

IMMIGRATION INSIDER

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Headlines:

OFLC Publishes Prevailing Wage Data, Implements 2018 SOC Codes – An OFLC announcement includes details on how new labor certification applications, and applications in process, will be handled with respect to SOC codes.

USCIS Urges Employment-Based Adjustment Applicants to Promptly Send Medical Forms When Requested – The agency is urging anyone within the United States who may be eligible for an employment-based adjustment of status to promptly send medical forms when requested, but not to send unsolicited forms.

Supreme Court Allows Biden Administration to Terminate 'Remain in Mexico' Policy – The Court held that the Biden administration had the legal authority to end the "Remain in Mexico" policy.

White House Extends and Expands Eligibility for Deferred Enforced Departure for Liberians – The White House issued a memorandum deferring through June 30, 2024, the removal of any Liberian national, or person without nationality who last habitually resided in Liberia, who is present in the United States and who was under a grant of DED as of June 30, 2022, as well as any Liberian national, or person without nationality who last habitually resided in Liberia, who has been continuously physically present in the United States since May 20, 2017.

CBP Ends Use of Expired U.S. Passports for Direct Return of U.S. Citizens to United States – As of July 1, 2022, U.S. citizens can no longer use their expired U.S. passports to return to the United States. U.S. citizens overseas with expired passports should contact their nearest U.S. embassy or consulate to apply for a passport.

CIS Ombudsman Submits 2022 Annual Report to Congress – The report outlines "some of the most significant problems encountered by individuals and employers when seeking immigration benefits," including backlogs, issues with employment authorization documents (EADs), expedite requests, and others, and makes recommendations.

District Court Orders USCIS to Process New Investor Petitions in Previously Authorized EB-5 Regional Centers – The court ruled that the agency "is enjoined from treating the existing regional centers as deauthorized while this litigation is pending (or until the agency engages in a reasoned decision-making process regarding how to treat these centers under the Integrity Act)."

Three-Day H-2B Application Filing Window Closed July 5 – The filing window to submit an H-2B Application for Temporary Employment Certification requesting a work start date of October 1, 2022, opened on July 3, 2022, and closed on July 5, 2022.

USCIS Issues Policy Alert on Effect of Returning to United States During 3- or 10-Year Period After Departure or Removal – A noncitizen who again seeks admission more than 3 or 10 years after the relevant departure or removal is not inadmissible under INA § 212(a)(9)(B) even if the noncitizen returned to the United States, with or without authorization, during the statutory 3- or 10-year period, USCIS said.

Amendment to Salvage Unused Immigrant Visa Numbers Advances in House – The amendment, whose chances are uncertain, would recapture unused, expired family- and employment-based immigrant visa numbers lost for various reasons since 1992. The amendment would also provide visa relief for immigrants banned from traveling to the United States during the Trump administration.

E-Verify Releases New Case Processing Features – E-Verify released several new features "to increase awareness of existing duplicate cases and reduce overall case processing time," and to provide "a more robust case query function."

Tribal Card Acceptable for Entry Into United States – U.S. Citizenship and Immigration Services announced a 30-day public comment period relating to proposed revisions to Form I-907, Request for Premium Processing Service.

USCIS Transfers Certain H-1B Petitions to California Service Center – Certain H-1B petitions and fiscal year 2023 H-1B cap petitions awaiting intake at the Vermont Service Center are being transferred to the California Service Center for data entry and adjudication.

DHS, DOS Announce Exemptions Allowing Eligible Afghans to Qualify for Protection and Immigration Benefits – The Secretaries of Homeland Security and State, in consultation with the Attorney General, announced three new exemptions that can be applied on a case-by-case basis.

OFLC Announces 60-Day Public Comment Period on Prevailing Wage Application Forms – The Department of Labor's Office of Foreign Labor Certification announced a 60-day public comment period relating to "proposed minor revisions" to the Application for Prevailing Wage Determination information collection.

USCIS Announces 30-Day Public Comment Period on Proposed Revisions to Premium Processing Service Request Form – U.S. Citizenship and Immigration Services announced a 30-day public comment period relating to proposed revisions to Form I-907, Request for Premium Processing Service.

CDC Rescinds Order Requiring Negative COVID-19 Test Before Flight to United States – Air travelers to the United States no longer need to show a negative COVID-19 test result or documentation of recovery before boarding, the Centers for Disease Control and Prevention announced.

State Dept. Removes Required DV Entry Form Passport-Related Details in Response to Court Order – In response to a U.S. district court ruling, the Department of State is removing requirements that principal entrants submitting an electronic diversity visa entry form provide certain information, including the entrant's unique serial or issuance number associated with the principal entrant's valid unexpired passport, or claim an exemption to the passport requirement.

DHS Designates Cameroon for Temporary Protected Status – The 18-month registration period began June 7, 2022, and ends on December 7, 2023. An estimated 11,700 individuals may be eligible.

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Visa Bulletin Includes Diversity Immigrant Visa Availability – The Department of State's Visa Bulletin for July 2022 includes information on diversity visa availability for the months of July and August.

Federal Judge Vacates Biden Immigration Enforcement Memorandum – On June 10, 2022, a U.S. district judge vacated the Biden administration's September 2021 memorandum on immigration enforcement prioritization as "arbitrary and capricious, contrary to law, and failing to observe procedure under the Administrative Procedure Act."

ABIL Global: Canada – Canada has launched a new immigration stream for Ukrainians.

