

IMMIGRATION INSIDER

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International Entrepreneur Update: National Advocacy Groups Recommend Streamlining Parole Program; House Passes Bill To Create New Visa – There have been several recent developments of interest to international entrepreneurs.

USCIS Releases Form I-9 Guidance for H-2B Workers Seeking to Change Employers – The guidance is related to a joint temporary final rule issued January 28, 2022, by the Departments of Homeland Security and Labor.

FY 2023 H-1B Cap Initial Registration Period Opens March 1 – The initial registration period for the fiscal year 2023 H-1B cap will open at noon ET on March 1, 2022, and run through noon ET on March 18, 2022.

DHS, DOL Announce Availability of Additional H-2B Visas for First Half of Fiscal Year – The Departments of Homeland Security and Labor announced the availability of 20,000 additional H-2B temporary nonagricultural worker visas for the first half of fiscal year (FY) 2022. The visas are for "U.S. employers that are facing irreparable harm without additional workers and [are] seeking to employ additional workers on or before March 31, 2022." The additional H-2B visas became available to employers on January 28, 2022.

USCIS Updates Guidance on Expedite Requests – U.S. Citizenship and Immigration Services updated its Policy Manual to reflect new guidance, effective immediately, on how the agency determines whether a case warrants expedited treatment.

CBP Announces New COVID-19 Vaccine Requirement for Non-U.S. Travelers Entering Via Land and Ferry From Canada, Mexico – The new restriction applies to non-U.S. individuals who are traveling for both essential and non-essential reasons. It does not apply to U.S. citizens, lawful permanent residents, or U.S. nationals.

CBP Expands 'Simplified Arrival' at International Airports in the South – Simplified Arrival uses facial biometrics to automate the manual document checks that are required for admission into the United States.

USCIS Clarifies Guidance on O-1 Nonimmigrants in Arts vs. Motion Pictures and Television – USCIS clarified guidance on how the agency determines whether an O-1B beneficiary will be evaluated as a person of extraordinary ability in the arts or as a person of extraordinary achievement in the motion picture or television industry when a case has elements of both.

February Visa Bulletin Warns of High Demand in Employment Fourth Category, Notes Upcoming Expiration of SR Religious Workers Category – High demand in the employment fourth preference category may necessitate the establishment of a worldwide final action date in the coming months. Also, no SR visas may be issued overseas, or final action taken on adjustment of status cases, after February 17, 2022, and all individuals seeking admission as a non-minister special immigrant must be admitted into the U.S. by February 17, 2022.

USCIS Issues Reminder re Immigration Help Available for Natural Disasters, 'Other Unforeseen Circumstances' – USCIS reminded the public that the agency offers immigration services "that may help

people affected by unforeseen circumstances such as natural disasters," including the Marshall fire in Colorado.

Justice Dept. Settles Immigration-Related Discrimination Claims With Frozen Food Company –

The settlement resolves claims that the company discriminated against non-U.S. citizens based on their citizenship status when checking their permission to work in the United States.

USCIS To Hold Listening Session on L Petition Adjudications – The listening session is for stakeholders to provide feedback on modernizing and simplifying the regulations governing L petition adjudications.

DHS OIG Finds That Manual Processing Slowed USCIS Benefits Delivery During Pandemic – In a new report, the Department of Homeland Security's Office of Inspector General found that continued reliance on manual processing slowed U.S. Citizenship and Immigration Services' benefits delivery during the COVID-19 pandemic. USCIS concurred with OIG's recommendations.

OFLC Completes Random Assignments of H-2B Applications Submitted for Work Starting April 1, 2022 – OFLC has completed randomly assigning all H-2B applications submitted during the initial filing window, January 1-3, 2022, requesting an April 1, 2022, work start date for the second half of the FY 2022 H-2B statutory visa cap.

EOIR Mandates E-Filing as of February 11, 2022 – Effective February 11, 2022, the Executive Office for Immigration Review is requiring electronic filing and records applications for all cases before the immigration courts and the Board of Immigration Appeals.

