

IMMIGRATION INSIDER

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Headlines:

USCIS Reaches Cap for H-2B Additional Returning Worker Visas for First Half of FY 2023 – U.S. Citizenship and Immigration Services has received enough petitions to reach the cap for the additional 18,216 H-2B visas made available for returning workers for the first half of fiscal year 2023 with start dates on or before March 31, 2023.

Green Cards and Employment Authorization Documents Redesigned – U.S. Citizenship and Immigration Services has begun issuing newly designed permanent resident cards (green cards) and employment authorization documents. Unless otherwise noted, current cards remain valid until their expiration dates.

USCIS Clarifies Physical Presence Guidance for Asylees and Refugees Applying for Adjustment of Status – U.S. Citizenship and Immigration Services has clarified that an asylee or refugee must have been physically present in the United States for one year when USCIS adjudicates the Form I-485, Application to Register Permanent Residence or Adjust Status, rather than when the adjustment of status application is filed.

DOJ Raises Penalties Against Employers for Immigration-Related Violations – Penalty ranges have been increased for the unlawful employment of immigrants, certain immigration-related paperwork violations, and unfair employment practices.

CBP Proposes Additional Passenger Travel Document Requirements for Air Carriers – U.S. Customs and Border Protection (CBP) proposes to amend its regulations to incorporate additional commercial air carrier requirements that would enable CBP to determine, before an aircraft's departure from the United States or from a foreign port or place, whether each passenger is traveling with valid, authentic travel documents before the passenger boards the aircraft.

Initial Registration for FY 2024 H-1B Cap Opens March 1 – The initial registration period will run through noon ET on March 17, 2023.

Certain Asylum Applicants Can Now Apply for Work Authorization Online – Applicants for employment authorization under category (c)(8), Pending Asylum and Withholding of Removal Applicants and Applicants for Pending Asylum under the ABC Settlement Agreement, can now file Form I-765, Application for Work Authorization, online.

Green Card Validity Extended for Conditional Permanent Residents With a Pending I-751 or I-829 – U.S. Citizenship and Immigration Services is extending the validity of green cards for petitioners who properly file Form I-751, Petition to Remove Conditions on Residence, or Form I-829, Petition by Investor to Remove Conditions on Permanent Resident Status, for 48 months beyond the card's expiration date.

DHS Announces Measures for Haitians in United States: TPS, Special Student Relief – The Department of Homeland Security announced several measures to provide relief for Haitians in the United States, including temporary protected status and special student relief.

President Biden Extends and Expands DED Eligibility for Certain Hong Kong Residents – President Biden is extending Deferred Enforced Departure (DED) for an additional period of 24 months for residents of Hong Kong presently residing in the United States who were under a grant of DED until February 5, 2023, and is deferring enforced departure for other Hong Kong residents who arrived in the United States after the initial grant of DED, with several exceptions.

USCIS Extends COVID-19-Related Flexibilities Through March 23 – U.S. Citizenship and Immigration Services is extending certain COVID-19-related flexibilities through March 23, 2023.

New Settlement Agreement Helps H-4 and L-2 Dependent Spouses –U.S. Citizenship and Immigration Services has returned to a pre-Trump administration policy of adjudicating Form I-539, Application to Extend/Change Nonimmigrant Status and Form I-765, Application for Employment Authorization for H-4 and L-2 derivatives, along with the underlying Form I-129, Petition for Nonimmigrant Worker, when these forms are filed concurrently.

Visa Bulletin for February 2023 Includes Retrogressions in the Employment Third Preference 'Other Workers' Category, and 'Certain Religious Workers' Availability – The Department of State's Visa Bulletin for February 2023 has been released.

HHS Issues Poverty Guidelines for 2023 – The Department of Health and Human Services issued updated poverty income guidelines for 2023 to account for 2022's increase in prices as measured by the Consumer Price Index. The poverty guidelines are used as an eligibility criterion by a number of federal programs.

ICE Unintentionally Releases Information on 6,000 Noncitizens in Custody – U.S. Immigration and Customs Enforcement (ICE) announced that while performing routine website updates, it unintentionally posted a document on ICE.gov for about five hours that included names and other personally identifiable information (PII), along with immigration information, of approximately 6,000 noncitizens in ICE custody.

DOS Launches 'Welcome Corps' for Private Sponsorship of Refugees – The Department of State, in collaboration with the Department of Health and Human Services, announced the launch of "Welcome Corps," a new private sponsorship program to welcome refugees and support their resettlement and integration into the United States.

USCIS Provides Follow-Up Q&A on International Student Issues – U.S. Citizenship and Immigration Services provided questions and answers following a webinar presented by the Office of the Citizenship and Immigration Services Ombudsman on international student issues.

DHS Streamlines Deferred Action Process for Immigrant Workers Participating in Labor Enforcement Investigations – The Department of Homeland Security (DHS) announced on January 13, 2023, that noncitizen workers who are victims of or witnesses to a violation of labor rights can now access a streamlined and expedited deferred action request process.

Premium Processing To Expand for EB-1 and EB-2 Form I-140 Petitions and Certain Students and Exchange Visitors – U.S. Citizenship and Immigration Services is implementing the final phase of the premium processing expansion for Form I-140, Immigrant Petition for Alien Workers, under the EB-1 and EB-2 classifications. Also, in March and April, USCIS plans to expand premium processing to certain F-1 students and exchange visitors.

DHS Extends and Redesignates Somalia for TPS for 18 Months –DHS is extending temporary protected status (TPS) for Somalia for an additional 18 months, from March 18, 2023, through September 17, 2024. DHS also redesignated Somalia for TPS, allowing Somali nationals residing in the United States as of January 11, 2023, to apply.

Scheduling System for 'Safe, Orderly and Humane Border Processing' Goes Live –DHS announced that the new scheduling function in the CBP One™ mobile application is now live. Non-U.S. citizens located in Central or Northern Mexico who seek to travel to the United States may use U.S. Customs and Border Protection's app to submit information in advance and schedule an appointment to present themselves at certain southwest border land ports of entry.

Agencies Raise Penalties for Document Fraud and Employer Violations of the D-1, H-1B, H-2A, and H-2B Visa Programs – As required by the Inflation Adjustment Act, the Departments of Homeland Security and Labor have raised the amount of certain penalties.

Supreme Court Declines to Resurrect Trump-Era Public Charge Rule – On January 10, 2023, the Supreme Court declined to review a case, *Cook County, Illinois v. Mayorkas*, that sought to revive the Trump-era public charge rule.

DHS Makes Two Corrections to Proposed Fee Rule – DHS corrected two typos in fee amounts in the published version of its proposed fee rule.

