

IMMIGRATION INSIDER

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Headlines:

Employer Reminder: E-Verify Operations Resume; Preferred Dates Released for Employee Visits to SSA to Resolve Mismatches – E-Verify reminded employers that operations have resumed, and released preferred dates for employees to visit the Social Security Administration to resolve their Tentative Nonconfirmations (mismatches of Social Security numbers).

CBP Is Discontinuing Passport Entry Stamps, Transitioning to Online I-94 Arrival/Departure Records Only; Mistakes Are Common – U.S. Customs and Border Protection (CBP) has automated the I-94 process for most nonimmigrants arriving by air and sea. This means that in many cases, foreign nationals no longer receive an entry stamp in their passports at ports of entry documenting their arrival. Earlier this year, CBP also announced that it is issuing electronic I-94s at land ports of entry.

DHS Begins Limited Implementation of DACA Under Final Rule – U.S. Citizenship and Immigration Services (USCIS) will continue to accept and process applications for deferred action, work authorization, and advance parole for current DACA recipients. USCIS will continue to accept but cannot process initial DACA requests. Current grants of DACA and related employment authorization documents remain valid.

Accrediting Agency's Loss of Recognition May Affect Certain Foreign Students Applying for English-Language Study and 24-Month STEM OPT Extension Programs, As Well As H-1B and I-140 Applicants – A Department of Education decision to no longer recognize the Accrediting Council for Independent Colleges and Schools as an accrediting agency immediately affects two immigration-related student programs.

Worldwide Visa Operations Recovering Faster Than Expected, State Dept. Announces – The agency expects to reach pre-pandemic processing levels this year.

USCIS Extends Certain COVID-19-Related Flexibilities Through January 23, 2023 – Under the flexibilities, U.S. Citizenship and Immigration Services considers a response received within 60 calendar days after the due date set forth in certain requests or notices before taking any action, if the request or notice was issued between March 1, 2020, and January 24, 2023.

OFLC Releases Round 2 FAQ on Job Order Filing and Processing Under H-2A Final Rule – Among other things, the FAQ notes that unless a specific exemption applies, employers and their authorized attorneys or agents must submit H-2A job orders using the electronic method designated by the Office of Foreign Labor Certification Administrator.

Duplicate Copies of Form I-129 No Longer Required – U.S. Citizenship and Immigration Services no longer requires petitioners to submit duplicate copies of the Form I-129 Petition for a Nonimmigrant Worker, or of the supporting documentation, unless the agency specifically asks for it.

USCIS Clarifies CW-1 Policy on Temporary Departure Requirement – U.S. Citizenship and Immigration Services clarified its policy on implementing the requirement that Commonwealth of the Northern Mariana Islands (CNMI) workers leave the United States for at least 30 days after two renewals of their CNMI-Only Transitional Worker (CW-1) visa classification.

EOIR Announces 32 New Immigration Judges – The Executive Office for Immigration Review announced the appointment of 32 immigration judges to courts in California, Florida, Georgia, Illinois, Maryland, New York, Tennessee, Texas, and Virginia.

USCIS Implements New Process for Venezuelans – U.S. Citizenship and Immigration Services began implementing a new process for Venezuelans on October 18, 2022. As announced previously, the fully online process will allow individuals to be considered on a case-by-case for "advance authorization to travel to the United States and seek a temporary period of parole for up to two years" if they meet certain conditions.

DHS Designates Ethiopia for Temporary Protected Status – The 18-month designation will be effective on the publication date of the forthcoming Federal Register notice, which will provide instructions for applying for TPS and work authorization.

USCIS Issues Filing Guidance for CW-1 Petitions Seeking to Extend Status – U.S. Citizenship and Immigration Services will consider certain CW-1 petitions seeking an extension of status for temporary workers present in the Commonwealth of the Northern Mariana Islands to be filed on time, even if USCIS receives them after the worker's current period of CW-1 petition validity expires.

Fortune 500 Companies Call for Protection of DACA Program, 'Dreamers' – Several large U.S. corporations have launched an advertising campaign to protect the Deferred Action for Childhood Arrivals program, whose more than 600,000 beneficiaries are called "Dreamers."

USCIS Updates Guidance on Medical Exceptions to Naturalization Requirements for Applicants With Disabilities – The revisions to Form N-648 eliminate questions and language that no longer have practical utility or were redundant.

Coalition Urges the University of California to Hire Undocumented Students – A coalition of students and legal scholars has proposed that the 10 University of California campuses hire undocumented students. They are challenging federal immigration laws that prohibit the hiring of undocumented persons by U.S. employers, based on a new legal interpretation by constitutional and immigration scholars that argues that these laws do not apply to states.

Employers Should Continue to Use Current I-9 Form Even After Oct. 31 Expiration, DHS Says; ICE Announces I-9 Flexibility Extension – The Department of Homeland Security will publish a Federal Register notice to announce the new I-9 form when it becomes available. U.S. Immigration and Customs Enforcement announced an extension until July 31, 2023, of the Form I-9 flexibilities first announced in March 2020.

DHS to Supplement H-2B Cap With Nearly 65,000 Additional Visas for FY 2023; Worker Protection Taskforce Announced – The H-2B supplemental includes an allocation of 20,000 visas for workers from Haiti, Honduras, Guatemala, and El Salvador. The remaining 44,716 supplemental visas will be available for returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years.

DHS Announces New 'Migration Enforcement Process' for Venezuelans – Among other things, the new process will bring up to 24,000 qualifying Venezuelans into the United States and provide them with work authorization. Those who cross the border between ports of entry without authorization will be ineligible.

DOL Publishes Final Rule Revising Temporary Labor Certification Regulations – After consideration of comments received in response to the proposed rule, the Department separated the proposals into two rulemaking activities. This first rule encompasses all of the proposed rule except the adverse effect wage rate (AEWR) methodology. The second will address changes to the AEWR methodology.

USCIS Issues Policy Guidance on EB-5 Reform and Integrity Act of 2022 – U.S. Citizenship and Immigration Services issued policy guidance related to an EB-5 rule that a federal court vacated on June 22, 2021.

CBP Publishes Final Rule on Media Representatives From China Seeking to Enter the United States – The rule removes a maximum 90-day period of stay for certain representatives of foreign information media from China and allows the Secretary of Homeland Security to determine the maximum period of stay, up to one year.

CBP Imposes Arrival Restrictions on Flights Carrying Uganda Travelers – Until further notice, U.S. Customs and Border Protection has directed all flights to the United States carrying persons who have recently traveled from, or were otherwise present within, Uganda to arrive at one of five U.S. airports implementing enhanced public health measures.

Fifth Circuit Rules DACA is Illegal, But Remands to Lower Court to Consider Final Rule – The current 594,000 Deferred Action for Childhood Arrival (DACA) recipients can maintain status while the lower court considers the effect of a DACA final rule issued by the Biden administration. New applications continue to be blocked.