State Dept. Announces Diversity Visa Reassignment Procedures for Kabul and Baghdad – Those who are DV selectees for the 2022 DV program year with a case assigned to the U.S. embassy in Kabul, Afghanistan, or Baghdad, Iraq, should request reassignment of their DV cases to another embassy or consulate that processes immigrant visa applications.

USCIS Plans E-Verify Records Disposal for April 1, 2022 – E-Verify employers have until March 31, 2022, to download case information from the Historic Records Report.

ABIL Global: United Kingdom – The United Kingdom's (UK) new Global Business Mobility (GBM) route launch is fast approaching.

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International Entrepreneur Update: National Advocacy Groups Recommend Streamlining Parole Program; House Passes Bill To Create New Visa

There have been several recent developments of interest to international entrepreneurs:

National Advocacy Group Recommendations

The Coalition for International Entrepreneurship, which consists of three dozen immigration and startup advocacy organizations and individuals, sent a letter on February 1, 2022, asking Department of Homeland Security (DHS) Secretary Alejandro Mayorkas to streamline the International Entrepreneur Parole (IEP) program. Signers included the American Immigration Lawyers Association, Carnegie Mellon University Graduate Student Assembly, the National Immigration Forum, and others.

As background, last year, the Biden administration rescinded a Trump-era rule that would have ended the IEP program. The program uses DHS's authority to grant parole to foreign nationals whose admission would be a public benefit. However, according to reports, obstacles remain, and the IEP remains a crucial program, especially in the absence of a U.S. start-up visa.

The coalition's letter makes five key recommendations:

1. Immediately establish premium processing for IEP applications so qualified entrepreneurs can rapidly launch their businesses in the United States.
2. Incorporate the use of the Validation Instrument for Business Enterprises (VIBE) program to streamline the qualification process for investors. The letter noted that this program is already being used to validate information about companies petitioning to employ nonimmigrant and immigrant workers through Forms I-129 (for the H-1B, for example), I-140, I-360, and I-485.
3. Modify U.S. Citizenship and Immigration Services (USCIS) guidance on the term "qualified investor" to ensure that investors with passive foreign limited partners are not unnecessarily excluded.
4. Restart the USCIS Entrepreneur in Residence initiative to develop routine feedback loops with stakeholders and consider a hybrid model with both virtual and in-person activities to improve entrepreneurs' ability to participate and decrease the agency's administrative and badging burdens.
5. Establish regular interaction with stakeholders in the academic, entrepreneur, legal, and investment communities to further refine the program. The letter suggested that increased interaction could include more events hosted by the Public Engagement Division, or the creation of an entrepreneurship subcommittee for the Homeland Security Academic Advisory Council (HSAAC).

America COMPETES Act Passes in House

Also, on February 4, 2022, the House of Representatives passed the America COMPETES Act of 2022 (H.R. 4521). The bill would exempt international science, technology, engineering, and mathematics (STEM) PhD graduates from the green card numerical cap, create a new visa category for entrepreneurs, and provide temporary protected status for Hong Kong residents. A conference committee is expected to address significant differences between the House bill and the Senate's U.S. Innovation and Competition Act (S. 2012), according to NAFSA: Association of International Educators.

In addition, the Biden administration introduced measures on January 21, 2022, to attract and retain STEM international talent.

Details:

- Letter to Alejandro Mayorkas from the Coalition for International Entrepreneurship, Feb. 1, 2022, <https://progress.institute/wp-content/uploads/2022/02/CIE-Open-Letter.pdf>
- "Establishing a National Strategy for International Education," NAFSA: Association of International Educators, <https://www.nafsa.org/establishing-national-strategy-international-education>
- "Fact Sheet: Biden-Harris Administration Actions to Attract STEM Talent and Strengthen Our Economy and Competitiveness," White House, Jan. 21, 2022, <https://bit.ly/3uBAPT4>

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USCIS Releases Form I-9 Guidance for H-2B Workers Seeking to Change Employers

On February 4, 2022, U.S. Citizenship and Immigration Services released guidance on Form I-9, Employment Eligibility Verification, for H-2B workers seeking to change employers.