ABIL Global: France – There is a new draft immigration bill under review. The remuneration thresholds have been updated after an increase in the minimum wage. ETIAS is provisionally targeted to deploy in November 2023. Management of the employer tax has been transferred.

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USCIS Reaches Cap for H-2B Additional Returning Worker Visas for First Half of FY 2023

U.S. Citizenship and Immigration Services (USCIS) announced that it has received enough petitions to reach the cap for the additional 18,216 H-2B visas made available for returning workers for the first half of fiscal year (FY) 2023 with start dates on or before March 31, 2023, under a recently announced H-2B supplemental cap temporary final rule. The agency continues to accept petitions for H-2B nonimmigrant workers for the additional 20,000 visas allotted for nationals of Haiti, El Salvador, Guatemala, and Honduras.

USCIS said it recently began accepting H-2B petitions under the December 15, 2022, temporary final rule that increased the cap by up to 64,716 additional H-2B nonimmigrant visas for FY 2023. Of the 64,716 additional visas, 44,716 were available only for returning workers. The remaining 20,000 visas are set aside for nationals of Haiti, El Salvador, Guatemala, and Honduras, who are exempt from the returning worker requirement.

Petitioners whose workers were not accepted for the 18,216 returning-worker allotment are encouraged to file under the Haiti, El Salvador, Guatemala, and Honduras allotment while visas remain available, USCIS said. As of January 26, 2023, USCIS had received petitions requesting 4,260 workers under the 20,000 visas set aside for those nationals.

USCIS said it will also continue to accept H-2B petitions for those who are exempt from the congressionally mandated cap. This includes petitions for:

- Current H-2B workers in the United States petitioning to extend their stay and, if applicable, change the terms of their employment or change their employers;
- Fish roe processors, fish roe technicians, and/or supervisors of fish roe processing; and
- Workers performing labor or services in the Commonwealth of Northern Mariana Islands and/or Guam (until December 31, 2029).

Details:

- "Cap Reached for Additional Returning Worker H-2B Visas for the First Half of FY 2023," USCIS, Jan. 31, 2023. <https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-first-half-of-fy-2023>
- "FY 2024 H-1B Cap Initial Registration Opens on March 1, USCIS, Jan. 27, 2023. <https://rb.gy/tzicqo>
- "H-1B Registration Process," USCIS. <https://rb.gy/yayggp>

- "DHS and DOL Announce Availability of Additional H-2B Visas for Fiscal Year 2023," Dec. 12, 2022. <https://www.uscis.gov/newsroom/news-releases/dhs-and-dol-announce-availability-of-additional-h-2b-visas-for-fiscal-year-2023>

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Green Cards and Employment Authorization Documents Redesigned

U.S. Citizenship and Immigration Services (USCIS) announced on January 30, 2023, that it has begun issuing newly designed permanent resident cards (green cards) and employment authorization documents (EADs). Current cards remain valid until their expiration dates (unless otherwise noted, such as through an automatic extension of a green card or EAD as indicated on a Form I-797, Notice of Action, or in a Federal Register notice).

Security-related changes include "improved detailed artwork; tactile printing that is better integrated with the artwork; enhanced optically variable ink; highly secure holographic images on the front and back of the cards; a layer-reveal feature with a partial window on the back photo box; and data fields displayed in different places than on previous versions," USCIS said.

USCIS noted that some green cards and EADs issued after January 30, 2023, may still display the existing design format because USCIS will continue using existing cardstock until current supplies are depleted. Both versions of the cards are acceptable for Form I-9, Employment Eligibility Verification; E-Verify; and Systematic Alien Verification for Entitlements (SAVE), USCIS said. Some older green cards do not have an expiration date. "These older Green Cards without an expiration date generally remain valid; however, USCIS encourages applicants with these older cards to consider applying for a replacement card to prevent fraud or tampering should the card ever get lost or stolen," the agency said.

Details:

- "USCIS Redesigns Green Card and Employment Authorization Document," Jan. 30, 2023. <https://www.uscis.gov/newsroom/news-releases/uscis-redesigns-green-card-and-employment-authorization-document>

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USCIS Clarifies Physical Presence Guidance for Asylees and Refugees Applying for Adjustment of Status

U.S. Citizenship and Immigration Services (USCIS) has clarified that an asylee or refugee must have been physically present in the United States for one year when USCIS adjudicates the Form I-485, Application to Register Permanent Residence or Adjust Status, rather than when the adjustment of status application is filed. This applies to all Form I-485 and Form N-400, Application for Naturalization, applications that were pending on February 2, 2023, and those filed on or after that date.

The guidance update also clarifies that asylee and refugee adjustment of status applicants previously admitted in J-1 or J-2 nonimmigrant status and otherwise subject to the two-year foreign residence requirement under Immigration and Nationality Act (INA) § 212(e) do not need to meet that two-year requirement (or obtain a waiver) to adjust their status under INA § 209.

Details:

- "USCIS Clarifies Physical Presence Guidance for Asylees and Refugees Applying for Adjustment of Status," Feb. 2, 2023. <https://www.uscis.gov/newsroom/alerts/uscis->

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DOJ Raises Penalties Against Employers for Immigration-Related Violations

The Department of Justice (DOJ) issued a final rule adjusting for inflation several immigration-related civil monetary penalties against employers assessed or enforced by DOJ components. Penalty ranges have been increased for the unlawful employment of immigrants, certain immigration-related paperwork violations, and unfair employment practices.

Details:

- "Civil Monetary Penalties Inflation Adjustments for 2023," DOJ Final Rule, 88 Fed. Reg. 5776 (Jan. 30, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-01-30/pdf/2023-01704.pdf>

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CBP Proposes Additional Passenger Travel Document Requirements for Air Carriers

U.S. Customs and Border Protection (CBP) proposes to amend its regulations to incorporate additional commercial air carrier requirements that would enable CBP to determine, before an aircraft's departure from the United States or from a foreign port or place, whether each passenger is traveling with valid, authentic travel documents before the passenger boards the aircraft. The proposed regulations would also require commercial air carriers to transmit additional data elements through CBP's Advance Passenger Information System (APIS) for all commercial aircraft passengers arriving, or intending to arrive, in the United States, "to support border operations and national security and safety."

Details:

- CBP proposed rule, 88 Fed. Reg. 7016 (Feb. 2, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-02-02/pdf/2023-02139.pdf>

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Initial Registration for FY 2024 H-1B Cap Opens March 1

U.S. Citizenship and Immigration Services (USCIS) announced that the initial registration period for the fiscal year (FY) 2024 H-1B cap will open at noon ET on March 1, 2023, and run through noon ET on March 17, 2023.

