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Headlines:

DHS Announces Final Rule to 'Preserve and Fortify' DACA Policy – The rule, effective October 31, 2022, continues the Deferred Action for Childhood Arrivals policy announced in a 2012 memorandum that DACA recipients should not be a priority for removal.

USCIS Reaches FY 2023 H-1B Cap – U.S. Citizenship and Immigration Services has received a sufficient number of petitions needed to reach the congressionally mandated 65,000 H-1B visa regular cap and the 20,000 H-1B visa U.S. advanced degree exemption for FY 2023.

DV-2023 Selectees Only Need to Submit Application Form to Kentucky Consular Center, Not Supporting Docs, DOS Says – For DV-2023, selectees only need to submit to the Kentucky Consular Center the DS-260 immigrant visa application form for themselves and any accompanying family members, not supporting documentation.

E-Verify Reports System Outages During Case Creation – Users may experience system timeouts and increased processing times when creating and submitting cases.

Labor Dept. Reports FLAG System Issues – The Department of Labor recommended that users "carefully review the Adobe PDF decision documents generated by the FLAG system for accuracy and completeness."

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DHS Announces Final Rule to 'Preserve and Fortify' DACA Policy

The Department of Homeland Security (DHS) announced a final rule to "preserve and fortify" the Deferred Action for Childhood Arrivals (DACA) policy for certain eligible noncitizens who arrived in the United States as children. DACA allows beneficiaries an opportunity to receive a renewable, two-year work permit. DHS said that DACA has allowed more than 800,000 young people, dubbed "Dreamers," to remain in the United States.

The rule, effective October 31, 2022, is expected to be published in the Federal Register on August 30, 2022. It continues the DACA policy announced in a 2012 memorandum from Janet Napolitano, then-Secretary of Homeland Security, that DACA recipients should not be a priority for removal. DHS received more than 16,000 comments during the public comment period. The final review codifies existing DACA policy, with limited changes, and replaces the DACA policy guidance set forth in the 2012 Napolitano memorandum. The final rule:

- Maintains the existing threshold criteria for DACA;
- Retains the existing process for DACA requestors to seek work authorization; and
- Affirms the longstanding policy that DACA is not a form of lawful status but that DACA recipients, like other deferred action recipients, are considered "lawfully present" for certain purposes.

DHS noted that it may grant DACA renewal requests under the final rule but cannot grant initial DACA requests and related employment authorization due to a court injunction that remains in partial effect.

Advocates, including representatives from the American Immigration Lawyers Association and the American Immigration Council, hailed the Biden administration's "positive step" but called for Congress to act also.

Details:

- Final rule (advance copy), DHS, <https://public-inspection.federalregister.gov/2022-18401.pdf>
- "DHS Issues Regulation to Preserve and Fortify DACA," DHS news release, Aug. 24, 2022, <https://www.dhs.gov/news/2022/08/24/dhs-issues-regulation-preserve-and-fortify-daca>
- "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children" (Napolitano memorandum), June 15, 2012, <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>
- Order of injunction, *State of Texas v. United States*, U.S. District Court for the Southern District of Texas, July 16, 2021, <https://www.uscis.gov/sites/default/files/document/legal-docs/Texas%20II%20Dkt.%20576%20Injunction.pdf>
- "Biden Administration Moves to Shore Up DACA Protections But Congress Needs to Act," press release, American Immigration Lawyers Association, Aug. 24, 2022, <https://www.aila.org/advo-media/press-releases/2022/daca-press-release>

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USCIS Reaches FY 2023 H-1B Cap

U.S. Citizenship and Immigration Services (USCIS) announced on August 23, 2022, that it has received a sufficient number of petitions needed to reach the congressionally mandated 65,000 H-1B visa regular cap and the 20,000 H-1B visa U.S. advanced degree exemption, known as the master's cap, for fiscal year (FY) 2023.

USCIS said it has completed sending non-selection notifications to registrants' online accounts. The status of such registrations will show as "Not Selected." USCIS will continue to accept and process petitions that are otherwise exempt from the cap. Petitions filed for current H-1B workers who have been counted previously against the cap, and who still retain their cap numbers, are exempt from the FY 2023 H-1B cap. USCIS said it will continue to accept and process petitions filed to:

- Extend the amount of time a current H-1B worker may remain in the United States;
- Change the terms of employment for current H-1B workers;
- Allow current H-1B workers to change employers; and
- Allow current H-1B workers to work concurrently in additional H-1B positions.