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OFLC Publishes Prevailing Wage Data, Implements 2018 SOC Codes

On July 1, 2022, the Department of Labor's Office of Foreign Labor Certification (OFLC):

- Published the latest prevailing wage data from the Occupational Employment and Wage Statistics (OEWS) as generated by the Bureau of Labor Statistics (BLS) for July 2022 through June 2023. Prevailing wage determinations issued from the National Prevailing Wage Center reflect the new data effective July 1.
- Implemented the 2018 Standard Occupational Classification (SOC) codes at the same time. OFLC said it is using 2018 SOC codes because the OEWS and the Occupational Information Network (O*NET) have completed the transition from 2010 SOC codes to 2018 SOC codes. An OFLC announcement includes details on how new labor certification applications, and applications in process, will be handled with respect to SOC codes.
- Updated Appendix A to the Preamble—Education and Training Categories by O*NET—SOC Occupations. Appendix A is a list of professional occupations "that serves as a guide for employers to distinguish between professional and non-professional occupations in order to comply with the professional recruitment requirements of the PERM program," OFLC said.
- Published updated prevailing wage data for the Commonwealth of Northern Mariana Islands.

Details:

- OFLC announcement, <https://flag.dol.gov/node/23042>
- OFLC Technical Release Notes, July 1, 2022, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Technical%20Release%20Notes%20July%202022%20Wage%20Year.pdf>
- July 2022 Through June 2023 Wage Year Job Zone Data, OFLC, <https://bit.ly/3nB22YM>
- List of Professional Occupations for Appendix A with Education Levels, OFLC, <https://bit.ly/3I92HKe>
- Commonwealth of Northern Mariana Islands CW-1 Wage Table, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/OFLC%20CW-1%20Wage%20Table%202022-2023.pdf>
- Foreign Labor Certification Data Center, <https://www.flcdatcenter.com/>

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USCIS Urges Employment-Based Adjustment Applicants to Promptly Send Medical Forms When Requested

To ensure that U.S. Citizenship and Immigration Services (USCIS) is able to use as many available visas as possible for fiscal year 2022, the agency is urging anyone within the United States who may be eligible for an employment-based adjustment of status to note the following regarding Form I-693, Report of Medical Examination and Vaccination Record:

- If you are planning to file an adjustment of status application, be sure to include a valid Form I-693.
- If you have a pending Form I-485, Adjustment of Status Application, do not send an unsolicited Form I-693 to USCIS. USCIS said it is proactively identifying employment-based adjustment of status applications with available visas that lack a valid Form I-693 and is directly contacting applicants to request that form.
- If you know that your previously filed Form I-485 does not have a valid Form I-693, your underlying petition is approved, and a visa is available to you, it will help USCIS use the available visas and adjudicate your application if you visit a civil surgeon and have a valid Form I-693 on hand when USCIS sends the request to you.
- A Form I-693 is valid for two years from the date on which the civil surgeon signs the form.

USCIS issued the information above via an emailed public engagement notice, and made a brief related announcement on Twitter.

Details:

- USCIS tweet, <https://bit.ly/3ujUxcn>

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Supreme Court Allows Biden Administration to Terminate 'Remain in Mexico' Policy

On June 30, 2022, the Supreme Court held that the Biden administration could end the so-called "Remain in Mexico" policy, which required asylum seekers to wait in Mexico for their immigration hearings. The Court ruled that the Biden administration's attempt to terminate it via a memorandum issued in October 2021 was a valid final agency action.

The Court reversed the judgment of the Court of Appeals and remanded the case for further proceedings consistent with its opinion. On remand, "the District Court should consider in the first instance whether the October 29 Memoranda comply with section 706 of the [Administrative Procedure Act]," the Court said.

Chief Justice Roberts delivered the opinion of the Court, in which Justices Breyer, Sotomayor, Kagan, and Kavanaugh joined. Justice Kavanaugh filed a concurring opinion. Justices Alito, Barrett, Thomas, and Gorsuch dissented.

Details:

- Biden v. Texas, 597 U.S. ____ (2022), https://www.supremecourt.gov/opinions/21pdf/21-954_7148.pdf

- "The U.S. Supreme Court Rules Administration Can End 'Remain in Mexico' Immigration Policy," Texas Public Radio, June 30, 2022, <https://www.tpr.org/border-immigration/2022-06-30/the-u-s-supreme-court-rules-biden-administration-can-end-remain-in-mexico-immigration-policy>

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White House Extends and Expands Eligibility for Deferred Enforced Departure for Liberians

The White House issued a memorandum deferring through June 30, 2024, the removal of any Liberian national, or person without nationality who last habitually resided in Liberia, who is present in the United States and who was under a grant of Deferred Enforced Departure (DED) as of June 30, 2022, as well as any Liberian national, or person without nationality who last habitually resided in Liberia, who has been continuously physically present in the United States since May 20, 2017. Also, any Liberian national, or person without nationality who last habitually resided in Liberia, who was under a grant of DED as of June 30, 2022, or who has been continuously physically present in the United States since May 20, 2017, will have continued employment authorization through June 30, 2024.

The memo directs the Secretary of Homeland Security to publish a notice in the Federal Register to grant work permits for Liberians who held appropriate DED-related employment authorization documents as of June 30, 2022, or those Liberian nationals who have been continuously present in the United States since May 20, 2017. The memo also directs the Secretary of Homeland Security to provide for "the prompt issuance of new or replacement employment authorization documents in appropriate cases."