Prospective H-1B cap-subject petitioners or their representatives must use a myUSCIS online account to register each beneficiary electronically for the selection process and pay the associated \$10 H-1B registration fee for each registration. Prospective petitioners submitting their own registrations (U.S. employers and U.S. agents, collectively known as "registrants") will use a "registrant" account. Registrants can create new accounts beginning at noon ET on February 21, 2023. Representatives may add clients to their accounts at any time, but both representatives and registrants must wait until March 1 to enter beneficiary information and submit the registration with the \$10 fee, USCIS said. Prospective petitioners or their representatives can submit registrations for multiple beneficiaries in a single online session.

USCIS noted that the U.S. Department of the Treasury has approved a temporary increase in the daily credit card transaction limit from \$24,999.99 to \$39,999.99 per day for the FY 2024 H-

1B cap season. "This temporary increase is in response to the volume of previous H-1B registrations that exceeded the daily credit card limit," USCIS explained.

USCIS said it plans to notify account holders by March 31.

For FY 2023, USCIS received 483,927 H-1B registrations and initially selected 127,600 registrations projected as needed to reach the FY 2023 numerical allocations. For FY 2022, USCIS received 308,613 H-1B registrations and initially selected 87,500 registrations. USCIS conducted a second selection in July 2021 of an additional 27,717 registrations due to low filing volume from the initial selection. USCIS also conducted a third selection in November 2021 of an additional 16,753 registrations. This resulted in a total of 131,970 selected registrations for FY 2022. Many people think the number of initial registrants will be higher this year.

Details:

- USCIS alert, Jan. 27, 2023. <https://rb.gy/tzicqo>
- "H-1B Registration Process," USCIS. <https://rb.gy/yayggp>

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Certain Asylum Applicants Can Now Apply for Work Authorization Online

Applicants for employment authorization under category (c)(8), Pending Asylum and Withholding of Removal Applicants and Applicants for Pending Asylum under the ABC Settlement Agreement, can now file Form I-765, Application for Work Authorization, online.

To apply for an Employment Authorization Document (EAD) based on a pending asylum application under the (c)(8) eligibility category, the applicant may file Form I-765 150 days after filing the asylum application. The filing date is the date U.S. Citizenship and Immigration Services (USCIS) receives a properly filed Form I-589, Application for Asylum and Withholding of Removal. The date can be found on the receipt notice.

To file the Form I-765 online, an applicant must first create a USCIS online account. There is no cost to create an account.

Details:

- USCIS alert, Jan. 23, 2023. <https://www.uscis.gov/newsroom/alerts/asylum-applicants-can-now-file-form-i-765-online>

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Green Card Validity Extended for Conditional Permanent Residents With a Pending I-751 or I-829

U.S. Citizenship and Immigration Services (USCIS) is extending the validity of Permanent Resident Cards (green cards) for petitioners who properly file Form I-751, Petition to Remove Conditions on Residence, or Form I-829, Petition by Investor to Remove Conditions on Permanent Resident Status, for four years beyond the card's expiration date. This change started on January 11, 2023, for Form I-829 and on January 25, 2023, for Form I-751. Previously, these forms were valid for two years.

USCIS said it is making this change "to accommodate current processing times for Form I-751 and Form I-829, which have increased over the past year." USCIS has updated the language on Form I-751 and Form I-829 receipt notices to extend the validity of a green card for 48 months

for individuals with a newly filed Form I-751 or Form I-829. The agency said it will issue new receipt notices to eligible conditional permanent residents who previously received notices with an extension shorter than 48 months and whose cases are still pending. These receipt notices can be presented with an expired green card as evidence of continued status while the case remains pending with USCIS, the agency said: "By presenting your updated receipt notice with your expired Green Card, you remain authorized to work and travel for 48 months from the expiration date on the front of your expired Green Card."

Details:

- USCIS alert, Jan. 23, 2023. <https://www.uscis.gov/newsroom/alerts/uscis-extends-green-card-validity-for-conditional-permanent-residents-with-a-pending-form-i-751-or>

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DHS Announces Measures for Haitians in United States: TPS, Special Student Relief

The Department of Homeland Security (DHS) announced several measures to provide relief for Haitians in the United States, including temporary protected status (TPS) and special student relief.

Temporary Protected Status

DHS extended the designation of Haiti for TPS for 18 months, from February 4, 2023, through August 3, 2024. DHS also redesignated Haiti for TPS, allowing additional Haitian nationals (and individuals having no nationality who last resided in Haiti) who have been continuously residing in the United States since November 6, 2022, and who have been continuously physically present in the United States since February 4, 2023, to apply for TPS for the first time during the initial registration period.

DHS released information on how to register or re-register for TPS under Haiti's extension and redesignation. The initial registration period began on January 26, 2023, and runs through August 3, 2024.

New applicants for TPS under the redesignation of Haiti must submit Form I-821, **Application for Temporary Protected Status**, during the initial registration period. Haitian TPS applicants may file Form I-821 online. When filing a TPS application, applicants can also request work authorization by submitting Form I-765, **Application for Employment Authorization**, either with their Form I-821 or separately at a later date. Applicants may also submit Form I-765 online.

Special Student Relief

Effective February 4, 2023, through August 3, 2024, DHS is suspending certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Haiti, regardless of country of birth (or individuals having no nationality who last habitually resided in Haiti), and who "are experiencing severe economic hardship as a direct result of the current crisis in Haiti." Such students may request employment authorization, work an increased number of hours while school is in session, and reduce their courseloads while continuing to maintain their F-1 nonimmigrant student status. DHS said it will deem an F-1 nonimmigrant student granted employment authorization by means of this notice to be engaged in a "full course of study" for the duration of the work authorization, if the nonimmigrant student satisfies the minimum courseload requirement described in the notice.

Details:

- DHS Haiti TPS notice, 88 Fed. Reg. 5022 (Jan. 26, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-01-26/pdf/2023-01586.pdf>
- DHS news release, Jan. 25, 2023. <https://www.dhs.gov/news/2023/01/25/dhs-announces-registration-process-temporary-protected-status-haiti>
- DHS notice announcing Haiti TPS extension and redesignation, Dec. 5, 2022. <https://www.dhs.gov/news/2022/12/05/secretary-mayorkas-extends-and-redesignates-temporary-protected-status-haiti-18>
- DHS special student relief notice, 88 Fed. Reg. 5016 (Jan. 26, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-01-26/pdf/2023-01593.pdf>

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President Biden Extends and Expands DED Eligibility for Certain Hong Kong Residents

The White House released a memorandum on January 26, 2023, announcing that President Biden has determined that there are "compelling foreign policy reasons" to extend Deferred Enforced Departure (DED) for an additional period of 24 months for residents of Hong Kong presently residing in the United States who were under a grant of DED until February 5, 2023, and to defer enforced departure for other Hong Kong residents who arrived in the United States after the initial grant of DED, with several exceptions.