Optional Practical Training, STEM Extension Upheld by Court – The court held that authorizing foreign students to engage in limited periods of employment for practical training as their schools recommend according to the terms set out in the rule is a valid exercise of the Department of Homeland Security's authority.

Labor Dept. Announces H-2A Final Rule – The Department of Labor announced the impending publication of a final rule to amend H-2A temporary labor certification regulations to strengthen agricultural worker protections and to update the H-2A application and temporary labor certification and prevailing wage determination processes.

EOIR Extends Automatic Acceptance of Documents Filed Late With Certain Florida Immigration Courts Due to Hurricane Ian – The Executive Office for Immigration Review will extend the automatic acceptance of documents filed late with the Miami, Krome, and Orlando Immigration Courts through November 25, 2022. The period applies to cases with filing deadlines starting September 28, 2022.

November Visa Bulletin Includes Information on Extension of Religious Workers Category, Visa Availability in Employment Second Category – The Department of State's Visa Bulletin for November 2022 includes information on the extension of the religious workers category until December 15, 2022, and visa availability in the employment second category.

President Releases Refugee Admissions Numbers for FY 2023 – President Biden issued a determination that up to 125,000 refugee admissions for fiscal year 2023 "is justified by humanitarian concerns or is otherwise in the national interest." The announcement includes regional allocations.

ABIL Global: Switzerland – Nationals of countries with which Switzerland holds permanent residence agreements now must also show local language proficiency when applying for permanent residence.

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Employer Reminder: E-Verify Operations Resume; Preferred Dates Released for Employee Visits to SSA to Resolve Mismatches

E-Verify reminded employers that operations have resumed, and released preferred dates for employees to visit the Social Security Administration (SSA) to resolve their Tentative Nonconfirmations (TNCs) (mismatches of Social Security numbers). E-Verify said that the timeframes are recommended, not required, but that all employees must visit SSA to resolve their TNCs by September 29, 2023, or their cases will automatically get Final Nonconfirmations.

The SSA provided the following information:

If the date on the employee's Referral Date Confirmation is:	Then the employee should visit SSA between:
March 2 to December 31, 2020	October 1 to December 31, 2022
January 1 to December 31, 2021	January 1 to March 31, 2023
January 1 to July 14, 2022	April 1 to June 30, 2023

Details:

- E-Verify notice. <https://www.e-verify.gov/social-security-administration-resumes-e-verify-operations>

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CBP Is Discontinuing Passport Entry Stamps, Transitioning to Online I-94 Arrival/Departure Records Only; Mistakes Are Common

U.S. Customs and Border Protection (CBP) has automated the I-94 process for most nonimmigrants arriving by air and sea. According to reports, this means that in many cases, foreign nationals no longer receive an entry stamp in their passports at ports of entry documenting their arrival.

Employers should advise their foreign national employees to check the accuracy of their I-94 Arrival/Departure Records on the [U.S. Customs and Border Protection \(CBP\) website](#) soon after they enter the United States, as errors are common. The site requires the name, date of birth, and passport number. The I-94, not the passport, visa, or prior approval notice, documents a nonimmigrant's status, approved length of stay in the United States, and departure information.

In case of an I-94 error, there is an [online CBP system for requesting corrections](#), but some practitioners report months-long delays and agency inaction. They recommend contacting the appropriate CBP office directly or sending a [Deferred Inspections email](#) instead to get I-94 records corrected.

Earlier this year, CBP also announced that it is issuing electronic I-94s at land ports of entry. For land arrivals, CBP is no longer issuing paper I-94s to nonimmigrants upon arrival except in limited circumstances and upon nonimmigrant request if feasible. Nonimmigrants can access Form I-94s online at the CBP website or via mobile application.

Details:

- Official Site for Travelers Visiting the United States: Apply for or Retrieve Form I-94, Request Travel History and Check Travel Compliance, CBP.
<https://i94.cbp.dhs.gov/i94/#/home>
- Streamlining I-94 Issuance at the Land Border, CBP notice, 87 Fed. Reg. 15446 (Mar. 18, 2022). <https://www.govinfo.gov/content/pkg/FR-2022-03-18/pdf/2022-05758.pdf>

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DHS Begins Limited Implementation of DACA Under Final Rule

The Department of Homeland Security's (DHS) final rule on Deferred Action for Childhood Arrivals (DACA) took effect on October 31, 2022. Under the final rule, U.S. Citizenship and Immigration Services (USCIS) will continue to accept and process applications for deferred action, work authorization, and advance parole for current DACA recipients. Due to ongoing litigation, USCIS will continue to accept but cannot process initial DACA requests. Current grants of DACA and related employment authorization documents remain valid, USCIS said.

USCIS said the final rule's implementation "means that DACA is now based on a formal regulation, thereby preserving and fortifying the program while the program remains the subject of litigation in court. Previously, DACA was based on a policy memorandum that then-DHS Secretary Janet Napolitano issued on August 15, 2012."

Since DACA's inception in 2012, USCIS noted, the program has allowed more than 800,000 young people "to remain with their families in the only country many of them have ever known and continue to contribute to their communities in the United States."

Details:

- USCIS news release. <https://www.uscis.gov/newsroom/news-releases/dhs-begins-limited-implementation-of-daca-under-final-rule>
- USCIS DACA webpage. <https://www.uscis.gov/DACA>
- DACA final rule, 87 Fed. Reg. 53152 (Aug. 30, 2022).
<https://www.govinfo.gov/content/pkg/FR-2022-08-30/pdf/2022-18401.pdf>

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Accrediting Agency's Loss of Recognition May Affect Certain Foreign Students Applying for English-Language Study and 24-Month STEM OPT Extension Programs, As Well As H-1B and I-140 Applicants

A Department of Education (DOE) decision to no longer recognize the Accrediting Council for Independent Colleges and Schools (ACICS) as an accrediting agency immediately affects two immigration-related student programs, U.S. Citizenship and Immigration Services (USCIS) announced:

- English language study programs; and
- F-1 students applying for a 24-month science, technology, engineering, and mathematics (STEM) optional practical training (OPT) extension.

USCIS said the Student and Exchange Visitor Program (SEVP) will provide guidance to affected students in notification letters if their schools' accreditation is revoked. However, students enrolled at an ACICS-accredited school should contact their Designated School Officials immediately "to better understand if and how the loss of recognized accreditation will affect their status and/or immigration benefits applications," USCIS said.

ACICS-accredited schools will be unable to issue program extensions, and students will only be allowed to finish their current session if the ACICS-accredited school chooses to voluntarily withdraw its accreditation or is withdrawn by SEVP, USCIS explained. Students whose ACICS-accredited school can provide evidence of a DOE-recognized accrediting agency or evidence in lieu of accreditation within the allotted timeframe may remain at the school to complete their programs of study.

