Loehr suggested the bus people were boarding was likely destined for the nearest Border Patrol station where the migrants would be screened, processed, and detained, as is the agency's protocol. They aren't simply being let free as claimed, he noted. "The video doesn't show any effort to harbor or hide undocumented migrants. Claims that federal officials are simply letting migrants enter the U.S. illegally are unfounded." <https://apnews.com/article/fact-check-immigration-border-texas-title-42-919121412226>

**Mr. Yale-Loehr** was interviewed by several media outlets about immigration policy changes:

- "Immigration Expert Expects New Asylum Policy to be Challenged in Court," Scripps News. Mr. Yale-Loehr said, "If you do enter the United States illegally, you will be presumed ineligible for asylum [under the new post-Title 42 Biden administration asylum rule] with certain limited exceptions. They want people instead to use this new CBP One app to schedule asylum interviews and then have the interviews at the ports of entry. So, they're hoping that by the combination of parole, the refugee processing centers, and the CBP One app, people will do things legally. And this new rule then penalizes those who try to enter the United States illegally." He also said "[w]e need to have an approach that realizes that we can only manage the border. We can't ever stop all illegal immigration, but we also need to have Congress enact more work visas so the people who do want to come to the United States temporarily can do so legally and won't be tempted to enter illegally." <https://www.10news.com/news/national/immigration-expert-expects-new-asylum-policy-to-be-challenged-in-court>
- "Migrant Crisis Explained: Where Do We Go From Here?," Fox 5 NY News. Mr. Yale-Loehr said, "Our immigration system has not changed, but the world has changed." He noted that there is no quick fix to asylum backlogs and border issues. "Yes, we do need to try to manage our border. The second prong would be to provide more work visas for people who do want to come and work so they can do so legally ... And the third prong

is to legalize the estimated 10 million people in the United States who lack authorization right now." <https://www.fox5ny.com/news/migrant-crisis-explained-where-do-we-go-from-here>

- A video of Mr. Yale-Loehr's remarks is at <https://www.10news.com/news/national/immigration-expert-expects-new-asylum-policy-to-be-challenged-in-court>

**Mr. Yale-Loehr** was quoted in several media outlets about the end of Title 42:

- "White House, States, Congress Look for Immigration Solutions as Title 42 Ends," United Press International. Mr. Yale-Loehr said, "Too many people will want to enter, and there won't be enough Border Patrol agents to prevent a surge of illegal entries." He said that just and comprehensive immigration reform, which is unlikely in the current sharply divided Congress, would include more work visas "so that people who want to work temporarily in the U.S. could enter legally rather than illegally." He also said he believes that the estimated 10 million undocumented people in the United States should be legalized "so that they can come out of the shadows." And, finally, he said effective border security must be realized: "It is like three legs of a stool: All three legs are necessary for effective reform." [https://www.upi.com/Top\\_News/US/2023/05/11/title-42-immigration/6881683740849/](https://www.upi.com/Top_News/US/2023/05/11/title-42-immigration/6881683740849/)
- "Biden Decides to Limit Access to Asylum at the Border With Mexico," Brazilian Mail (Correio Braziliense). Mr. Yale-Loehr explained that as part of the end of Title 42, the Biden administration is implementing a new rule under which anyone who enters the United States without authorization will be considered ineligible for asylum. "The authorities want people to use the new app, called CBP One, for scheduling asylum interviews at ports of entry. It's a way to legally apply for asylum," he said. Mr. Yale-Loehr predicted "chaos and confusion at the border at first." <https://www.correiobraziliense.com.br/mundo/2023/05/5093570-biden-decide-limitar-acesso-a-asilo-na-fronteira-com-o-mexico.html> (in Portuguese with English translation available)

**Mr. Yale-Loehr** was quoted by *BollyInside* in "Miami's Real Estate Community Concerned About Negative Effects of DeSantis-Supported Bills: 'This Will Be Painful.'" "Limiting the buying power of foreign nationals from several nations in the United States "could be a real blow to [the EB-5 immigrant investor] program," he said. <https://www.bollyinside.com/news/real-estate/miamis-real-estate-community-concerned-about-negative-effects-of-desantis-supported-bills-this-will-be-painful/>

Below are **ABIL Members and their partners/associates** listed in Who's Who Legal: Corporate Immigration 2023 (<https://whoswholegal.com/analysis/corporate-immigration-2023---legal-marketplace-analysis>):

## **EUROPE–MIDDLE EAST–AFRICA**

### **Global Elite Thought Leaders:**

Laura Devine – Laura Devine Immigration, London, UK

Ana Garicano – Sagardoy Abogados, Madrid, Spain

Gunther Mävers – michels.pmks Rechtsanwälte Partnerschaft mbB, Cologne, Germany

Marco Mazzeschi – Mazzeschi – Corporate Immigration and Citizenship Law, Milan, Italy

Nicolas Rollason – Kingsley Napley, London, UK

Karl Waheed – Karl Waheed Avocats, Paris, France

**Leading Firms:**

Kingsley Napley, London, UK  
Laura Devine Solicitors, London, UK  
Flynn Hodkinson, London, UK