Exceptions include, among others, those who returned to Hong Kong or the People's Republic of China, or who have not continuously resided in the United States, after the date of the memorandum.

Details:

- White House memorandum, Jan. 26, 2023. <https://rb.gy/kr9wut>

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USCIS Extends COVID-19-Related Flexibilities Through March 23

U.S. Citizenship and Immigration Services (USCIS) is extending certain COVID-19-related flexibilities through March 23, 2023. Under these flexibilities, USCIS considers a response received within 60 calendar days after the due date for the following requests or notices before taking any action, if the request or notice was issued between March 1, 2020, and March 23, 2023:

- Requests for Evidence
- Continuations to Request Evidence (N-14)
- Notices of Intent to Deny
- Notices of Intent to Revoke
- Notices of Intent to Rescind
- Notices of Intent to Terminate regional centers
- Notices of Intent to Withdraw Temporary Protected Status
- Motions to Reopen an N-400 Pursuant to 8 CFR 335.5, Receipt of Derogatory Information After Grant

In addition, USCIS said it will consider Form I-290B, Notice of Appeal or Motion, or Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA), if:

- The form was filed up to 90 calendar days from the issuance of a decision USCIS made; and
- USCIS made that decision between November 1, 2021, and March 23, 2023, inclusive.

USCIS said it "anticipates that, barring changes presented by the pandemic, this will be the final extension of these accommodations, and requesters must comply with the response requirements set forth in any request or notice dated after March 23, 2023."

The reproduced signature flexibility announced in March 2020 became permanent policy on July 25, 2022.

Details:

- USCIS alert, Jan. 24, 2023. <https://www.uscis.gov/newsroom/alerts/uscis-extends-covid-19-related-flexibilities-1>

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New Settlement Agreement Helps H-4 and L-2 Dependent Spouses

The Department of Homeland Security (DHS) reached a settlement agreement in *Edakunni v. Mayorkas* that is good news for H-4 and L-2 dependent spouses. Effective January 25, 2023, U.S. Citizenship and Immigration Services (USCIS) has returned to a pre-Trump administration policy of adjudicating Form I-539, Application to Extend/Change Nonimmigrant Status and Form I-765, Application for Employment Authorization for H-4 and L-2 derivatives, along with the underlying Form I-129, Petition for Nonimmigrant Worker, when these forms are filed concurrently.

This applies in cases filed using standard or premium processing. If these forms are filed separately, USCIS will not bundle the adjudication of the forms.

Details:

- *Edakunni v. Mayorkas* settlement agreement, https://nfap.com/wp-content/uploads/2023/01/Fully-Executed-Edakunni-SA_Redacted.pdf
- "USCIS Settles Lawsuit That Should Help H-1B and L-1 Visa Spouses," Forbes, Jan. 21, 2023. <https://www.forbes.com/sites/stuartanderson/2023/01/21/uscis-settles-lawsuit-that-should-help-h-1b-and-l-1-visa-spouses/?sh=75dfd209216a>

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Visa Bulletin for February 2023 Includes Retrogressions in the Employment Third Preference 'Other Workers' Category, and 'Certain Religious Workers' Availability

The Department of State's Visa Bulletin for February 2023 includes the following information about retrogressions in the worldwide final action and application filing dates in the employment third preference "Other Workers" category:

Higher than expected number use in the Employment Third Preference "Other Workers" (EW) category, most notably amongst applicants with earlier priority dates, has necessitated further retrogressions in the worldwide final action date and application filing date for February to hold number use within the maximum allowed under the Fiscal Year 2023 annual limit. Except for China and India, all countries are subject to a final

action date of 01JAN20 and an application filing date of 01FEB20. This situation will be continually monitored, and any necessary adjustments will be made accordingly.

The bulletin also notes the availability of the Certain Religious Workers category:

The Consolidated Appropriations Act, 2023, enacted on December 29, 2022, extended the Employment Fourth Preference Certain Religious Workers (SR) category until September 30, 2023. As indicated in item E of the January 2023 Visa Bulletin, the extension resulted in this category immediately becoming available, subject to the same final action dates as the other Employment Fourth Preference categories per applicable foreign state of chargeability.

Details:

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

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HHS Issues Poverty Guidelines for 2023

The Department of Health and Human Services (HHS) issued updated poverty income guidelines for 2023 to account for 2022's increase in prices as measured by the Consumer Price Index. Several federal programs use the poverty guidelines as an eligibility criterion.

As in prior years, the 2023 guidelines "are roughly equal to the poverty thresholds for calendar year 2022 which the Census Bureau expects to publish in final form in September 2023," HHS said. As an example, the 2023 poverty guidelines for the 48 contiguous states and the District of Columbia (DC) are \$14,580 annually for a household of one person and \$19,720 for a household of two. For families/households with more than eight persons, the guidelines add \$5,140 for each additional person. The Alaska and Hawaii guidelines differ from those for the 48 contiguous states and DC.

Details:

- Annual Update of the HHS Poverty Guidelines, 88 Fed. Reg. 3424 (Jan. 19, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-01-19/pdf/2023-00885.pdf>

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ICE Unintentionally Releases Information on 6,000 Noncitizens in Custody

U.S. Immigration and Customs Enforcement (ICE) announced that on November 28, 2022, while performing routine website updates, it unintentionally posted a document on ICE.gov that included names and other personally identifiable information (PII), along with immigration information, of approximately 6,000 noncitizens in ICE custody. The information was posted for approximately five hours before being removed, ICE said.

On December 7, 2022, the Department of Homeland Security (DHS) notified ICE that during its routine communication with the government of Cuba related to removal flights, DHS unintentionally indicated that some of the 103 names of individuals previously provided for removal processing were part of the ICE PII disclosure that occurred on November 28. ICE said that 46 of them were part of the previous ICE PII disclosure and 57 were not. All of these 103 individuals are Cuban.

For affected noncitizens subject to a final order of removal, ICE has delayed their removal for at least 30 days. The 30 days will be calculated from the time notification is provided to the

noncitizen, ICE said. The noncitizens who were in custody "are being notified of the incident and the removal hold via hand delivery and almost all of those who were not in custody are receiving the notification via United States Postal Service," ICE said.

Details:

- ICE statement. <https://www.ice.gov/news/releases/statement-improper-disclosure-noncitizen-personally-identifiable-information>
- ICE PII information page. <https://www.ice.gov/pii>

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DOS Launches 'Welcome Corps' for Private Sponsorship of Refugees

The Department of State (DOS), in collaboration with the Department of Health and Human Services, announced the launch of "Welcome Corps," a new private sponsorship program to welcome refugees arriving through the U.S. Refugee Admissions Program (USRAP) and support their resettlement and integration into the United States. The initiative is pursuant to President Biden's Executive Order 14301, "Rebuilding and Enhancing Programs to Resettle Refugees."