The guidance is related to a joint temporary final rule issued January 28, 2022, by the Departments of Homeland Security and Labor to increase the numerical limits on fiscal year 2022 H-2B nonimmigrant visas and temporarily provide portability flexibility for H-2B workers 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.

Details:

- "Form I-9 Guidance for H-2B Workers Seeking to Change Employers," USCIS, Feb. 4, 2022, <https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/form-i-9-guidance-for-h-2b-workers-seeking-to-change-employers-0>
- Joint temporary final rule, DHS/DOL, 87 Fed. Reg. 4722 (Jan. 28, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-01-28/pdf/2022-01866.pdf>

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FY 2023 H-1B Cap Initial Registration Period Opens March 1

The initial registration period for the fiscal year (FY) 2023 H-1B cap will open at noon ET on March 1, 2022, and run through noon ET on March 18, 2022, U.S. Citizenship and Immigration Services (USCIS) announced. During this period, prospective petitioners and representatives will be able to complete and submit their registrations using the USCIS online H-1B registration system, for foreign workers with an October 1, 2022, start date.

USCIS will assign a confirmation number to each registration submitted for the FY 2023 H-1B cap. USCIS said that this number is used solely to track registrations and cannot be used to track case status in Case Status Online.

USCIS said prospective H-1B cap-subject petitioners or their representatives must use a myUSCIS online account to register each beneficiary electronically for the selection process and pay the associated \$10 H-1B registration fee for each registration submitted on behalf of each beneficiary. Prospective petitioners submitting their own registrations ("registrants"—U.S. employers and U.S. agents) will use a "registrant" account. Registrants will be able to create new accounts beginning at noon ET on February 21, 2022, but must wait until March 1 to enter beneficiary information and submit the registration with fee.

If USCIS receives enough registrations by March 18, it will randomly select registrations and send selection notifications via users' myUSCIS online accounts. The agency said it will notify selected account holders by March 31.

USCIS noted that an H-1B cap-subject petition, including a petition for a beneficiary who is eligible for the advanced degree exemption, may only be filed by a petitioner whose registration for the beneficiary named in the H-1B petition was selected in the H-1B registration process.

Details:

- USCIS alert, Jan. 28, 2022, <https://www.uscis.gov/newsroom/alerts/fy-2023-h-1b-cap-initial-registration-period-opens-on-march-1>

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DHS, DOL Announce Availability of Additional H-2B Visas for First Half of Fiscal Year

The Departments of Homeland Security (DHS) and Labor (DOL) announced the availability of 20,000 additional H-2B temporary nonagricultural worker visas for the first half of fiscal year (FY) 2022. The visas are for "U.S. employers that are facing irreparable harm without additional workers and [are] seeking to employ additional workers on or before March 31, 2022." The additional H-2B visas became available to employers on January 28, 2022.

DHS said that this supplemental cap increase "marks the first time that DHS is making additional H-2B visas available in the first half of the fiscal year."

The supplemental H-2B visa allocation includes 13,500 visas available to returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years. The remaining 6,500 visas, which are exempt from the returning worker requirement, are reserved for nationals of Haiti, El Salvador, Guatemala, and Honduras.

In support of the rule, DOL's Office of Foreign Labor Certification (OFLC) posted a new Form ETA-9142-B-CAA-5 and accompanying instructions. The temporary rule requires an employer to attest, among other things, to the fact that it is suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all of the H-2B workers requested under the cap increase. The employer must submit the attestation to USCIS along with Form I-129, in support of an H-2B application subject to the H-2B cap before March 31, 2022.