Details:

- USCIS alert, Nov. 1, 2022. <https://www.uscis.gov/newsroom/alerts/acics-loss-of-recognition-may-affect-certain-students-applying-for-english-language-study-and-24>

Worldwide Visa Operations Recovering Faster Than Expected, State Dept. Announces

On October 21, 2022, the Department of State (DOS) announced that worldwide visa operations are recovering faster than expected from COVID-19-pandemic-related effects. As a result, the agency has doubled hiring of U.S. Foreign Service personnel and said it expects to reach pre-pandemic processing levels this year.

The COVID-19 pandemic "forced profound reductions in DOS's visa processing capacity" in two main ways, the agency explained. First, restrictions on travel to the United States, and local restrictions on public places like overseas consular waiting rooms, curbed the ability to see visa applicants. Second, as revenue from the application fees that fund visa processing operations was cut nearly in half, more than 300 overseas consular officer positions went unfilled in 2020 and 2021, further reducing the number of visa applications that could be processed.

DOS said that 96 percent of U.S. embassies and consulates are again interviewing visa applicants. Nonimmigrant visa applications are being processed at 94 percent of pre-pandemic monthly averages, and immigrant visa application processing is at 130 percent. In the past 12 months (through September 30, 2022), DOS processed 8 million nonimmigrant visas, well above its best-case projections. DOS also noted that the agency set records for student and academic exchange visitor visas. Consular sections worldwide adjudicated more student visas in July 2022 than in any other month since 2016, with nearly 180,000 F, M, and academic J visas processed, DOS said. In addition, the agency issued 54,334 diversity visas (DVs) during the DV-2022 program year—the highest number of DVs issued in 25 years, and all available DV numbers were exhausted when that total was combined with the domestic adjustments of status approved by USCIS under the DV program.

Details:

- DOS update, Oct. 21, 2022. <https://bit.ly/3sJ1z9g>

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USCIS Extends Certain COVID-19-Related Flexibilities Through January 23, 2023

U.S. Citizenship and Immigration Services (USCIS) announced that it is extending certain COVID-19-related flexibilities through January 24, 2023, to assist applicants, petitioners, and

requestors. Under these flexibilities, USCIS considers a response received within 60 calendar days after the due date set forth in the following requests or notices before taking any action, if the request or notice was issued between March 1, 2020, and January 24, 2023:

- Requests for Evidence
- Continuations to Request Evidence (N-14)
- Notices of Intent to Deny, Revoke, Rescind, Terminate (regional centers), or 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 will consider a Form I-290B, Notice of Appeal or Motion, or a 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 January 24, 2023.

Reproduced-signature flexibility announced in March 2020 became permanent policy on July 25, 2022.

Details:

- USCIS alert, Oct. 24, 2022. <https://www.uscis.gov/newsroom/alerts/uscis-extends-covid-19-related-flexibilities-0>

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OFLC Releases Round 2 FAQ on Job Order Filing and Processing Under H-2A Final Rule

On October 25, 2022, the Department of Labor's Office of Foreign Labor Certification (OFLC) issued a set of frequently asked questions (FAQs), "Round 2: Job Order Filing and Processing," associated with the publication of the final rule, Temporary Agricultural Employment of H-2A Nonimmigrants in the United States.

The FAQ notes:

- Employers and their authorized attorneys or agents must submit H-2A job orders (H-2A Agricultural Clearance Order, Form ETA-790/790A) using the electronic method designated by the OFLC Administrator, unless a specific exemption applies. Currently, the [Foreign Labor Application Gateway \(FLAG\) System](#) is the OFLC Administrator's designated electronic filing method, the FAQ states. Only employers that the OFLC Administrator authorizes to file by mail due to lack of internet access, or authorizes to file using a reasonable accommodation due to a disability, would be permitted to file using those other means.
- How-to content, including videos posted on YouTube, is available in the "Support" area of the FLAG homepage to guide users through such system features as creating an account, logging in, and creating and joining a network. In joint-employer situations, the FAQ states, only one job order should be submitted for the job opportunity, with each

employer identified in the job order, as explained in the Form ETA-790A General Instructions.

- Employers and their authorized attorneys or agents must submit completed job orders (i.e., Forms ETA-790 and ETA-790A) to the National Processing Center no more than 75 calendar days and no fewer than 60 calendar days before the employer's first date of need, except in emergency situations that satisfy certain criteria.

The FAQ also includes details on signatures, timeframes, housing inspections, wage rates, collective bargaining, State Workforce Agency processing, and withdrawal requests.

Details:

- OFLC Round 2 FAQ. <https://bit.ly/3DJNIFY>
- H-2A Final Rule, Wage & Hour Division, 87 Fed. Reg. 61660 (Oct. 12, 2022). <https://www.govinfo.gov/content/pkg/FR-2022-10-12/pdf/2022-20506.pdf>

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Duplicate Copies of Form I-129 No Longer Required

U.S. Citizenship and Immigration Services (USCIS) no longer requires petitioners to submit duplicate copies of Form I-129, Petition for a Nonimmigrant Worker, or of the supporting documentation, unless the agency specifically asks for it.

"Due to enhanced electronic scanning capabilities and data-sharing with the U.S. Department of State, duplicate copies are no longer needed to avoid delays in consular processing," USCIS said.

Details:

- USCIS alert. <https://www.uscis.gov/i-129>

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USCIS Clarifies CW-1 Policy on Temporary Departure Requirement

On October 27, 2022, U.S. Citizenship and Immigration Services (USCIS) clarified its implementation of the requirement that Commonwealth of the Northern Mariana Islands (CNMI) workers leave the United States for at least 30 days after two renewals of their CNMI-Only Transitional Worker (CW-1) visa classification.

Effective immediately, USCIS said, the only CW-1 petitions that USCIS will classify as consecutive petitions for purposes of the temporary departure requirement are approved CW-1 petitions that have a starting validity date on or after June 18, 2020. Any extension of CW-1 status granted on or after June 18, 2020, will be considered a consecutive petition if the extension has a starting validity date on or after that date (and not backdated before that date).

USCIS provided an example. If USCIS approved a petition on July 1, 2020, but the petition was backdated to grant status from October 1, 2019, the agency would consider that petition approved as of the earlier validity date of October 1, 2019. Therefore, this petition would not apply toward the temporary departure requirement.

Details:

- USCIS alert. <https://www.uscis.gov/newsroom/alerts/uscis-will-only-consider-cw-1-petitions-approved-and-with-starting-validity-on-or-after-june-18-2020>
- USCIS Policy Update on CW-1 Departure Requirement. <https://www.uscis.gov/news/alerts/uscis-policy-update-on-cw-1-departure-requirement>

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EOIR Announces 32 New Immigration Judges

On October 26, 2022, the Department of Justice's Executive Office for Immigration Review announced the appointment of 32 immigration judges (IJs) to courts in California, Florida, Georgia, Illinois, Maryland, New York, Tennessee, Texas, and Virginia.