The Welcome Corps "creates new opportunities for everyday Americans to engage directly in refugee resettlement through private sponsorship, independent of and complementary to existing avenues for volunteering with resettlement agencies," DOS said. Groups of at least five U.S. citizens or permanent resident adults will be able to apply to the Welcome Corps to privately sponsor the resettlement of refugees in the United States. Private sponsors will be responsible for independently raising funds and directly providing essential assistance to refugees for their first 90 days in their new community, DOS said. Such assistance includes helping refugees find housing and employment, enrolling children in school, and connecting refugees to essential services in the community.

In the first year of Welcome Corps, DOS will seek to mobilize 10,000 Americans as private sponsors for at least 5,000 refugees. If more than 10,000 individual Americans join the Welcome Corps in 2023, DOS will seek to pair additional private sponsors with refugees. DOS said it is funding a consortium of nonprofit organizations with expertise in welcoming, resettling, and integrating refugees into U.S. communities to support the Welcome Corps.

Details:

- DOS statement, <https://bit.ly/3wkiC3n>
- Welcome Corps website, <https://welcomecorps.org/>

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USCIS Provides Follow-Up Q&A on International Student Issues

U.S. Citizenship and Immigration Services (USCIS) provided questions and answers following a webinar presented by the Office of the Citizenship and Immigration Services Ombudsman in August 2022 on international student issues.

Topics include maintaining F-1 status and Optional Practical Training (OPT), applications for employment authorization, Systematic Alien Verification for Entitlements, the Student and Exchange Visitor Information System, changes of address, and COVID-19-related issues.

Details:

- USCIS Follow-Up Q&A. <https://www.dhs.gov/sites/default/files/2023-01/Q%26A%20-%20international%20student%20engagement%208.25.22.pdf>

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DHS Streamlines Deferred Action Process for Immigrant Workers Participating in Labor Enforcement Investigations

The Department of Homeland Security (DHS) announced on January 13, 2023, that noncitizen workers who are victims of or witnesses to the violation of labor rights can now access a streamlined and expedited deferred action request process. DHS explained that deferred action "protects noncitizen workers from threats of immigration-related retaliation from the exploitive employers." Effective immediately, DHS said, the process "will improve DHS's longstanding practice of using its discretionary authority to consider labor and employment agency-related requests for deferred action on a case-by-case basis."

A centralized intake process "will allow DHS to efficiently review these time-sensitive requests, provide additional security to eligible workers on a case-by-case basis, and more robustly support the mission of labor agencies," DHS said. Noncitizens can submit such requests to U.S. Citizenship and Immigration Services (USCIS) through a central intake point established to support labor agency investigative and enforcement efforts. In addition to satisfying individual criteria to facilitate case-by-case determinations, requests for deferred action submitted through this centralized process must include a letter from a federal, state, or local labor agency asking DHS to consider exercising its discretion on behalf of workers employed by companies identified by the agency as having labor disputes related to laws that fall under its jurisdiction.

DHS said that for a deferred action request from a noncitizen who is in removal proceedings or has a final order of removal, upon reviewing the submission for completeness, USCIS will forward it to U.S. Immigration and Customs Enforcement (ICE) to make a final determination on a case-by-case basis. USCIS will consider all other deferred action requests on a case-by-case basis, and will consider all related employment authorization applications, including those related to deferred action requests decided by ICE.

Discretionary grants of deferred action under this process "will typically last for a period of two years, subject to termination at any time," DHS said. Individuals granted deferred action may be eligible for employment authorization, which requires that they demonstrate an economic necessity for employment. They may also be eligible for subsequent grants of deferred action if a labor agency has a continuing investigative or enforcement interest in the matter identified in their original letter supporting DHS's use of prosecutorial discretion, the agency said.

Workers can visit [DHS.gov](https://www.dhs.gov) for additional information in English and Spanish and to submit requests.

Details:

- DHS press release, Jan. 13, 2023. <https://www.dhs.gov/news/2023/01/13/dhs-announces-process-enhancements-supporting-labor-enforcement-investigations>
- "DHS Support of the Enforcement of Labor and Employment Laws," Jan. 13, 2023. <https://www.dhs.gov/enforcement-labor-and-employment-laws>

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Premium Processing To Expand for EB-1 and EB-2 Form I-140 Petitions and Certain Students and Exchange Visitors

U.S. Citizenship and Immigration Services (USCIS) announced on January 12, 2023, that it is implementing the final phase of the premium processing expansion for Form I-140, Immigrant Petition for Alien Workers, under the EB-1 and EB-2 classifications.

Also, in March, USCIS will expand premium processing to certain F-1 students seeking Optional Practical Training (OPT) and F-1 students seeking STEM OPT extensions who have a pending Form I-765, Application for Employment Authorization. In April, USCIS will expand premium processing to F-1 students seeking OPT and F-1 students seeking STEM OPT extensions who are filing an initial Form I-765.

Petitioners who wish to request premium processing must file Form I-907, Request for Premium Processing Service. Beginning January 30, 2023, USCIS will accept Form I-907 requests for:

- All pending E13 multinational executive and manager petitions and E21 National Interest Waiver (NIW) petitions; and
- All initial E13 multinational executive and manager petitions and E21 NIW petitions.

USCIS said it will announce specific dates for each F-1 student group in February. USCIS anticipates expanding premium processing in May for certain student and exchange visitors with pending Form I-539 applications to extend or change nonimmigrant status, and in June for certain student and exchange visitors who are filing initial Form I-539 applications.

Details:

- USCIS alert, Jan. 12, 2023. <https://www.uscis.gov/newsroom/alerts/uscis-announces-final-phase-of-premium-processing-expansion-for-eb-1-and-eb-2-form-i-140-petitions>

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DHS Extends and Redesignates Somalia for TPS for 18 Months

The Department of Homeland Security (DHS) announced the extension of temporary protected status (TPS) for Somalia for an additional 18 months, from March 18, 2023, through September 17, 2024. DHS also redesignated Somalia for TPS, allowing Somali nationals residing in the United States as of January 11, 2023, to apply for TPS, so long as they meet all eligibility requirements. The extension and redesignation of Somalia for TPS are "due to ongoing armed conflict and extraordinary and temporary conditions that prevent Somali nationals from safely returning," DHS said.

The extension of TPS for Somalia allows approximately 430 current beneficiaries to retain TPS through September 17, 2024, if they continue to meet TPS eligibility requirements, DHS said. The redesignation of Somalia for TPS allows an estimated 2,200 additional Somali nationals (or individuals having no nationality who last habitually resided in Somalia) who have been continuously residing in the United States since January 11, 2023, to file initial applications to obtain TPS if they are otherwise eligible.