[Details:](#)

- Memorandum on Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians, Presidential Action, June 27, 2022, <https://bit.ly/3RaarA2>

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CBP Ends Use of Expired U.S. Passports for Direct Return of U.S. Citizens to United States

As of July 1, 2022, U.S. citizens can no longer use their expired U.S. passports to return to the United States. U.S. citizens overseas with expired passports should contact their nearest U.S. embassy or consulate to apply for a passport.

[Details:](#)

- CBP announcement, https://help.cbp.gov/s/article/Article1861?language=en_US
- Websites of U.S. Embassies, Consulates, and Diplomatic Missions, <https://www.usembassy.gov/>

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CIS Ombudsman Submits 2022 Annual Report to Congress

On June 30, 2022, the Citizenship and Immigration Services (CIS) Ombudsman submitted its 2022 Annual Report to Congress. The report outlines "some of the most significant problems encountered by individuals and employers when seeking immigration benefits," including

backlogs, issues with employment authorization documents (EADs), expedite requests, and others. The report also provides recommendations for how U.S. Citizenship and Immigration Services (USCIS) can address these problems and improve its administrative processes.

Highlights include the "avalanche impact of backlogs," the need for more flexibility in renewing employment authorization, accessibility to advance parole in a timely manner, access to the expedite process, ways to address the affirmative asylum backlog, barriers to obtaining proof of employment authorization for asylum applicants in removal proceedings, USCIS's digital strategy, and the U nonimmigrant status "bona fide determination" process.

Details:

- Annual Report 2022, CIS Ombudsman, June 30, 2022, https://www.dhs.gov/sites/default/files/2022-06/CIS_Ombudsman_2022_Annual_Report_0.pdf

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District Court Orders USCIS to Process New Investor Petitions in Previously Authorized EB-5 Regional Centers

On June 24, 2022, a U.S. district court in California ordered U.S. Citizenship and Immigration Services (USCIS) to process new I-526 (Immigrant Petition by Alien Entrepreneur) petitions from immigrants investing through previously authorized EB-5 regional centers. The EB-5 Reform and Integrity Act, part of omnibus spending legislation, took effect on March 15, 2022. It reauthorized and made changes to the regional center program following its expiration. The court's decision in *Behring Regional Center LLC v. Mayorkas* followed USCIS's determination that all prior regional centers needed to seek reauthorization after the program was reinstated.

Concluding that USCIS "acted based on an erroneous conclusion about what the Integrity Act requires," the court ruled that the agency "is enjoined from treating the existing regional centers as deauthorized while this litigation is pending (or until the agency engages in a reasoned decision-making process regarding how to treat these centers under the Integrity Act)."

Details:

- EB-5 Immigrant Investor Program, USCIS, <https://www.uscis.gov/working-in-the-united-states/permanent-workers/eb-5-immigrant-investor-program>

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Three-Day H-2B Application Filing Window Closed July 5

The Department of Labor's Office of Foreign Labor Certification (OFLC) informed employers and other interested stakeholders that the three-day filing window to submit an H-2B Application for Temporary Employment Certification (Form ETA-9142B and appendices) requesting a work start date of October 1, 2022, opened on July 3, 2022, at 12 a.m. (midnight) ET and closed on July 5, 2022, at 11:59 p.m. ET.

OFLC said it would "randomly order for assignment to analysts for review and processing all H-2B applications requesting a work start date of October 1, 2022, that are filed during the three-day filing window."

Details:

- "H-2B Application Filing Timelines for 2022 Peak Filing Season," OFLC announcement (includes filing tips), June 24, 2022, <https://www.dol.gov/agencies/eta/foreign-labor>

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USCIS Issues Policy Alert on Effect of Returning to United States During 3- or 10-Year Period After Departure or Removal

U.S. Citizenship and Immigration Services (USCIS) issued a policy alert on June 24, 2022, on inadmissibility under § 212(a)(9)(B) of the Immigration and Nationality Act (INA), specifically, the effect of returning to the United States during the statutory 3- or 10-year period after departure or removal (if applicable). Under the policy guidance, a noncitizen who again seeks admission more than 3 or 10 years after the relevant departure or removal "is not inadmissible under INA § 212(a)(9)(B) even if the noncitizen returned to the United States, with or without authorization, during the statutory 3-year or 10-year period." A noncitizen's location during the statutory 3- or 10-year period and the noncitizen's manner of return to the United States during the statutory period are "irrelevant" for purposes of determining inadmissibility under INA § 212(a)(9)(B), USCIS said.

The alert also notes that some noncitizens may be able to file a motion to reopen their previously denied applications with USCIS using Form I-290B, Notice of Appeal or Motion.

Details:

- USCIS Policy Alert (PA-2022-15), June 24, 2022, <https://bit.ly/3OoB1TV>

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Amendment to Salvage Unused Immigrant Visa Numbers Advances in House

The House of Representatives' Appropriations Committee passed an amendment, introduced by Rep. Grace Meng (D-NY), to Department of Homeland Security (DHS) appropriations for fiscal year 2023 that would recapture unused, expired family- and employment-based immigrant visa numbers lost for various reasons since 1992. The amendment would also provide visa relief for immigrants banned from traveling to the United States during the Trump administration.