Details:

- Joint temporary final rule, DHS, DOL, 87 Fed. Reg. 4722 (Jan. 28, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-01-28/pdf/2022-01866.pdf>
- DHS release, Jan. 27, 2022, <https://www.dhs.gov/news/01/27/dhs-announces-availability-additional-h-2b-visas-first-half-fiscal-year>
- OFLC announcement, Jan. 28, 2022, <https://www.dol.gov/agencies/eta/foreign-labor>
- New Form ETA-9142-B-CAA-5 (<https://bit.ly/3Heosao>) and General Instructions (<https://bit.ly/3r9XQS7>)
- Cap Count for H-2B Nonimmigrants, USCIS, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-non-agricultural-workers/cap-count-for-h-2b-nonimmigrants>

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USCIS Updates Guidance on Expedite Requests

U.S. Citizenship and Immigration Services (USCIS) updated its Policy Manual to reflect new guidance, effective immediately, on how the agency determines whether a case warrants expedited treatment. The update:

- Clarifies the criteria and circumstances under which USCIS generally considers expedite requests from nonprofit organizations as determined by the Internal Revenue Service;
- Provides additional examples of when USCIS may consider expedite requests made by federal, state, or local agencies, including labor and employment agencies;
- Adds examples to further illustrate how the expedite criteria relate to emergencies and urgent humanitarian reasons; and
- Explains that some circumstances may affect or delay the agency's ability to expedite an application or petition.

Details:

- USCIS alert, Jan. 25, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-on-expedite-requests>
- How to Make an Expedite Request, USCIS, <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>

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CBP Announces New COVID-19 Vaccine Requirement for Non-U.S. Travelers Entering Via Land and Ferry From Canada, Mexico

As of January 22, 2022, the Department of Homeland Security (DHS) is requiring non-U.S. individuals seeking to enter the United States via land ports of entry and ferry terminals at the U.S.-Mexico and U.S.-Canada borders to be fully vaccinated for COVID-19 and provide related proof of vaccination. DHS said this was necessary as COVID-19 cases continue to rise nationwide.

The new restriction applies to non-U.S. individuals who are traveling for both essential and non-essential reasons. It does not apply to U.S. citizens, lawful permanent residents, or U.S. nationals.

The Biden administration previously ordered that noncitizen nonimmigrants be vaccinated against COVID-19 before entering the United States by air, except in limited circumstances.

Details:

- "Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals," DHS, updated Jan. 20, 2022, <https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals>
- CBPOne Mobile Application (single portal to a variety of CBP services), <https://www.cbp.gov/about/mobile-apps-directory/cbpone>

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CBP Expands 'Simplified Arrival' at International Airports in the South

U.S. Customs and Border Protection (CBP) announced the implementation of Simplified Arrival at six airports in the states of Arkansas, Louisiana, Mississippi, Alabama, and Tennessee: Rogers Municipal Carter Field Airport, Lakefront Airport, Alexandria (Louisiana) International Airport, Gulfport Biloxi International Airport, Birmingham-Shuttlesworth International Airport, and Memphis International Airport.

Simplified Arrival uses facial biometrics to automate the manual document checks that are required for admission into the United States. Facial biometrics fulfill a longstanding congressional mandate to biometrically record the entry and exit of non-U.S. citizens, CBP said. To date, according to CBP, more than 130 million travelers have participated in the biometric facial comparison process at air, land, and sea ports of entry.

The Simplified Arrival process includes comparing a new photo taken on arrival at the primary inspection point to images the traveler has already provided to the government, such as passport and visa photos. Those who have previously traveled to the United States "may no longer need to provide fingerprints as their identity will be confirmed through the touchless facial comparison process," CBP said. Travelers who opt out of the Simplified Arrival process must present a valid travel document for inspection by a CBP officer.