DHS plans to publish a Federal Register notice shortly that will include additional details.

Details:

- DHS press release, Jan. 12, 2023. <https://www.dhs.gov/news/2023/01/12/secretary-mayorkas-extends-and-redesignates-somalia-temporary-protected-status-18>

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Scheduling System for 'Safe, Orderly and Humane Border Processing' Goes Live

On January 12, 2023, the Department of Homeland Security (DHS) announced that the new scheduling function in the [CBP One](#)™ mobile application is now live. Non-U.S. citizens located in Central or Northern Mexico who seek to travel to the United States may use U.S. Customs and Border Protection's app to submit information in advance and schedule an appointment to present themselves at certain southwest border land ports of entry (POEs).

Due to court orders requiring DHS to continue implementing the Centers for Disease Control and Prevention's Title 42 public health order, only noncitizens who can be considered for a humanitarian exception may use CBP One, DHS said. Under this order, CBP is authorized to except individuals on a case-by-case basis, based on the totality of circumstances, including humanitarian interest considerations. Noncitizens using CBP One must attest that they believe they meet certain identified vulnerability criteria and be prepared to substantiate this claim upon presentation at a POE, DHS said.

Noncitizens who seek an exception to Title 42 will be able to use the app to submit certain biographic and biometric information to CBP and schedule an appointment up to 14 days in advance at eight POEs:

- Arizona: Nogales
- Texas: Brownsville, Eagle Pass, Hidalgo, Laredo, and El Paso
- California: Calexico and San Ysidro

Once the Title 42 order eventually lifts, DHS said, individuals will be able to use the CBP One application for scheduling an appointment to present themselves for inspection and to initiate a protection claim instead of coming directly to a POE to wait.

Details:

- DHS press release, Jan. 12, 2023. <https://www.dhs.gov/news/2023/01/12/dhs-scheduling-system-safe-orderly-and-humane-border-processing-goes-live-cbp-onetm>

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Agencies Raise Penalties for Document Fraud and Employer Violations of the D-1, H-1B, H-2A, and H-2B Visa Programs

The Departments of Homeland Security (DHS) and Labor (DOL) have raised the amount of certain penalties for inflation, required by the Inflation Adjustment Act. DHS has raised penalties for document fraud, and penalties assessed against employers by U.S. Immigration and Customs Enforcement and U.S. Customs and Border Patrol for certain violations, and DOL has raised penalties for employer violations of the D-1, H-1B, H-2A, and H-2B visa programs.

Details:

- "Civil Monetary Penalty Adjustments for Inflation," DHS, 88 Fed. Reg. 2175 (Jan. 13, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-01-13/pdf/2023-00626.pdf>
- "Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for 2023," DOL, 88 Fed. Reg. 2210 (Jan. 13, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-01-13/pdf/2023-00271.pdf>

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Supreme Court Declines to Resurrect Trump-Era Public Charge Rule

After the Trump administration's 2019 public charge rule was invalidated nationwide following a court battle and the Biden administration's dropping of its defense of the rule, Texas and 13 other states attempted to intervene and bring back the rule through litigation. The Biden administration also issued a new public charge rule, which those states challenged. On January 10, 2023, the Supreme Court declined to review the case, *Cook County, Illinois v. Mayorkas*.

Texas filed a new lawsuit on January 5, 2023, once again challenging invalidation of the 2019 rule and the Biden administration's new rule, so it appears that the legal battles are not over.

Details:

- "Trump-Era Public Charge Lawsuit Comes to an End," Illinois Coalition for Immigrant and Refugee Rights, Jan. 10, 2023. <https://www.icirr.org/News/Trump-era-public-charge-lawsuit-comes-to-an-end>

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DHS Makes Two Corrections to Proposed Fee Rule

The Department of Homeland Security (DHS) published two corrections to its proposed rule to raise fees for certain immigration and naturalization benefit requests. For Form I-129CW and I-129, Petition for a CNMI Nonimmigrant Worker (with biometric services fee), the proposed fee is \$1,015 (rather than \$1,055). For Form I-765, Application for Employment Authorization – Online (with biometric services), the proposed fee is \$555 (rather than \$650).

DHS explained that the typographical errors were corrected in the advance copy posted for public inspection but that printing was too far along to correct them in the official publication in the Federal Register on January 4, 2023.

Details:

- Correction notice, DHS, 88 Fed. Reg. 1173 (Jan. 9, 2023). <https://www.govinfo.gov/content/pkg/FR-2023-01-09/pdf/2023-00274.pdf>

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ABIL Global: France

There is a new draft immigration bill under review. The remuneration thresholds have been updated after an increase in the minimum wage. ETIAS is provisionally targeted to deploy in November 2023. Management of the employer tax has been transferred.

Immigration Bill

A draft immigration bill was submitted to the French Council of State on December 20, 2022, and is under review. It will be presented to the Council of Ministers before being examined by the Senate and then by the National Assembly, in first reading. This will be the thirtieth immigration law since 1980.

Among the measures that directly concern professional immigration are:

- The creation of an "occupations in shortage" residence permit for sectors lacking sufficient numbers of workers. This permit would be available to any foreigner in illegal status "who has carried out a salaried professional activity appearing in the list of occupations in shortage for at least eight months out of the last twenty-four months and who has lived in France for at least three years."
- The creation of a "Talent—medical and pharmacy professions" status, which would apply to doctors, midwives, dental surgeons, and pharmacists.
- The merger of the Talent Passport—Business Creation, innovative economic project, and economic investment permits into a single status, "Talent project bearer."

Update of Salary Thresholds for Certain Statuses After Increase in Minimum Wage

Following the increase in the minimum wage on January 1, 2023, the minimum salary threshold to be eligible for "qualified employee Talent Passport" status is now 3,418.56 euros gross per month, and that of the "Employee on assignment Talent Passport" increases to 3,076.71 euros. The threshold of the European Blue Card Talent Passport is unchanged, at 4,486.37 euros gross per month.

ETIAS (European Travel Information and Authorization System)

The European Commission announced the deployment of ETIAS for November 2023, but this is only a provisional date.

Travelers not subject to a Schengen visa requirement must request prior authorization online before traveling to countries in the Schengen area. This system is comparable to the Electronic System for Travel Authorization in the United States.

Transfer of Employer Tax Management from OFII to DGFIP

An employer tax is due when a third-country national worker enters the French labor market, whether it is an initial entry or a change of status. For contracts or secondments of more than 12 months, it is 55% of the amount of the gross monthly salary of the employee, within the limit of 2.5 times SMIC, i.e., 2,350 euros at most.