Individuals interested in applying for an IJ position can [sign up for job alerts](#).

Details:

- USCIS release, Oct. 19, 2022. <https://www.uscis.gov/newsroom/news-releases/uscis-form-and-policy-updates-remove-barriers-to-naturalization-for-applicants-with-disabilities>

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USCIS Implements New Process for Venezuelans

U.S. Citizenship and Immigration Services (USCIS) began implementing a new process for Venezuelans on October 18, 2022. As announced previously, the new process will provide a "lawful and streamlined" way for nationals of Venezuela who are "outside the United States and lacking U.S. entry documents to come to the United States."

The fully online process will allow individuals to be considered on a case-by-case for "advance authorization to travel to the United States and seek a temporary period of parole for up to two years" if they have a supporter in the United States who will provide financial and other support; undergo and clear security vetting; meet other eligibility criteria; and warrant a favorable exercise of discretion. Those who attempt to enter the United States between ports of entry will be subject to return to Mexico and will be subsequently ineligible for this process, USCIS said.

Details:

- USCIS alert, Oct. 18, 2022. <https://www.uscis.gov/newsroom/alerts/uscis-implements-new-process-for-venezuelans>

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DHS Designates Ethiopia for Temporary Protected Status

The Department of Homeland Security announced the designation of Ethiopia for temporary protected status (TPS) for 18 months. Only individuals who were already continuously residing in the United States as of October 20, 2022, will be eligible for TPS.

This is the first TPS designation for Ethiopia. The 18-month designation will be effective on the publication date of the forthcoming Federal Register notice, which will provide instructions for

applying for TPS and work authorization. TPS applicants must meet all eligibility requirements and undergo security and background checks.

Details:

- DHS notice, Oct. 21, 2022. <https://www.dhs.gov/news/2022/10/21/dhs-designates-ethiopia-temporary-protected-status-18-months>

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USCIS Issues Filing Guidance for CW-1 Petitions Seeking to Extend Status

U.S. Citizenship and Immigration Services (USCIS) announced on October 18, 2022, that it will consider certain CW-1 petitions seeking an extension of status for temporary workers present in the Commonwealth of the Northern Mariana Islands (CNMI) to be filed on time, even if USCIS receives them after the worker's current period of CW-1 petition validity expires.

USCIS said it is providing this limited accommodation to address current temporary labor certification (TLC) processing delays at the Department of Labor (DOL). USCIS is exercising its discretionary authority to excuse late filings of CW-1 petitions (petitions USCIS receives after the current CW-1 status expires) by employers in the CNMI, only if:

- The TLC application was filed with DOL at least 60 days before the requested start date;
- The petition is otherwise properly filed and includes an approved TLC; and
- USCIS receives the petition no later than 30 days after the date of TLC approval, or by November 15, 2022, whichever is earlier.

If an employer files an extension petition meeting these requirements, the CW-1 worker may continue employment with the same employer for up to 240 days beginning on the expiration of the authorized period of stay, pending adjudication of the petition (or, in the case of a non-frivolous petition for extension of stay with change of employer, until USCIS adjudicates the petition).

Details:

- USCIS alert, Oct. 18, 2022. <https://www.uscis.gov/newsroom/alerts/filing-guidance-for-cw-1-petitions-seeking-to-extend-status>

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Fortune 500 Companies Call for Protection of DACA Program, 'Dreamers'

Several large U.S. corporations have launched an advertising campaign to protect the Deferred Action for Childhood Arrivals (DACA) program, whose more than 600,000 beneficiaries are called "Dreamers." They argue in an open letter that they "face another crisis if Congress fails to act on an issue that has strong bipartisan support from the American people." The letter states:

The recent ruling by the U.S. 5th Circuit Court of Appeals declaring DACA illegal puts all of these individuals, their families, and their employers at risk. Each DACA recipient will soon face the threat of losing their work authorization and protection from deportation, while our businesses face the threat of losing critical employees.

The worker shortage will get worse for the United States if hundreds of thousands of critical workers are stripped of their legal ability to support themselves and their families. That is the situation we currently face if this ruling becomes final, and it is the reason for our request today.

Given that DACA applications and renewals were granted on a rolling basis, the end to this program means that an estimated 22,000 jobs would be lost every month for two years. That is roughly 1,000 job losses per business day at a time when the U.S. economy already faces significant workforce shortages.

When the last DACA recipient's work permit expires, the U.S. will have lost more than 500,000 jobs, and the U.S. economy will lose as much as \$11.7 billion annually—or roughly \$1 billion monthly—in wages from previously employed DACA recipients. (To put this into perspective, in Texas alone, 400 healthcare workers and 300 teachers will be forced out of their jobs each month.)

Signers of the letter include, among others, Amazon, Apple, Google, Meta, MGM Resorts, Microsoft, Starbucks, and Target. The ads are running in various major newspapers, including the Wall Street Journal, the Dallas Morning News, and the Charlotte Observer.

The ad campaign follows a decision by the U.S. Court of Appeals for the Fifth Circuit that ruled the program illegal but allowed current recipients to maintain status during a lower court's review. The lower court is likely to rule against DACA, according to observers. Further action in Congress is uncertain.

Details:

- Letter to Congress, Coalition for the American Dream, Oct. 20, 2022. <https://www.coalitionfortheamericandream.us/daca-fifth-circuit-response/>
- "With DACA on Life Support, Microsoft, Apple and Other Big U.S. Firms Launch Ad Campaign to Protect 'Dreamers'," NBC News, Oct. 20, 2022. <https://nbcnews.to/3SnDZtq>
- "Federal Judge Temporarily Allows DACA Protections to Continue," NBC News, Oct. 14, 2022. <https://www.nbcnews.com/politics/immigration/federal-judge-temporarily-allows-daca-protections-continue-rcna52339>

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USCIS Updates Guidance on Medical Exceptions to Naturalization Requirements for Applicants With Disabilities

U.S. Citizenship and Immigration Services (USCIS) announced on October 19, 2022, that it has updated its policy guidance to clarify and conform with the revision of Form N-648, Medical Certification for Disability Exceptions.

Naturalization applicants with a physical or developmental disability or mental impairment that precludes them from fulfilling the English and civics testing requirements for naturalization may file Form N-648 to request an exception to those requirements. The form must be completed and certified by a medical professional.

Based on public comments, USCIS said, the revisions to Form N-648 eliminate questions and language that no longer have practical utility or were redundant. Most notable changes include elimination of questions about how each relevant disability affects specific functions of the applicant's daily life, including the ability to work or go to school. The revisions also eliminate

dates of diagnosis, description of severity of each disability, and whether the certifying medical professional has a pre-existing relationship with the applicant. Further, USCIS said, the revisions allow the medical professional the option to indicate an applicant's need for an oath waiver, thereby eliminating the need for separate medical documentation. The updated policy also provides guidance for telehealth medical examinations and allows USCIS to accept an applicant's Form N-648 after the Form N-400, Application for Naturalization, is filed.