Details:

- USCIS alert, Aug. 23, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-reaches-fiscal-year-2023-h-1b-cap>

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DV-2023 Selectees Only Need to Submit Application Form to Kentucky Consular Center, Not Supporting Docs, DOS Says

The Department of State (DOS) announced on August 25, 2022, that for the Diversity Visa (DV) program for fiscal year 2023 (DV-2023), selectees only need to submit to the Kentucky Consular Center (KCC) the DS-260 immigrant visa application form for themselves and any accompanying family members. Once a DS-260 is received from the selectee, KCC will next review it for completeness, after which the case will be eligible to be scheduled for a visa interview if the selectee's visa case number is current as reflected in the Visa Bulletin, DOS said. The agency noted that this continues the practice that began during the last program year, and said a "data-driven decision" would be made later for future program years.

DOS said that selectees should not submit to the KCC any other required supporting documents; instead, "all supporting documents for DV-2023 selectees will be collected and evaluated in connection with the interview at the embassy or consulate where the visa application is made."

Details:

- "Diversity Visa 2023 Update: Document Submission to KCC for DV-2023," Dept. of State, Aug. 25, 2022, <https://bit.ly/3KpsKxQ>

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E-Verify Reports System Outages During Case Creation

E-Verify reported that it is experiencing intermittent system outages. As a result, "users may experience system timeouts and increased processing times when creating and submitting cases," E-Verify said, adding that it is working to resolve the issue.

Employers must continue to complete and retain a Form I-9 for every person hired to work for pay in the United States within the required timeframes, E-Verify noted.

Details:

- E-Verify alert, <https://www.e-verify.gov/about-e-verify/whats-new>

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Labor Dept. Reports FLAG System Issues

The Department of Labor announced on August 24, 2022, that the Foreign Labor Application Gateway (FLAG) system "continues to experience intermittent issues when creating certain application forms, appendices, or other decision documents through Adobe PDF." DOL recommended that users "carefully review the Adobe PDF decision documents generated by the FLAG system for accuracy and completeness."

DOL said users should contact the FLAG Technical Help Desk Team if any decision document appears incomplete or otherwise contains inaccuracies.

Details:

- Service Impact notice, FLAG, Aug. 24, 2022, <https://flag.dol.gov/>

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New Publications and Items of Interest

USCIS engagement on Cameroon TPS. U.S. Citizenship and Immigration Services (USCIS) announced a public engagement on temporary protected status (TPS) for Cameroon to be held Thursday, September 8, 2022, from 2 to 3 p.m. ET. USCIS will provide an overview of the TPS designation for Cameroon and hold a question-and-answer session.

<https://www.uscis.gov/outreach/upcoming-national-engagements/uscis-engagement-cameroon-temporary-protected-status-designation>

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

Immigrant and employee rights webinars. The Department of Justice's Immigrant and Employee Rights Section 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 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 Foster and **Avalyn Langemeier** will present a **Foster LLP** webinar, "Is Immigration Good for America?," on Wednesday, August 31, 2022. The webinar will highlight the benefits of immigration to the United States. HR professionals can expect to learn about the contributions immigrants have made to the United States and the benefits they bring.

<https://register.gotowebinar.com/register/962752597448065803>

Foster LLP announced that 16 Foster immigration attorneys were included in the 2023 Best Lawyers in America list. The guide honored firm lawyers in Austin, Dallas, and Houston, Texas, with a concentrated focus on immigration law. The Foster attorneys listed were:

Charles C. Foster

Andres Zamberk

Avalyn Castillo Langemeier

Brenda G. Hicks

Elise A. Healy

Florence L. Luk

Helene N. Dang

John W. Meyer

José R. Pérez, Jr.

Layla Panjwani

Nestor A. Rosin

Philip A. Eichorn

Robert F. Loughran (<https://www.abil.com/abil-lawyers/robert-f-loughran/>)

Sandra I. Dorsthorst

Two Foster attorneys were listed as Best Lawyers: "Ones to Watch": **Diana Dominguez** and **Vi Nguyen**.

A new video from **Wolfsdorf Rosenthal Immigration** features Managing Partner **Bernard Wolfsdorf** (<https://www.abil.com/abil-lawyers/bernard-wolfsdorf/>) describing the culture and success of his firm and how it has grown over the years. <https://wolfsdorf.com/managing-partner-bernie-wolfsdorf-on-the-culture-and-success-of-wr-immigration/>

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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

This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

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