As of January 1, 2023, the General Directorate of Public Finances (DGFIP) is responsible for managing and collecting the tax payable by employers of foreign labor provided for in Article L. 436-10 of the CESEDA and managed by the French Office for Immigration and Integration (OFII) until that date.

This tax will now be declared and paid annually and in arrears. Thus, the tax will be due for hires made during a year, and will be declared and paid in support of the Value-Added Tax (VAT) return the following year. The first steps for the tax due for 2023 will take place in February 2024.

To help companies calculate the amount of employer tax due to report on the VAT form, a calculation aid sheet will be available on the [DGFIP website](#).

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New Publications and Items of Interest

[Webinar on H-1B electronic registration process](#). U.S. Citizenship and Immigration Services will hold a webinar, "H-1B Electronic Registration Process," on Thursday, February 23, 2023, from 2 to 3 p.m. ET. USCIS representatives will provide updates on the online account features for the

FY 2024 H-1B electronic registration process and address questions. Prospective H-1B cap-subject petitioners or their representatives must first visit my.uscis.gov to create a free USCIS online account. To register, go to https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new?topic_id=USDHSCIS_731, provide your email address, and select "Submit." On the next screen, you will see a notification that you successfully subscribed to this event. Questions can be submitted in advance by emailing public.engagement@uscis.dhs.gov by noon ET, Wednesday, February 8. Put "H-1B Electronic Registration" in the subject line.

USCIS strategic plan. U.S. Citizenship and Immigration Services (USCIS) released its strategic plan with long-term goals on January 27, 2023. The plan covers fiscal years 2023 through 2026. The three main goals are strengthening the U.S. immigration system, investing in the USCIS workforce, and promoting effective and efficient management and stewardship. <https://www.uscis.gov/newsroom/news-releases/uscis-releases-new-strategic-plan-highlighting-long-term-goals> (news release); <https://www.uscis.gov/sites/default/files/document/reports/StrategicPlanFY23.pdf> (strategic plan).

State Department Visa Office 2022 report. The Department of State's Visa Office has released its 2022 annual report. Included are a variety of statistics from fiscal year 2022. <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports/report-of-the-visa-office-2022.html>

Conference on immigration policy. Cornell Law School Immigration Law and Policy Research Program and the Cornell Migrations Initiative will present "Immigration Reform: Lessons Learned and a Path Forward," a conference to be held February 24, 2023, from 8:30 a.m. to 3 p.m. at the National Press Club in Washington, DC. Registration is free, and both virtual and in-person options are available. The conference will explore targeted legislation and other policy changes that could be enacted in 2023, focusing on work visa changes to help alleviate U.S. labor shortages, border security and asylum reforms, and a permanent path forward for Dreamers and farmworkers. To register to attend in person at the National Press Club, go to <https://support.law.cornell.edu/rsvp/?id=197353>. To register for the Zoom webinar option, go to https://cornell.zoom.us/webinar/register/WN_OTXGUSoWSBmn8xpoTmGHmA.

Immigrant and Employee Rights Section free webinars. The Department of Justice's Immigrant and Employee Rights Section is offering free webinars for the public. <https://www.justice.gov/crt/webinars>

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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IMMPact Litigation (which includes ABIL firms **Joseph & Hall PC**, **Kuck Baxter Immigration LLC**, and **Siskind Susser PC**, along with Bless Litigation), along with several other entities, filed a federal class action lawsuit against U.S. Citizenship and Immigration Services challenging delays in processing unlawful presence waivers. Plaintiffs are spouses of U.S. citizens and permanent residents who cannot work in the United States lawfully and remain subject to removal due to the delays. <https://www.aila.org/advo-media/press-releases/2023/class-action-filed-against-uscis-for-extreme>

Klasko Immigration Law Partners, LLP, has published "Client Alert: New Settlement Agreement Favorably Impacts H-4 and L-2 Dependent Spouses." <https://rb.gy/rjsjms>

Charles Kuck (bio: <https://www.abil.com/abil-lawyers/charles-kuck/>) was quoted by *Law360* in "Ukrainians Seek To Claw Back \$80M in Work Permit Fees." Mr. Kuck said, "America should be disappointed in the way that USCIS has failed to hold itself accountable for the clear error of law it made when it charged vulnerable and desperate Ukrainian parolees for a work permit they did not need. Belatedly recognizing its mistake does not repair the damage done and the USCIS' refusal to pay back its ill-gotten gains should appall all Americans." <https://www.law360.com/articles/1564727/ukrainians-seek-to-claw-back-80m-in-work-permit-fees> (registration required)

Cyrus Mehta (bio: <https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) and **Kaitlyn Box** co-authored several new blog posts: "Texas's Legal Challenge to Biden's Humanitarian Parole Program is Both Flawed and Inhuman," <http://blog.cyrusmehta.com/2023/01/texass-legal-challenge-to-bidens-humanitarian-parole-program-is-both-flawed-and-inhuman.html>; and "The Tension Between State Wage Transparency Laws and Labor Certification Recruitment," <http://blog.cyrusmehta.com/2023/01/the-tension-between-state-wage-transparency-laws-and-labor-certification-recruitment.html>

Mr. Mehta and **Manjeeta Chowdhary** co-authored a new blog post: "How the Humanitarian Parole Program at the Border Can Serve as a Template for Further Relief Under the Broken Immigration System." <https://bit.ly/3ZQrGul>

Mr. Mehta served as the Chair of the Practising Law Institute's Basic Immigration Law 2023 program on February 2, 2023. This program covered business, family, naturalization, and related areas and featured prominent immigration practitioners and government officials. <https://www.pli.edu/programs/B/basic-immigration-law>

Mr. Mehta served as the Chair of the Practising Law Institute's program, "Asylum, Special Immigrant Juvenile Status, Crime Victim, and Other Immigration Relief," on February 3, 2023. <https://www.pli.edu/programs/A/asylum-special-immigrant-juvenile-status-crime-victim-and-other-immigration-relief>

Mr. Mehta was quoted by the *Times of India* in "In U.S. Layoffs, More Poignant Stories and Helplines Emerge," on layoffs of H-1B workers in the United States. <https://timesofindia.indiatimes.com/business/india-business/in-us-layoffs-more-poignant-stories-and-helplines-emerge/articleshow/97429374.cms>

Sidley Austin LLP served as pro bono counsel in *Cook County, Illinois v. Mayorkas*, which the Supreme Court recently declined to review. The Court denied a certiorari petition filed by Texas and 13 other states that sought to revive a Trump-era public charge rule that was vacated nationwide.