Details:

- USCIS release, Oct. 19, 2022. <https://bit.ly/3MWvZ1g>

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Coalition Urges the University of California to Hire Undocumented Students

A coalition of students and legal scholars has proposed that the 10 University of California campuses hire undocumented students. They are challenging federal immigration laws that prohibit the hiring of undocumented persons by U.S. employers, based on a new legal interpretation by constitutional and immigration scholars that argues that these laws do not apply to states. The University of California system is the third-largest employer in the state of California, so any such decision would have significant impact.

A sign-on letter that sets out the legal aspects of the proposal says:

[T]he core argument is as follows. The federal prohibition on hiring undocumented persons as a general matter is codified in the 1986 Immigration Reform and Control Act, or IRCA, in particular 8 U.S.C. § 1324a. Under governing U.S. Supreme Court precedents, if a federal law does not mention the states explicitly, that federal law does not bind state government entities. Nothing in 8 U.S.C. § 1324a expressly binds or even mentions state government entities.

According to observers, implementation would be likely to lead to lawsuits, fines, and political pushback, especially with the Deferred Action for Childhood Arrivals program purportedly on the chopping block.

Details:

- "Students, Legal Scholars Push California Universities to Hire Undocumented Students," New York Times, Oct. 19, 2022. <https://www.nytimes.com/2022/10/19/us/daca-dreamers-university-of-california.html>
- "Undocumented UC Student Leaders, Professors From UCLA CILP & Labor Center Launch Groundbreaking Campaign for Equal Access to Job Opportunities," Oct. 20, 2022. <https://www.labor.ucla.edu/press-release/undocumented-uc-student-organizers-professors-from-ucla-cilp-labor-center-launch-groundbreaking-campaign-for-equal-access-to-job-opportunities/>
- "Opportunity for All" Campaign Sign-On Letter, UCLA Center for Immigration Law and Policy, Sept, 7, 2022. <https://docs.google.com/document/d/1TDBqeo4MUmHk2mxlwCd0tYvWYLV1lxVX4m-jO4CV7-E/edit>
- Letter to Michael V. Drake, President of the University of California, Oct. 2022. <https://docs.google.com/document/d/1VoKC7DPCr-PQ414Z-7r8CudhYFirey4DIMnRoRK8etk/edit>

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Employers Should Continue to Use Current I-9 Form Even After Oct. 31 Expiration, DHS Says; ICE Announces I-9 Flexibility Extension

The Department of Homeland Security (DHS) alerted employers on October 11, 2022, that they should continue using the current Form I-9, Employment Eligibility Verification, even after its October 31, 2022, expiration and "until further notice." DHS said it will publish a Federal Register notice to announce the new I-9 form when it becomes available.

Also, U.S. Immigration and Customs Enforcement announced an extension until July 31, 2023, of the Form I-9 flexibilities first announced in March 2020. The flexibilities include DHS's deferral of physical presence requirements applicable to employers and workplaces operating remotely.

Details:

- E-Verify alert, Oct. 11, 2022. <https://bit.ly/3S3W4ML>
- "ICE Announces Extension to I-9 Compliance Flexibility," Oct. 11, 2022. <https://www.ice.gov/news/releases/ice-announces-extension-i-9-compliance-flexibility-3>

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DHS to Supplement H-2B Cap With Nearly 65,000 Additional Visas for FY 2023; Worker Protection Taskforce Announced

The Department of Homeland Security (DHS), in consultation with the Department of Labor (DOL), plans to issue a regulation to make available to employers an additional 64,716 H-2B temporary nonagricultural worker visas for fiscal year 2023, on top of the 66,000 H-2B visas that are normally available each fiscal year.

The H-2B supplemental includes an allocation of 20,000 visas for workers from Haiti, Honduras, Guatemala, and El Salvador. The remaining 44,716 supplemental visas will be available for returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years. DHS said the regulation will allocate these remaining supplemental visas for returning workers between the first half and second half of the fiscal year to account for the need for additional seasonal workers, with a portion of the second half allocation reserved to meet the demand for workers during the peak summer season.

DHS and DOL also announced the creation of a new White House-convened Worker Protection Taskforce. DHS explained that the Taskforce will focus on: (1) threats to H-2B program integrity; (2) H-2B workers' fundamental vulnerabilities, including their limited ability to leave abusive employment without jeopardizing their immigration status; and (3) the impermissible use of the program to avoid hiring U.S. workers. DHS and DOL will assess a variety of policy options and will provide an opportunity for relevant stakeholders to offer input. In the coming months, DHS also plans to issue a notice of proposed rulemaking relating to the H-2 programs. The proposed rule will incorporate policies that strengthen protections for H-2 workers, the agency said.

Details:

- DHS release, Oct. 12, 2022. <https://www.dhs.gov/news/2022/10/12/dhs-supplement-h-2b-cap-nearly-65000-additional-visas-fiscal-year-2023>

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DHS Announces New 'Migration Enforcement Process' for Venezuelans

On October 12, 2022, the Department of Homeland Security (DHS) announced joint actions with Mexico to reduce the number of people arriving at the Southwest border and "create a more orderly and safe process for people fleeing the humanitarian and economic crisis in Venezuela." The actions include a new process to bring up to 24,000 qualifying Venezuelans into the United States and provide them with work authorization. Those who cross the border between ports of entry without authorization will be ineligible. DHS also said it would not implement this process "without Mexico keeping in place its independent but parallel effort to accept the return of Venezuelan nationals who bypass this process and attempt to enter irregularly."

To be eligible, Venezuelans must:

- Have a supporter in the United States who will provide financial and other support;
- Pass biometric and biographic national security and public safety screening and vetting; and
- Complete vaccinations and other public health requirements.

Venezuelans are ineligible if they:

- Have been ordered removed from the United States in the previous five years;
- Have crossed without authorization between ports of entry after October 12, 2022;
- Have irregularly entered Mexico or Panama after the date of the announcement, or are a permanent resident or dual national of any country other than Venezuela, or currently hold refugee status in any country; or
- Have not completed vaccinations and other public health requirements.

DHS said additional information would be made available "in the coming days" on U.S. Citizenship and Immigration Services' "Process for Venezuelans" page. Some Venezuelans who were already en route to the United States reportedly said the new policy leaves them in limbo and favors those who are well-off or well-connected. Some are on foot and sold everything they had to make the trek. An estimated 180,000 Venezuelans have entered the United States via the border with Mexico so far this year.