Several previous attempts in Congress to restore unused visa numbers have been unsuccessful. It is unclear whether this amendment will ultimately succeed.

Details:

- "Amendment to the Homeland Security Appropriations Bill Offered by Ms. Meng of New York," <https://aboutbgov.com/3EM>
- "Decades' Worth of Unused Immigrant Visas Salvaged in House Bill," Bloomberg Government, June 24, 2022, <https://bit.ly/3xOTCBE>

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E-Verify Releases New Case Processing Features

On June 21, 2022, E-Verify released several new features "to increase awareness of existing duplicate cases and reduce overall case processing time." E-Verify also redesigned the "Search Cases" page to provide "a more robust case query function."

Among other things, the duplicate case lookback period was expanded from 30 days to 365 days.

Details:

- E-Verify New Features and Updates, June 2022, <https://www.e-verify.gov/june-2022>

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Tribal Card Acceptable for Entry Into United States

Effective June 24, 2022, U.S. Customs and Border Protection (CBP) has designated an approved Native American tribal card issued by the Kickapoo Traditional Tribe of Texas to U.S. citizen tribal members as an acceptable travel document for purposes of the Western Hemisphere Travel Initiative. The approved card may be used to denote identity and citizenship of Kickapoo Traditional Tribe of Texas members entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

Details:

- CBP notice, 87 Fed. Reg. 37879 (June 24, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-06-24/pdf/2022-13537.pdf>

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USCIS Transfers Certain H-1B Petitions to California Service Center

Certain H-1B petitions and fiscal year (FY) 2023 H-1B cap petitions awaiting intake at the Vermont Service Center (VSC) are being transferred to the California Service Center (CSC) for data entry and adjudication. U.S. Citizenship and Immigration Services (USCIS) said it is transferring those cases "in response to the H-1B receipt issuance delays at the VSC."

USCIS said, "Please allow time for the CSC to process the transferred cases and do not submit duplicate petitions out of concern that your previous submission did not arrive or has been misplaced. If your petition is transferred, you will not receive a transfer notice, but you will receive a receipt notice as soon as your petition is receipted. Petitions will be worked to completion at the CSC once transferred. For inquiries about case status, please use the petition receipt number."

The agency said that receipt issuance delays continue "in other workloads across some service centers. We are actively trying to reduce these delays."

Petitions should continue to be filed based on the addresses provided on the [Direct Filing Addresses for Form I-129, Petition for a Nonimmigrant Worker](#) page, USCIS said.

Details:

- USCIS alert, June 16, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-transfers-certain-h-1b-petitions-to-the-california-service-center>

DHS, DOS Announce Exemptions Allowing Eligible Afghans to Qualify for Protection and Immigration Benefits

The Secretaries of Homeland Security and State, in consultation with the Attorney General, announced three new exemptions that can be applied on a case-by-case basis to ensure that Afghans who would otherwise be eligible for the benefit or protection they are seeking are not automatically denied. Among other things, the exemptions will "ensure that individuals who have lived under Taliban rule, such as former civil servants, those required to pay service fees to the Taliban to do things like pass through a checkpoint or obtain a passport, and those who fought against the Taliban are not mistakenly barred because of overly broad applications of terrorism-related inadmissibility grounds (TRIG) in our immigration law," a Department of Homeland Security (DHS) media release said.

DHS Secretary Alejandro Mayorkas said that "[d]octors, teachers, engineers, and other Afghans, including those who bravely and loyally supported U.S. forces on the ground in Afghanistan at great risk to their safety, should not be denied humanitarian protection and other immigration benefits due to their inescapable proximity to war or their work as civil servants." He said the exemptions will "allow eligible individuals who pose no national security or public safety risk to receive asylum, refugee status, or other legal immigration status, demonstrating the United States' continued commitment to our Afghan allies and their family members." Secretary of State Antony Blinken said the Department of State remains "committed to our Afghan allies and processing Special Immigrant Visa applications as expeditiously as possible, while always protecting our national security."

DHS said the new exemptions "may" apply to:

- Afghans who supported U.S. military interests, specifically Afghan allies who fought or otherwise supported those who fought in the resistance movement against the Taliban and Afghans who took part in the conflict against the Soviet occupation of Afghanistan.
- Individuals employed as civil servants in Afghanistan at any time from September 27, 1996, to December 22, 2001, or after August 15, 2021. This could include teachers, professors, postal workers, doctors, and engineers, among others. It does not include individuals who held high-level positions, worked for certain ministries, or directly assisted violent Taliban activities or activities in which the individual's civil service was motivated by an allegiance to the Taliban.
- Individuals who provided insignificant or certain limited material support to a designated terrorist organization. This could apply in limited circumstances where the support is incidental to a routine social or commercial transaction; incidental to certain humanitarian assistance; provided in response to a reasonably perceived threat of physical or economic harm, restraint, or serious harassment; and where the support provided is considered minimal and inconsequential. Due to the Taliban's presence and control of entities, roads, and utilities, many individuals who lived in Afghanistan needed to interact with the Taliban in ways that, absent such an exemption, render them inadmissible to the United States under U.S. law, DHS said.

Details:

- DHS news release, June 14, 2022, <https://www.uscis.gov/newsroom/all-news/dhs-and-dos-announce-exemptions-allowing-eligible-afghans-to-qualify-for-protection-and-immigration>

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OFLC Announces 60-Day Public Comment Period on Prevailing Wage Application Forms

The Department of Labor's Office of Foreign Labor Certification (OFLC) announced a 60-day public comment period relating to "proposed minor revisions" to the Application for Prevailing Wage Determination information collection. The information collection "ensures employers provide information about their job opportunities and terms of employment necessary to determine prevailing wages," OFLC explained.