Details:

- CBP release, Jan. 24, 2022, <https://www.cbp.gov/newsroom/local-media-release/cbp-expands-simplified-arrival-international-airports-south>

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Biden Administration Implements New Actions to Increase Opportunities for STEM Students, Professionals, Others

The Biden administration announced new actions to increase opportunities in the United States for science, technology, engineering, and mathematics (STEM) students and professionals, among others. A White House statement said the new actions are intended to "advance predictability and clarity for pathways for international STEM scholars, students, researchers, and experts to contribute to innovation and job creation efforts across America. These actions will allow international STEM talent to continue to make meaningful contributions to America's scholarly, research and development, and innovation communities."

According to the Department of State (DOS), in 2020, international students contributed more than \$39 billion to the U.S. economy and supported an estimated 410,000 jobs in cities and towns across the United States. "U.S. entities and businesses gain a competitive edge in our global economy with the perspectives and skillsets of international students and scholars, particularly in the STEM fields," DOS said.

Below are highlights of the new actions announced by the Departments of Homeland Security (DHS) and DOS:

DHS Initiatives

- DHS added 22 new fields of study to the STEM optional practical training (OPT) program to "enhance the contributions of nonimmigrant students studying" in STEM fields and to "support the growth of the U.S. economy and innovation." The STEM OPT program permits F-1 students earning bachelor's, master's, or doctoral degrees in certain STEM fields to remain in the United States for up to 36 months after they graduate to work in their fields of study.
- DHS is also updating its guidance to clarify how certain STEM graduates can use the national interest waiver for employment-based immigrant visa classification as an advanced degree professional noncitizen or noncitizen of exceptional ability. DHS noted that certain noncitizens with an advanced degree or exceptional ability "can self-petition for employment-based immigrant visa classification, without testing the labor market and obtaining certification from the Department of Labor, if USCIS [U.S. Citizenship and

Immigration Services] determines the waiver of the labor market test to be in the national interest."

- USCIS is also updating its guidance related to O-1A nonimmigrant status for noncitizens of extraordinary ability in the fields of science, arts, education, business, or athletics. The update explains how USCIS determines eligibility for O-1A petitioners and, for the first time, provides examples of evidence that might satisfy the criteria, including for individuals working in STEM fields, DHS said.

DOS Initiatives

- The Early Career STEM Research Initiative seeks to connect BridgeUSA exchange sponsors with interested U.S.-based STEM host organizations (e.g., small and medium businesses) to increase the number of STEM-focused educational and cultural exchanges.
- DOS is also announcing an extension for undergraduate and graduate students in STEM fields on the J-1 visa that will facilitate additional academic training for periods of up to 36 months. The extension applies to the 2021-22 and 2022-23 academic years.
- DOS said these initiatives are "consistent with the recent Joint Statement of Principles in Support of International Education," issued by DOS and the Department of Education.

Details:

- "Fact Sheet: Biden-Harris Administration Actions to Attract STEM Talent and Strengthen Our Economy and Competitiveness," White House, Jan. 21, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/21/fact-sheet-biden-harris-administration-actions-to-attract-stem-talent-and-strengthen-our-economy-and-competitiveness/>
- "DHS Expands Opportunities in U.S. for STEM Professionals" (includes a list of the 22 new fields added to STEM OPT), Jan. 21, 2022, <https://www.dhs.gov/news/2022/01/21/dhs-expands-opportunities-us-stem-professionals>
- "Update to the Department of Homeland Security STEM Designated Degree Program List," 87 Fed. Reg. 3317 (Jan. 21, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-01-21/pdf/2022-01188.pdf>
- "USCIS Provides Clarifying Guidance for O-1 Petitions With a Focus on STEM Fields," USCIS, Jan. 21, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-provides-clarifying-guidance-for-o-1-petitions-with-a-focus-on-stem-fields>
- "USCIS Updates Guidance on National Interest Waivers," USCIS, Jan. 21, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-on-national-interest-waivers>
- "New Initiatives Further Opportunity for International STEM Students, Scholars and Researchers, U.S. Entities," Jan. 21, 2022, <https://www.state.gov/new-initiatives-further-opportunity-for-international-stem-students-scholars-and-researchers-u-s-entities/>
- Early Career STEM Research Initiative, <https://j1visa.state.gov/programs/early-career-stem-research-initiative/>
- BridgeUSA, <https://j1visa.state.gov/>