Details:

- DHS release, Oct. 12, 2022. <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans>
- Process for Venezuelans, USCIS. <https://www.uscis.gov/venezuela>
- "Venezuelan Migrants in Shock and Limbo After New U.S. Immigration Plan," CNN, Oct. 15, 2022. <https://www.cnn.com/2022/10/15/americas/venezuelan-migrants-title-42-expansion-intl/index.html>

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DOL Publishes Final Rule Revising Temporary Labor Certification Regulations

The Department of Labor (DOL) published a final rule on October 12, 2022, that revises its regulations governing the certification of employment of nonimmigrant workers in temporary agricultural employment and the enforcement of obligations applicable to employers of H-2A workers and similarly employed workers in the United States.

After consideration of comments received in response to the proposed rule, the Department separated the proposals into two rules. This first rule encompasses almost all of the proposed rule except the adverse effect wage rate (AEWR) methodology. The second will address changes to the AEWR methodology.

The final rule addresses minimum standards and conditions of employment that employers must offer to workers; expands DOL's authority to use enforcement tools, such as program debarment for substantial violations of program requirements; modernizes the process by which the Department receives and processes employers' job orders and applications for temporary agricultural labor certifications, including the recruitment of U.S. workers; and revises the standards and procedures for determining the prevailing wage rate.

Details:

- Final Rule, Dept. of Labor, 87 Fed. Reg. 61660 (Oct. 12, 2022).
<https://www.govinfo.gov/content/pkg/FR-2022-10-12/pdf/2022-20506.pdf>
- Office of Foreign Labor Certification (OFLC) notice, Oct. 12, 2022.
<https://www.dol.gov/agencies/eta/foreign-labor>
- OFLC Round 1 FAQs, Oct. 12, 2022,
https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/2022%20H-2A%20FR_FAQs%20Round%201_Implementation.pdf

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USCIS Issues Policy Guidance on EB-5 Reform and Integrity Act of 2022

U.S. Citizenship and Immigration Services (USCIS) issued policy guidance related to an EB-5 immigrant investor rule that a federal court vacated on June 22, 2021. Highlights include:

- Removing the vacated provisions of the EB-5 rule;
- Adding that an applicant may file Form I-485, Application to Register Permanent Residence or Adjust Status, concurrently with or subsequent to a Form I-526, Immigrant Petition by Standalone Investor, if an immigrant visa is immediately available;
- Revising the investment amounts and targeted employment area designation process; and
- Updating the name of Form I-526 throughout volumes 7 and 8 of the USCIS Policy Manual from "Immigrant Petition by Alien Entrepreneur" to "Immigrant Petition by Standalone Investor" and adding references to Form I-526E, Immigrant Petition by a Regional Center Investor.

Details:

USCIS release, Oct. 11, 2022. <https://www.uscis.gov/newsroom/alerts/uscis-issues-policy-guidance-on-the-eb-5-reform-and-integrity-act-of-2022-0>

EB-5 Q&A: EB-5 Reform and Integrity Act of 2022. <https://bit.ly/3yIGShf>

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CBP Publishes Final Rule on Media Representatives From China Seeking to Enter the United States

U.S. Customs and Border Protection (CBP) published a final rule on October 13, 2022, that removes a maximum 90-day period of stay for certain representatives of foreign information media from China and allows the Secretary of Homeland Security to determine the maximum period of stay, up to one year.

The final rule applies to foreign nationals who seek to enter the United States in "I" nonimmigrant status as representatives of foreign information media, and who present a passport issued by the People's Republic of China (PRC), with the exception of Hong Kong Special Administrative Region (SAR) or Macau SAR passport holders.

Details:

- CBP Final Rule, 87 Fed. Reg. 61959 (Oct. 13, 2022).
<https://www.govinfo.gov/content/pkg/FR-2022-10-13/pdf/2022-21898.pdf>

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CBP Imposes Arrival Restrictions on Flights Carrying Uganda Travelers

Until further notice, U.S. Customs and Border Protection (CBP) has directed all flights to the United States carrying persons who have recently traveled from, or were otherwise present within, Uganda to arrive at one of five U.S. airports implementing enhanced public health measures. The airports include JFK, Newark Liberty, Washington-Dulles, Hartsfield-Jackson Atlanta, and Chicago O'Hare.

CBP considers a person to have recently traveled from Uganda if that person departed from, or was otherwise present within, Uganda within 21 days of the date of the person's entry or attempted entry into the United States. The announcement excludes crews and flights carrying only cargo (no passengers or non-crew).

Details:

- CBP announcement, 87 Fed. Reg. 61488 (Oct. 12, 2022).
<https://www.govinfo.gov/content/pkg/FR-2022-10-12/pdf/2022-22264.pdf>

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Fifth Circuit Rules DACA is Illegal, But Remands to Lower Court to Consider Final Rule

The U.S. Court of Appeals for the Fifth Circuit ruled on October 5, 2022, that the Deferred Action for Childhood Arrivals (DACA) program is unlawful but remanded the case to the U.S. District Court for the Southern District of Texas, ruling that the current 594,000 DACA recipients can maintain status while the lower court considers the effect of a DACA final rule issued by the Biden administration in August 2022, effective October 31, 2022. New applications continue to be blocked.

A longer-term solution would require Congress to pass legislation, which is unlikely in the near term. Otherwise, DACA recipients could eventually lose their work authorization.

Details:

- Fifth Circuit decision. <https://www.ca5.uscourts.gov/opinions/pub/21/21-40680-CV0.pdf>

- U.S. Appeals Court Sends DACA Case Back to Lower Court to Consider New Rule," Reuters, Oct. 5, 2022. <https://www.reuters.com/legal/us-appeals-court-sends-daca-case-back-lower-court-consider-new-rules-2022-10-05/>
- "DHS Issues Regulation to Preserve and Fortify DACA," Dept. of Homeland Security, Aug. 24, 2022. <https://www.dhs.gov/news/2022/08/24/dhs-issues-regulation-preserve-and-fortify-daca>
- DHS final rule, 87 Fed. Reg. 53152 (Aug. 30, 2022). <https://www.govinfo.gov/content/pkg/FR-2022-08-30/pdf/2022-18401.pdf>
- Statement from USCIS Director Ur M. Jaddou. <https://www.uscis.gov/newsroom/news-releases/statement-from-uscis-director-ur-m-jaddou-on-daca-ruling>

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Optional Practical Training, STEM Extension Upheld by Court

On October 4, 2022, the U.S. Court of Appeals for the District of Columbia affirmed the judgment of the district court sustaining the Department of Homeland Security's (DHS) current Optional Practical Training (OPT) rule's authorization of a limited period of post-coursework OPT, if recommended and overseen by the school and approved by DHS, for qualifying students on F-1 visas. OPT includes an extension for students in science, technology, engineering, or mathematics (STEM) fields of an additional 24 months beyond the OPT period of 12 months.