OFLC is seeking a three-year approval of the information collection and related retention requirements associated with the Form ETA-9141, Application for Prevailing Wage Determination; Form ETA-9141, General Instructions; Form ETA-9141, Appendix A, Request for Additional Worksite(s); Form ETA-9165, Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OES Survey; and Form ETA-9165, General Instructions.

Written comments must be submitted by August 15, 2022, in accordance with the instructions provided in the notice.

Details:

- OFLC media release, June 14, 2022, <https://www.dol.gov/agencies/eta/foreign-labor>
- "Agency Information Collection Activities for Prevailing Wage Determination Information Collection," OFLC notice, 87 Fed. Reg. 35999 (June 14, 2022).

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USCIS Announces 30-Day Public Comment Period on Proposed Revisions to Premium Processing Service Request Form

U.S. Citizenship and Immigration Services (USCIS) announced a 30-day public comment period relating to proposed revisions to Form I-907, Request for Premium Processing Service. The information collection notice was previously published on March 30, 2022, allowing for a 60-day public comment period. USCIS received eight comments and is extending the comment period for an additional 30 days.

Written comments must be submitted by July 15, 2022, in accordance with the instructions provided in the notice.

Details:

- "Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Premium Processing Service," USCIS notice, 87 Fed. Reg. 36140 (June 15, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-06-15/pdf/2022-12877.pdf>

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CDC Rescinds Order Requiring Negative COVID-19 Test Before Flight to United States

As of June 12, 2022, air travelers to the United States no longer need to show a negative COVID-19 test result or documentation of recovery before boarding, the Centers for Disease Control and Prevention (CDC) announced.

CDC continues to recommend that travelers boarding a flight to the United States get tested for current infection with a viral test as close to the time of departure as possible (no more than 3 days) and not travel if they are sick. CDC said it "continues to evaluate the latest science and state of the pandemic and will reassess the need for a testing requirement if the situation changes."

Details:

- CDC media release, June 10, 2022, <https://bit.ly/3Q9ZUEp>

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State Dept. Removes Required DV Entry Form Passport-Related Details in Response to Court Order

In response to a U.S. district court ruling, the Department of State is removing from the Code of Federal Regulations amendments published in an interim final rule on June 5, 2019, requiring principal entrants submitting an electronic diversity visa entry form to provide certain information, including the entrant's unique serial or issuance number associated with the principal entrant's valid unexpired passport, or claim an exemption to the passport requirement. In *E.B. v. U.S. Department of State*, No. 19–2856 (D.D.C. Feb. 4, 2022), the court vacated the rule.

Details:

- Final rule, Dept. of State, 87 Fed. Reg. 35414 (June 10, 2022), <https://bit.ly/3OaEpkO>

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DHS Designates Cameroon for Temporary Protected Status

The Department of Homeland Security (DHS) has designated Cameroon for temporary protected status (TPS) for 18 months, effective June 7, 2022, through December 7, 2023. This designation allows Cameroonian nationals (and individuals having no nationality who last habitually resided in Cameroon) who have continuously resided in the United States since April 14, 2022, and who have been continuously physically present in the United States since June 7, 2022, to apply for TPS. An estimated 11,700 individuals may be eligible, according to U.S. Citizenship and Immigration Services.

Cameroon nationals and individuals having no nationality who last habitually resided in Cameroon may submit an initial registration application under the designation of Cameroon for TPS and apply for an employment authorization document (EAD) during the 18-month registration period that began June 7, 2022, and ends on December 7, 2023.

DHS explained that TPS-based EADs have a category code of A12 or C19. Once USCIS issues a TPS-based EAD, the individual is authorized to work. All employees, including those with a TPS-related EAD under the TPS designation of Cameroon, must show a document proving they are authorized to work to complete the Form I-9 verification process.

Details:

- "DHS Announces Registration Process for Temporary Protected Status for Cameroon," June 6, 2022, <https://bit.ly/3aQ2LBX>

- TPS notice, 87 Fed. Reg 34706 (June 7, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-06-07/pdf/2022-12229.pdf>

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USCIS Corrects Employment Authorization Renewal Receipt Notices

U.S. Citizenship and Immigration Services (USCIS) announced that between May 4, 2022, and June 2, 2022, it sent out receipt notices for Form I-765, Application for Employment Authorization, with incorrect information. The incorrect notices included language relating to an extension for certain categories of renewal applicants instead of the correct language about a 540-day automatic extension.

USCIS has printed correction notices for affected applications and expects to complete sending out the notices by the third week of June.

Details:

- USCIS alert, Apr. 10, 2022, <https://www.uscis.gov/eadautoextend>

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Portability Continued for Certain H-2B Workers Seeking to Change Employers

U.S. Citizenship and Immigration Services (USCIS) announced that portability will continue for petitions received by USCIS through January 24, 2023, for H-2B workers already in the United States.

On May 18, 2022, the Departments of Homeland Security and Labor published a joint temporary final rule to increase the numerical limits during the second half of FY 2022 for H-2B nonimmigrant visas and continue to provide portability flexibility for H-2B workers already in the United States. The rule allows an H-2B worker who is already in the U.S. to begin work immediately with a new employer after an H-2B petition (supported by a valid temporary labor certification is received by USCIS and before it is approved.