**Other Leading Individuals:**

BELGIUM: Bernard Caris – Younity, Brussels, Belgium  
FRANCE: Karl Waheed – Karl Waheed Avocats, Paris, France  
GERMANY: Gunther Mävers – michels.pmks Rechtsanwälte Partnerschaft mbB, Cologne, Germany  
GERMANY: Bettina Offer – Offer & Mastmann, Frankfurt, Germany  
ITALY: Marco Mazzeschi – Mazzeschi – Corporate Immigration and Citizenship Law, Milan, Italy  
NETHERLANDS: Jelle Kroes – Kroes Advocaten Immigration Lawyers, Amsterdam, Netherlands  
SPAIN: Ana Garicano – Sagardoy Abogados, Madrid, Spain  
SWITZERLAND: Nina Perch-Nielsen – Blue Lake Legal, Zurich, Switzerland  
TURKEY: Maria Celebi – Bener Law Office, Istanbul, Turkey

**NORTH AMERICA****Global Elite Thought Leaders:**

Barbara Jo Caruso – Corporate Immigration Law Firm, Toronto, Canada  
Ronald Klasko – Klasko Immigration Law Partners, Philadelphia, United States  
Charles Kuck – Kuck Baxter Immigration, Atlanta, United States  
Cyrus Mehta – Cyrus D Mehta & Partners, New York, United States  
Angelo Paparelli – Los Angeles, United States  
Gregory Siskind – Siskind Susser, Memphis, United States  
William Stock – Klasko Immigration Law Partners, Philadelphia, United States  
Bernard Wolfsdorf – Wolfsdorf Rosenthal, Santa Monica, United States  
Stephen Yale-Loehr – Miller Mayer LLP, Ithaca, United States

**Leading Firms:**

Klasko Immigration Law Partners, United States  
Foster, United States  
Wolfsdorf Rosenthal, United States

**Other Leading Individuals:**

CANADA: Barbara Jo Caruso – Corporate Immigration Law Firm, Toronto, Canada  
U.S.: Cyrus Mehta – Cyrus D Mehta & Partners, New York, NY, United States  
U.S.: Charles Kuck – Kuck Baxter Immigration, Atlanta, GA, United States  
U.S.: Stephen Yale-Loehr – Miller Mayer LLP, Ithaca, NY, United States  
U.S.: Gregory Siskind – Siskind Susser, Memphis, TN, United States  
U.S.: Ira Kurzban – Kurzban Kurzban Tetzeli & Pratt, Coral Gables, FL, United States  
U.S.: Vincent Lau – Clark Lau, Boston, MA, United States  
U.S.: Vic Goel – Goel & Anderson, Reston, VA, United States  
U.S.: Marketa Lindt – Sidley Austin, Chicago, IL, United States  
U.S.: Rami Fakhoury – Fakhoury Global Immigration, Troy, MI, United States

**ASIA-PACIFIC****Global Elite Thought Leaders:**

Phillip Yip – Phillip Yip & Associates, Sydney, Australia

### **Other Leading Individuals:**

AUSTRALIA: Phillip Yip – Phillip Yip & Associates, Sydney, Australia

HONG KONG: Eugene Chow – Chow King & Associates, Wanchai, Hong Kong

### **LATIN AMERICA**

#### **Global Elite Thought Leaders:**

Ariel Orrego-Villacorta – AOV Abogados, Lima, Peru

#### **Other Leading Individuals:**

COLOMBIA: Rodrigo Tannus Serrano – Tannus & Asociados, Bogota, Colombia

PERU: Ariel Orrego-Villacorta – AOV Abogados, Lima, Peru

The following **ABIL members, and members of ABIL firms**, were listed in LawDragon's 2023 list of 100 leading immigration lawyers:

**Delisa Bressler** – Foster – Austin, TX

**Helene Dang** – Foster – Houston, TX

**Corina Farias** – Foster – Austin

**Charles Foster** – Foster – Houston, TX

**H. Ronald Klasko** – Klasko Immigration Law Partners – Philadelphia, PA

**Ira Kurzban** – Kurzban Kurzban – Coral Gables, FL

**Avalyn Langemeier** – Foster – Houston, TX

**Marketa Lindt** – Sidley – Chicago, IL

**Robert Loughran** – Foster – Austin, TX

**John Meyer** – Foster – Austin, TX

**Dorothee Mitchell** – Foster – Austin, TX

**Farshad Owji** – WR Immigration – San Francisco, CA

**Angelo Paparelli** – Vialto Law – Los Angeles, CA

**Jose Perez** – Foster – Houston

**John Pratt** – Kurzban Kurzban – Coral Gables, FL

**Edward Ramos** – Kurzban Kurzban – Coral Gables, FL

**Kimberley Best Robidoux** – WR Immigration – San Diego, CA

**William Stock** – Klasko Immigration Law Partners – Philadelphia, PA

**Helena Tetzeli** – Kurzban Kurzban – Coral Gables, FL

**Bernard Wolfsdorf** – WR Immigration – Santa Montica, CA

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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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