Among other things, the court held that authorizing foreign students to engage in limited periods of employment for practical training as their schools recommend according to the terms set out in the rule is a valid exercise of DHS's authority. The court also noted that "practical training not only enhances the educational worth of a degree program, but often is essential to students' ability to correctly use what they have learned when they return to their home countries. That is especially so in STEM fields, where hands-on work is critical for understanding fast-moving technological and scientific developments."

The court noted that more than 100,000 of the roughly 1 million international students who come to the United States complete a period of practical training.

[Details:](#)

- Washington Alliance of Technology Workers v. U.S. Dept. of Homeland Security. <https://go.bal.com/e/851003/-5028-D-C--Cir--Oct--4-202-pdf/455g2k/346719091?h=17TzdAlkUvrpA8ZRp9G6svCxHnshAA0HZ5nXLVdhell>

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Labor Dept. Announces H-2A Final Rule

The Department of Labor announced the publication of a final rule to amend H-2A temporary labor certification regulations to strengthen agricultural worker protections and to update the H-2A application and temporary labor certification as well as prevailing wage determination processes. The final rule was published on October 12, 2022.

The Office of Foreign Labor Certification said it will post additional announcements regarding the official publication and implementation of the 2022 H-2A Final Rule.

Details:

- H-2A final rule, 87 Fed. Reg. 61660 (Oct. 12, 2022).
<https://www.govinfo.gov/content/pkg/FR-2022-10-12/pdf/2022-20506.pdf>

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EOIR Extends Automatic Acceptance of Documents Filed Late With Certain Florida Immigration Courts Due to Hurricane Ian

Following President Biden's amended disaster declaration due to the impact of Hurricane Ian, the Executive Office for Immigration Review (EOIR) said in a stakeholder update that it will extend the automatic acceptance of documents filed late with the Miami, Krome, and Orlando Immigration Courts through November 25, 2022. The period now lasts 60 calendar days, and applies to cases with filing deadlines starting September 28, 2022. The Board of Immigration Appeals (BIA) will also exercise its discretionary authority to automatically accept late-filed appeals, motions to reopen or reconsider, or accept late-filed briefs, in cases arising from these immigration courts for the same period.

EOIR said these immigration courts will not send notices or other correspondence to respondents or counsel with addresses in the areas affected by Hurricane Ian until after the 60-day period lapses, and the BIA will not process cases arising from these courts during this period unless the parties ask the BIA to do so.

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November Visa Bulletin Includes Information on Extension of Religious Workers Category, Visa Availability in Employment Second Category

The Department of State's Visa Bulletin for November 2022 includes the following information:

EMPLOYMENT FOURTH PREFERENCE (SR) RELIGIOUS WORKERS CATEGORY EXTENDED

H.R. 6833, enacted on September 30, 2022, extended the Employment Fourth Preference Certain Religious Workers (SR) category until December 16, 2022. No SR visas may be issued overseas, or final action taken on adjustment of status cases, after midnight December 15, 2022. Visas issued prior to that date will be valid only until December 15, 2022, and all individuals seeking admission in the non-minister special immigrant category must be admitted (repeat admitted) into the United States no later than midnight December 15, 2022.

The SR category is subject to the same final action dates as the other Employment Fourth Preference categories per applicable foreign state of chargeability.

VISA AVAILABILITY IN THE EMPLOYMENT SECOND CATEGORY

Increased demand in the Employment Second category may necessitate the establishment of a worldwide final action date in the coming months to hold number use within the maximum allowed under the Fiscal Year 2023 annual limit. This situation will be continually monitored, and any necessary adjustments will be made accordingly.

Details:

- November 2022 Visa Bulletin. <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2023/visa-bulletin-for-november-2022.html>

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President Releasees Refugee Admissions Numbers for FY 2023

President Biden issued a determination that up to 125,000 refugee admissions for fiscal year (FY) 2023 "is justified by humanitarian concerns or is otherwise in the national interest." Regional allocations include Africa (40,000), East Asia (15,000), Europe and Central Asia (15,000), Latin America/Caribbean (15,000), Near East/South Asia (35,000), and Unallocated Reserve (5,000). The latter will be allocated to regional ceilings as needed. Also, unused admissions allocated to a particular region can be allocated to other regions.

President Biden also announced that for FY 2023, persons from the following countries and areas may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence: Cuba; Eurasia and the Baltics; Iraq; El Salvador, Guatemala, and Honduras; and, in certain circumstances, persons identified by a U.S. embassy in any location.

Details:

- Presidential Determination No. 2022-25, Sept. 27, 2022.
<https://www.whitehouse.gov/briefing-room/presidential-actions/2022/09/27/memorandum-on-presidential-determination-on-refugee-admissions-for-fiscal-year-2023/>

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ABIL Global: Switzerland

Nationals of countries with which Switzerland holds permanent residence agreements now must also show local language proficiency when applying for permanent residence.

Language competence is generally considered to be the ability to communicate in a national language in everyday life. The Swiss legislature attaches considerable importance to the minimum linguistic integration of foreigners in Switzerland, considering it to be of strong public interest to ensure the acquisition of a minimum knowledge of one of the three official languages: French, German, and Italian. These are central to the integration of immigrant foreigners and to the cohesion of Swiss society.

Foreign nationals who come from a country with which a permanent residence agreement or a settlement treaty exists are entitled to a permanent residence permit after an uninterrupted residence of five years if the integration criteria are met and there are no grounds for revocation.

Switzerland has permanent residence agreements with Belgium, Germany, Denmark, France, Liechtenstein, Greece, Italy, Netherlands, Austria, Portugal, and Spain.

Foreign nationals must prove that they have oral language skills at least at reference level A2 and written language skills at least at reference level A1 in the local official language spoken at their place of residence in order to obtain permanent residence. Nationals of countries with which permanent residence agreements exist must also provide evidence of language skills in

accordance with recent case law of the Federal Supreme Court (ruling BGer 2C_881/2021 of 9 May 2022 E. 4.2. and 4.3).

Previously, nationals from the countries noted above did not need to prove language proficiency to obtain a permanent residence permit in Switzerland. This change has been incorporated into the guidelines that the State Secretariat for Migration publishes for the benefit of executing authorities, such as the cantonal migration offices, as well as the interested public, in its newest iteration as of October 1, 2022 ([4 Aufenthalt mit Erwerbstätigkeit \(admin.ch\)](#), available in the three official national languages).

Test results showing local language proficiency at the required levels should be submitted when applying for permanent residence. For those nationals who speak the relevant local language already by virtue of having grown up in a country where the same language is spoken, documentation showing years spent in the schooling system or studying at a university are an alternative.

The language-skill requirement does not always apply. In case of disability, illness, or other weighty personal circumstances, it may be waived. On a last and lighter note, there is no requirement to learn and speak Swiss-German, a dialect which, to the relief of many, is not an official national language.