A temporary final rule published in January currently provides portability.

Details:

- USCIS notice, June 9, 2022, <https://www.uscis.gov/i-9-central/form-i-9-related-news/portability-continued-for-h-2b-workers-seeking-to-change-employers>
- Temporary final rule, Depts. of Homeland Security and Labor, 87 Fed. Reg. 30334 (May 18, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-05-18/pdf/2022-10631.pdf>
- Temporary final rule, Depts. of Homeland Security and Labor, 87 Fed. Reg. 4722 (Jan. 28, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-01-28/pdf/2022-01866.pdf> (correction: <https://bit.ly/3mG1Jel>)

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Visa Bulletin Includes Diversity Immigrant Visa Availability

The Department of State's Visa Bulletin for July 2022 includes information on diversity visa availability for the months of July and August.

Details:

- Dept. of State Visa Bulletin for July 2022, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2022/visa-bulletin-for-july-2022.html>

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Federal Judge Vacates Biden Immigration Enforcement Memorandum

On June 10, 2022, a U.S. district judge in the Southern District of Texas vacated the Biden administration's September 2021 memorandum on immigration enforcement prioritization as "arbitrary and capricious, contrary to law, and failing to observe procedure under the Administrative Procedure Act." Judge Drew Tipton said the core of the dispute was "whether the Executive Branch may require its officials to act in a manner that conflicts with a statutory mandate imposed by Congress. It may not."

The states of Texas and Louisiana argued that the memorandum conflicted with detention mandates under federal law. The judge noted that in the 1990s, Congress reined in the Executive Branch's discretion by mandating detention of criminal aliens or those with final orders of removal: "The wisdom of the statute passed by Congress and signed into law by the President has no bearing here. The passions of the present sometimes conflict with the views of the past. But the law remains unless it is repealed or replaced. And the two statutes at issue in this case are still the law of the land." Although the Executive Branch has "case-by-case discretion to abandon immigration enforcement as to a particular individual," the judge said, this case "does not involve individualized decisionmaking. Instead, this case is about a rule that binds Department of Homeland Security officials in a generalized, prospective manner" in contravention of Congress's detention mandate. Further, although it is true that the Executive Branch "may prioritize its resources," it "must do so within the bounds set by Congress." Accepting the Executive Branch's position invoking "discretion" and "prioritization" would have "profound consequences for the separation of powers," the judge said.

Details:

- States of Texas and Louisiana v. United States, https://storage.courtlistener.com/recap/gov.uscourts.txsd.1821703/gov.uscourts.txsd.1821703.240.0_1.pdf
- "Federal Judge in Texas Throws Out Biden Administration Immigration Enforcement Guidelines," CNN, June 10, 2022, <https://www.cnn.com/2022/06/10/politics/immigration-enforcement-guidelines-biden-thrown-out-federal-judge/index.html>
- "Guidelines for the Enforcement of Civil Immigration Law," Dept. of Homeland Security, Sept. 30, 2021, <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf>

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ABIL Global: Canada

Canada has launched a new stream of immigration for Ukrainians.

A new program called the Canada-Ukraine Authorization for Emergency Travel (CUAET) allows Ukrainian nationals to apply for a Canadian visa without most of the usual requirements (free of charge, exempt from completing an immigration medical exam overseas, the option to apply for an open work permit, exempt from Canada's COVID-19 vaccination requirements) excepting

biometrics in certain cases and ArriveCAN. Announced on March 17, 2022, the CUAET is particularly interesting for Ukrainians as compared to other visas available because it allows them to obtain an open work permit and/or study permit free of charge, and they can be authorized to stay in Canada up to three years instead of the standard six months. For non-complex cases, the aim is to approve such visa applications within 14 days of receipt. No sponsor in Canada is required, no ties to home country are to be considered, and there are no financial requirements.

To apply for CUAET, Ukrainians need to apply for a Temporary Resident Visa and an Open Work Permit by mentioning in their application that it is made through CUAET to highlight the urgency of the demand to the visa officers. Once the application is submitted, Ukrainians need to take biometrics only if they are aged 18 to 60. Then they normally would need to submit their passport for placement of Canadian Visa (although Canadian authorities now emit counterfoil-less visas if the applicant is in one of six departure countries: Poland, Germany, Slovakia, Hungary, Austria, or Romania).

On April 28, 2022, Canada received 163,747 applications and approved 56,633, and 19,628 Ukrainians arrived in Canada. According to reports, because there is no limit on the number of CUAET applications of CUAET, it is a popular and successful program.

Details:

- Canada-Ukraine Authorization for Emergency Travel (updated Apr. 22, 2022), Government of Canada, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/ukraine-measures/cuaet.html>
- Ukraine Immigration Measures: Key Figures (updated Apr. 29, 2022), Government of Canada, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/ukraine-measures/key-figures.html>

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New Publications and Items of Interest

New portal for I-94 correction requests. U.S. Customs and Border Protection (CBP) launched a new portal that includes a dropdown menu allowing I-94 Arrival/Departure Record correction requests. According to reports, many ports of entry (POEs) also allow I-94 corrections via email, which must be requested from the POE that issued the erroneous I-94. After emailing the designated address, the emailer will receive an automated response with the details of documents CBP needs. CBP "Ask us a question" portal:

https://help.cbp.gov/s/questions?language=en_US; CBP Deferred Inspection Sites (includes state-by-state dropdowns with I-94 correction email addresses):

<https://www.cbp.gov/contact/ports/deferred-inspection-sites>; I-94 Arrival/Departure Record, https://www.cbp.gov/sites/default/files/documents/CBP%20Form%20I-94%20English%20SAMPLE_Watermark.pdf.