WR Immigration has launched a new episode in the "Chatting with Charlie" webinar series, "Chatting with Charlie and Bernie—Immigrant Visa and Green Card Employment-Based Waiting

Lines." The podcast features a discussion with WR Immigration Director of Visa Consulting **Charlie Oppenheim** and Managing Partner **Bernie Wolfsdorf** (bio: <https://www.abil.com/abil-lawyers/bernard-wolfsdorf/>). The podcast is at <https://wolfsdorf.com/wr-immigration-podcast-chatting-with-charlie-and-bernie-immigrant-visa-and-green-card-employment-based-waiting-lines/>

WR Immigration has launched a new video series: Overview of the H-1B Cap Process. <https://wolfsdorf.com/video-series-overview-of-the-h-1b-cap-process2/>

WR Immigration has published "5 Takeaways From the 2022 State Department Annual Report." <https://wolfsdorf.com/5-takeaways-from-the-2022-state-department-annual-report/>

WR Immigration has published several new blog posts: "Visa Bulletin for January 2023 Reports on Availability in the Employment First Category for China and India, Unavailability of Religious Workers Category," <https://wolfsdorf.com/visa-bulletin-for-january-2023-reports-on-availability-in-the-employment-first-category-for-china-and-india-unavailability-of-religious-workers-category/>; and "Green Card Processing Slow Down Ahead: What Companies Can Expect and How to Prepare," by Laura Bloniarz, Senior Associate, <https://wolfsdorf.com/green-card-processing-slow-down-ahead-what-companies-can-expect-and-how-to-prepare/>

Stephen Yale-Loehr (bio: <https://www.abil.com/abil-lawyers/stephen-yale-loehr/>) was quoted by *CounterPunch* in "The Migrant 'Crisis' and 10 Misperceptions About Immigration." One misperception the article discusses is that immigrants cost the United States money. No, they do not, Mr. Yale-Loehr said. He explained, for example, that documented and undocumented immigrants paid \$328 billion in federal, state, and local taxes in 2014. He said the Social Security Administration estimates that unauthorized migrant workers paid about \$12 billion into the Social Security trust in 2010, and they are not eligible for benefits. By contrast, former President Trump paid out \$750 in federal income taxes in 2016, he noted. <https://www.counterpunch.org/2023/02/03/the-migrant-crisis-and-10-misperceptions-about-immigration/>

Mr. Yale-Loehr was quoted by *CBS News* in "Republican-Led States Ask Judge to Shut Down DACA Program for Immigrant 'Dreamers.'" Mr. Yale-Loehr said, "Unfortunately, our Congress has been polarized and unable to pass any major immigration reform legislation—and I think that's unlikely to happen in 2023." He said the only way he sees the new Congress offering Deferred Action for Childhood Arrivals beneficiaries permanent legal status is as part of a broader deal that includes limiting asylum along the U.S.-Mexico border to address concerns from Republican lawmakers. <https://www.cbsnews.com/news/immigration-daca-lawsuit-republican-states-federal-judge-dreamers/>

Mr. Yale-Loehr and **Janine Prantl**, a postdoctoral associate in Cornell Law School's Immigration Law and Policy Research Program, coauthored a blog post for the Refugee Law Initiative, "Missed Opportunities? What To Expect From Future U.S. Private Refugee Sponsorships." <https://rli.blogs.sas.ac.uk/2023/01/30/missed-opportunities-what-to-expect-from-future-u-s-private-refugee-sponsorships/>

Mr. Yale-Loehr was quoted by *South China Morning Post* in "U.S. Extends Special 'Safe Haven' Status for Hongkongers Seeking Refuge." Mr. Yale-Loehr said that even if the temporary "safe haven" extension had not been granted in time, that would not have meant Hongkongers in the United States would have been deported immediately. "You cannot just pick someone up and kick them out. There's due process for everyone in the United States," he said. First, the Department of Homeland Security would have to issue a subpoena for individuals to appear before an immigration judge, and then those individuals could apply for asylum, a first step to a green card, he said. <https://www.scmp.com/news/china/article/3208136/us-extends-special-safe-haven-status-hongkongers-seeking-refuge>

Mr. Yale-Loehr was quoted by *Voice of America* in "Courts Set to Shape U.S. Immigration Policy in 2023." Mr. Yale-Loehr said, "Courts are not a good way to manage immigration." Also, commenting on *United States v. Texas*, Mr. Yale-Loehr said that based on the oral arguments in 2022, it is not clear how the Supreme Court will rule. <https://www.voanews.com/a/courts-set-to-shape-us-immigration-policy-in-2023/6915829.html>

Mr. Yale-Loehr was quoted by *Morningstar* in " 'We Need More People,' Says Fed's Powell. What Does That Mean for Immigration Reform?" Powell's remarks could be seen as part of a slow process that eventually results in long-awaited fixes to the U.S. immigration system, Mr. Yale-Loehr said. "To me, it's like water dripping on a rock. A single drop of water, whether it's from Fed Chairman Powell or somebody else, won't make a difference by itself. But if enough drips of water from other people and other studies consistently show that immigration can help our labor shortages and improve our economy, then I hope that will move the needle so that Congress will seriously take up immigration reform in 2023." Issues on Mr. Yale-Loehr's wish list for 2023 include "helping the Dreamers to be able to achieve some kind of permanent status and reforming our border-security measures so that we can admit those people who really do need or will qualify for asylum, but otherwise deport people after a hearing if they don't qualify under immigration laws," "modernization in our agriculture industry," and passage of the Afghan Adjustment Act "to allow people who came from Afghanistan a permanent path to citizenship." That would be "an awful lot to accomplish in one year" and a "hard battle" in an increasingly polarized Congress, he added. Mr. Yale-Loehr noted that the Biden administration can act on its own on some immigration issues, and that grassroots efforts eventually might end up spurring U.S. lawmakers to do more. <https://www.morningstar.com/news/marketwatch/20230111426/we-need-more-people-says-feds-powell-what-does-that-mean-for-immigration-reform>

Mr. Yale-Loehr was quoted by *USA Today* in "As Biden Hunts for Answers to Migrant Crisis, His Policies Are Increasingly Tied Up in Court." Commenting on a Biden administration effort to create a new rule to expedite the removal of migrants who travel through Mexico but do not claim asylum there, Mr. Yale-Loehr said, "The devil will be in the details: How will the administration define a credible fear? How much time will people have to prepare for their hearing? If only a few days or weeks, few people will be able to gather their evidence or find an attorney." Regarding the Biden administration's development of immigration-related policies, he said, "Organizations have sued to stop administrative changes on both substantive and procedural grounds. Groups can usually find sympathetic judges to [halt] an administration's immigration policy change." <https://www.usatoday.com/story/news/politics/2023/01/09/biden-immigration-mexico-amlo-supreme-court/10989696002/>

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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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