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New Publications and Items of Interest

OFLC fall webinars. The Department of Labor's Office of Foreign Labor Certification announced its fall 2022 webinar schedule to educate the filing community on changes to the H-2A and H-2B programs. See <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to October 24, 2022).

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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ABIL Member/Firm News

Several **Foster LLP** attorneys were listed in LawDragon's Leading Corporate Employment Lawyers in America, including **Robert Loughran** (bio: <https://www.abil.com/abil-lawyers/robert-f-loughran/>), **Delisa Bressler**, **Helene Dang**, **Avalyn Langemeier**, **John Meyer**, **Conna Fanas**, **Dorothee Mitchell**, **José Pérez, Jr.**, and **Nestor Rosin**.

Cyrus D. Mehta & Partners PLLC published a new blog post authored by **Stacy Caplow**: "Biden's Pardons: The First Drops in a Big Bucket of Criminal Reform."

<http://blog.cyrusmehta.com/2022/10/bidens-pardons-the-first-drops-in-a-big-bucket-of-criminal-reform.html>

Cyrus Mehta (<https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) authored a new blog post: "Guide to Terminated Noncitizen Workers: Preserving Nonimmigrant Status and Permanent Residency Options." <http://blog.cyrusmehta.com/2022/11/guide-to-terminated-noncitizen-workers-preserving-nonimmigrant-status-and-permanent-residency-options.html>

Mr. Mehta and **Jessica Paszko** co-authored a new blog post: "USCIS Guidance Enabling STEM Graduates to Obtain O-1 Extraordinary Visas Should Apply Equally to EB-1 Extraordinary Ability Petitions for Green Cards." <https://bit.ly/3T9OhO3>

Cyrus Mehta and **Kaitlyn Box** co-authored several new blog posts: "DOL Fails to Side With H-1B Worker Who Claimed Back Wages Against Employer After Being Terminated"; <http://blog.cyrusmehta.com/2022/10/dol-fails-to-side-with-h-1b-worker-who-claimed-back-wages-against-employers-after-being-terminated.html>; and "A Tale of Two Cases: Washtech v. DHS and Texas v. USA: To What Extent Can the Executive Branch Allow Noncitizens to Remain and Work in the U.S." <https://bit.ly/3yIHgfk>

WR Immigration was ranked National and Regional Tier 1 in the 2023 U.S. News & World Report's "Best Law Firms." WR Immigration was ranked Metropolitan Tier 1 in Boston, Los Angeles, and San Diego, and Metropolitan Tier 2 in New York City and San Francisco. <https://wolfsdorf.com/wr-immigration-ranked-in-2023-best-law-firms/>

Siskind Susser, PC announced its formal collaboration with Fastcase on a new case management system built around the content of the *Cookbook* co-authored by **Ari Sauer** and **Greg Siskind**. In addition to checklists, client questionnaires, and process steps, the product will have document templates, sample government forms, "cheat sheets" to help lawyers avoid submitting cases before every necessary step is taken, and detailed overviews of the law applicable to a particular case type. A limited version of the product is expected to be available in early 2023, with full release anticipated later in the year. <https://www.fastcase.com/blog/visalaw-immigration-law-firm-partners-with-fastcase-to-develop-novel-ai-software/>

Wolfsdorf Rosenthal LLP has released a webinar video, "I-9 Form Process & Updates Part 2." WR immigration attorneys **Kimberley Best Robidoux** and **Michelle Harmon** review the process used to complete Form I-9 work authorization verification, especially for foreign national employees and in those unusual instances when individuals provide a receipt notice or documents not specifically listed on the list of Acceptable Documents to show identity and/or work authorization. <https://wolfsdorf.com/webinar-i-9-form-process-updates-part-2/>

Stephen Yale-Loehr (bio: <https://www.abil.com/abil-lawyers/stephen-yale-loehr/>) was quoted by the *Wall Street Journal* in "Afghan Evacuees in Limbo While Seeking Permanent Legal Status in the U.S." He said, "While some members of the public think everyone from Afghanistan should get asylum, our system just doesn't work that way." <https://on.wsj.com/3UKhoZB>

Mr. Yale-Loehr was quoted by the Associated Press in "Posts Misrepresent Border Encounters With People on Terror Watchlist." The article discusses misleading claims by House Republican leader Kevin McCarthy and others that almost 100 people on the watchlist recently entered the United States across the border. The article notes that U.S. Customs and Border Protection (CBP) reported 98 Border Patrol encounters with non-U.S. citizens on the watchlist who crossed the southwest border between U.S. ports of entry in fiscal year 2022. Every person counted as part of that tally, however, was stopped and detained by CBP, and that figure possibly included people who crossed multiple times. "To say that 98 terrorists made it into the U.S. is an

exaggeration. These 98 were all caught," Mr. Yale-Loehr said. <https://apnews.com/article/fact-check-border-terrorist-watchlist-630330935018>

Mr. Yale-Loehr was quoted by FactCheck.org in "Misleading Attack About Democrats and Criminal Immigrants." The article discusses an ad from a conservative group, Citizens for Sanity, that misleadingly claims that "every Senate Democrat voted against deporting criminal illegal immigrants," and mischaracterizes the criminal record of an undocumented person. Mr. Yale-Loehr noted that the Trump administration considered anyone who broke an immigration law to be deportable. On the heels of President Trump's policy changes, the article notes, the number of such interior arrests rose 30% in fiscal year 2017 and rose again the following year before falling a bit in fiscal 2019, according to the Pew Research Center. But even at its peak, the number was still "far lower than during President Barack Obama's first term in office." Mr. Yale-Loehr also pointed out that a rise in people put into immigration proceedings does not mean they were immediately deported, because such cases can take years to adjudicate. <https://www.factcheck.org/2022/10/misleading-attack-about-democrats-and-criminal-immigrants/>

Mr. Yale-Loehr spoke at a webinar on recent administrative changes to help immigrant workers in STEM fields. The free webinar, sponsored by the American Immigration Council, was held October 25, 2022. For more information, see https://aila-org.zoom.us/webinar/register/WN_DdU_yCSYR5CdNeuUe2145w

Mr. Yale-Loehr and **Janine Prantl** co-authored an op-ed, "Let Private Citizens Sponsor Refugees," published in the *New York Daily News*. <https://www.nydailynews.com/opinion/ny-oped-let-private-citizens-sponsor-refugees-20221015-dtepnanthfegnpf6anijrwt3by-story.html>

Mr. Yale-Loehr was quoted by the *Gothamist* in "For New York City 'Dreamers,' Now is the Time to Act on Immigration Reform." He said immigrant rights advocates are "working hard behind the scenes" to get legislation passed after the midterm elections. "One possible legislative package might include [Deferred Action for Childhood Arrivals] plus border security reforms," he said. <https://gothamist.com/news/for-new-york-city-dreamers-now-is-the-time-to-act-on-immigration-reform>

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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 <https://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.

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