Coming soon: Social Security Administration to resume E-Verify operations. E-Verify announced on June 30, 2022, that it "will soon share important and timely guidance regarding the timeframe for employees to take action on resolving their Social Security Administration (SSA) Tentative Nonconfirmations (mismatches) created since March 2, 2020." Text "EVERIFY UPDATES" to 468311 to get the latest E-Verify news.

Challenges of USCIS fee-setting structure. The Office of the Citizenship and Immigration Services (CIS) Ombudsman released a report on June 15, 2022, "The Challenge of the Current USCIS Fee-Setting Structure." The CIS Ombudsman examined the U.S. Citizenship and Immigration Services (USCIS) funding model "after observing the financial crisis and

dysfunction that followed in the immediate wake of the COVID-19 pandemic, including the threat of furloughing much of its staff. While the agency ultimately avoided the furlough, it implemented austerity measures that significantly impaired its ability to fulfill its mission." The CIS Ombudsman's report includes five recommendations, including pursuing "authorization to establish a financing mechanism, through the auspices of the Department of the Treasury, that USCIS may draw upon to address unexpected revenue shortfalls and unfunded policy shifts and to maintain adequate staffing to meet its performance obligations." <https://bit.ly/3yLYeAw>

Webinar summary on employment-based immigrant visas. The Department of Homeland Security released an "engagement readout" summarizing highlights of a webinar on employment-based visas, including the statutory framework and pandemic challenges, held May 26, 2022. Webinar topics included immigrant visa priority dates, progress in processing employment-based green cards in different categories, and policy and operational initiatives "aimed at maximizing visa usage and mitigating processing delays and their impact on [U.S. Citizenship and Immigration Services (USCIS)] customers." USCIS said that 1,080 stakeholders participated in the engagement, including attorneys/legal representatives (31%), advocacy groups (2%), and others, including applicants/petitioners and employers (67%). Participants submitted more than 800 written questions. The summary provides a sample of the questions asked but does not include answers. <https://www.dhs.gov/sites/default/files/2022-06/Readout%20-%20Employment-Based%20Immigrant%20Visas%20Webinar.pdf>

Immigrant and Employee Rights Section free webinars. The Department of Justice's Immigrant and Employee Rights Section is offering free webinars for the public in June and July 2022. <https://www.justice.gov/crt/webinars>

Agency Twitter accounts:

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

Immigrant and employee rights webinars. The Department of Justice's Immigrant and Employee Rights Section (IER), of the Civil Rights Division, is offering a number of free webinars for workers, employers, and advocates. For more information, see <https://www.justice.gov/crt/webinars>.

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

Alliance of Business Immigration Lawyers:

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

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ABIL Member/Firm News

Charles Kuck (bio: <https://www.abil.com/abil-lawyers/charles-kuck/>) was on a panel discussing Georgia's six-week ban on abortions that is pending in courts. Mr. Kuck was quoted as saying that federal courts have never taken away a right that people already had, which leaves the right up to the states to guarantee. GPB News, June 27, 2022, <https://www.gpb.org/news/2022/06/27/political-rewind-georgias-six-week-ban-on-abortions-pending-in-courts-candidates>

Cyrus Mehta (bio: <https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) and **Kaitlyn Box** co-authored several new blog posts: "The Impact of the Overturning of Roe v. Wade on Immigrants," <http://blog.cyrusmehta.com/2022/06/impact-of-the-overturning-of-roe-v-wade-on-immigrants>

[immigrants.html](#), and "Ethical Dimensions of Patel v. Garland," <http://blog.cyrusmehta.com/2022/05/ethical-dimensions-of-patel-v-garland.html>

Wolfsdorf Rosenthal LLP has posted several new blog entries: "Judge Orders USCIS To Begin Accepting New EB-5 Regional Center Investment Applications—FAQ for Investors," and "State Department Denies Substantial Percentage of Employer-Sponsored Immigrant Visas"; and "Canada Launches New Immigration Stream for Ukrainians." <https://wolfsdorf.com/>

Stephen Yale-Loehr (bio: <https://www.abil.com/abil-lawyers/stephen-yale-loehr/>) was quoted by various media outlets about the Supreme Court's decision allowing the Biden administration to end the Trump-era "remain in Mexico" policy for asylum seekers:

- "Supreme Court: Biden Can End Trump-Era Asylum Policy," Washington Post, June 30, 2022. Mr. Yale-Loehr said that the Biden administration does not need to take any further action to end the policy, but that Texas and Missouri can pursue a challenge over whether the administration followed appropriate procedures in ending the program. https://www.washingtonpost.com/politics/supreme-court-biden-properly-ended-trump-era-asylum-policy/2022/06/30/0a57cf10-f882-11ec-81db-ac07a394a86b_story.html
- "Immigration Advocates Are Cheering the Supreme Court's Decision on 'Remain in Mexico,'" National Public Radio, June 30, 2022. Mr. Yale-Loehr said that "it is an important victory today for the Biden administration on immigration, but it's not going to stop states like Texas and Louisiana and Arizona from challenging the Biden administration on every immigration policy that they can." <https://www.npr.org/2022/06/30/1109051809/immigration-advocates-are-cheering-the-supreme-courts-decision-on-remain-in-mexi>
- "Former Trump 'Remain in Mexico' Asylum Policy Is Not Enforceable, U.S. Supreme Court Says," National Law Journal, June 30, 2022. Mr. Yale-Loehr said, "The decision is significant for several reasons. First, the Supreme Court preserved its right to decide the merits of an immigration controversy, even if immigration law bars lower courts from issuing an injunction. Second, the Court held that the immigration statute gives discretion to immigration officials on who to admit to the United States while they await an immigration hearing. Third, the majority noted that by interpreting federal law to require the return to Mexico of asylum seekers, the court of appeals in the case burdened the executive branch's ability to conduct foreign relations with Mexico." <https://www.law.com/nationallawjournal/2022/06/30/former-trump-remain-in-mexico-asylum-policy-is-not-enforceable-us-supreme-court-says/> (registration required)

Mr. Yale-Loehr was quoted by the Associated Press in many news outlets regarding a Texas court's striking down the Biden administration's immigration enforcement guidelines. Mr. Yale-Loehr noted that many people living in the United States without authorization will now be afraid to leave their homes out of concern they may be detained, even if they are otherwise law-abiding. Prioritizing whom to arrest and deport is a necessity, he said: "We simply don't have enough ICE agents to pick up and put into proceedings everyone who violates our immigration law." See "Biden Suspends Rules Limiting Immigrant Arrest, Deportation," https://www.washingtonpost.com/politics/biden-suspends-rules-limiting-immigrant-arrest-deportation/2022/06/27/1f2d2b8c-f676-11ec-81db-ac07a394a86b_story.html

The following **Alliance of Business Immigration Lawyers members and associates** spoke at the American Immigration Lawyers Association's Annual Conference on Immigration Law or the AILA/GMS Annual Global Migration Forum (<https://info.aila.org/ac22>):

AILA ANNUAL CONFERENCE ON IMMIGRATION LAW

Remote Management Is the Future: Ethically and Effectively Managing Freelance and

Remote Employees: Michele G. Madera (DL), Miki Kawashima Matrician (Klasko Immigration Law Partners)

Naturalization Basics panel: Dagmar Butte

Ready to Be an Immigration Lawyer? If Only I Had Known Then What I Know Now!: Ari Sauer

Introducing Essential Terms and Concepts: William Stock

Lessons Learned from the Great Downgrade Rush of 2020: Cyrus Mehta

EEEEK! Filing Post-Pandemic E-1 And E-2 Applications: Bernard Wolfsdorf

EB-5 and International Entrepreneur Parole: Current State of the Programs: H. Ronald Klasko

“You’re FOIA’d!” The Immigration Attorney’s Secret Weapon: Charles Kuck

Hot Topics Strategy Session with the AILA National Officers: Farshad Owji

Asylum I: Protecting Those Seeking Refuge in the United States: Stephen Yale-Loehr

It’s Tough to Become an Intracompany Transferee: Crafting Winning L-1A and L-1B Arguments: Fausta Albi

H-1B: Specialty Occupations Outside the Box: Bob White, Vic Goel

The New Normal: Dealing with a Remote Workforce: Kehrela Hodkinson

Hot Topics in Removal: Case Law Updates, New Arguments, and More!: Aaron Hall

ILCA Panel: The Policy and Political Landscape for the 2022 Midterm Elections: Ira Kurzban

Opportunities for H-2B Visas for Seasonal/Short-Term Positions: Beyond Hospitality and Leisure Occupations: Loan Huynh

The EB-1A, NIW, and Schedule A in Nontraditional Fields: Jason Susser

Motion Practice in Immigration Court: Winning Your Case Before the Individual Hearing: Lily Axelrod (discussion leader)

Exchanging Workers: Issues Unique to the J Visa Exchange Program: Elissa Taub (discussion leader)

Employer Compliance Issues: Beyond the Form I-9: Angelo Paparelli

Non-Hardship Waivers: Applications: David Isaacson

Who Wants to Be a Millionaire Immigration Attorney?: Ira Kurzban

Why Aren’t You Delegating: Bryan Funai

The Overture and the Final Act: Hiring and Firing: Kirby Joseph (discussion leader), Elise Fialkowski

Well-Being Practices for Your Entire Office: Jennifer Howard

60 Tech Tips in 60 Minutes: Gregory Siskind

Buried in Piles of Paper? Let’s Get Digital!: Hannah Little (discussion leader), Hilary Fraser, Robert Loughran

AILA/GMS ANNUAL GLOBAL MIGRATION FORUM

Practice Management: Welcome Address and Greetings: Maria Celebi

Attorney Compliance and Ethics: Tools to Navigate the Global Migration: Rodrigo Tannus Serrano

Immigration Lawyers as Global Citizens: Ariel Orrego-Villacorta

Current Impact of COVID-19 on Global Migration: Bernard Caris

Competing Globally for Talent and Essential Workers: William Hummel (discussion leader), Nina Perch-Nielsen

The Road Ahead: What Do We Envision for the Future of Global Mobility?: Audrey Lustgarten (discussion leader), Farshad Owji, Philip Yip

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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 425 member lawyers and their more than 1,400 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.

Disclaimer/Reminder

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