- "Opportunity for Academic Training Extensions for J-1 College and University Students in STEM Fields," BridgeUSA, Dept. of State, <https://j1visa.state.gov/opportunity-for-academic-training-extensions-for-j-1-college-and-university-students-in-stem-fields/>

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USCIS Notes 'Exceptionally High Number' of Employment-Based Green Cards Available This Fiscal Year

U.S. Citizenship and Immigration Services (USCIS) recently issued an alert noting that an "exceptionally high number" of employment-based green cards are available this fiscal year (October 2021 through September 2022).

USCIS said that it is committed, in "partnership with the U.S. Department of State," to "attempting to use all these visa numbers." USCIS said many more visas are available in the first (priority workers) and second (workers with advanced degrees of exceptional ability) employment-based green card categories than there are adjustment of status applications pending with USCIS.

USCIS provided the following advice:

If you are eligible, please consider applying in the first or second employment-based preference categories. If you have a pending adjustment of status application based in the third employment-based preference category but also have a pending or approved petition and an available visa in the second employment-based preference category, we strongly encourage you to request that USCIS "transfer the underlying basis" of your pending application to the second employment-based preference category.

Details:

- Alert, Green Card for Employment-Based Immigrants (includes information about "transfer of underlying basis"), <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-employment-based-immigrants>

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State Dept. Issues Final Rule Allowing Certain Fee Exemptions

The Department of State (DOS) issued a final rule on January 19, 2022, amending its regulation governing immigrant visa (IV) fees to allow an exemption from such fees for certain applicants previously denied an immigrant visa pursuant to certain Presidential Proclamations issued by the previous administration and associated technical corrections.

Specifically, the final rule applies to those who were denied an IV on or between December 8, 2017, and January 19, 2020, due to Presidential Proclamations 9645 and 9983. The final rule explains that any IV applicants denied under those proclamations, assuming no material change in circumstances, may now be eligible for a visa, and that DOS is exempting this defined category of IV applicants from payment of IV fees if they apply again for an immigrant visa.

If other refusal grounds in addition to the proclamations have not been overcome, the applicant would be required to pay the IV fees if they wish to apply again for an immigrant visa. Such applicants would need to have received a letter from a consular officer informing of a determination that the refusal on other grounds has been overcome, DOS explained.

Details:

- Final rule, 87 Fed. Reg. 2703 (Jan. 19, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-01-19/pdf/2022-00829.pdf>

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State Dept. Announces F/M/J Nonimmigrant Visa Processing Posts Outside of Moscow for Applicants Resident in Russia

The Department of State (DOS) announced on January 21, 2022, that due to "severely limited consular operations in Moscow," DOS has designated multiple posts for processing certain nonimmigrant visa applications from persons resident in Russia. Russia-based student visa applicants (F and M categories), academic exchange J visitors (student, professor, research scholar, short-term scholar, and specialist J visa categories), and participants in U.S. government-funded exchange visitor programs may apply at Mission Kazakhstan and the U.S. embassies in Belgrade and Yerevan.

DOS encourages applicants to check each post's website for the latest information on services and appointment availability at that specific post.

The agency noted that this designation does not prevent Russia-based F, M, and J applicants from applying at other posts where they are physically present. This designation also does not exempt travelers from the Centers for Disease Control and Prevention's (CDC) requirement that all air travelers to the United States be vaccinated against COVID-19 with a World Health Organization emergency use-listed vaccine, DOS said.

Details:

- "Announcement of F/M/J Processing Posts for Applicants Resident in Russia," State Dept., Jan. 21, 2022, <https://travel.state.gov/content/travel/en/News/visas-news/announcement-of-F-M-J-processing-posts-for-applicants-resident-in-russia.html>

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USCIS Requests Comments on New Form I-129H1

U.S. Citizenship and Immigration Services (USCIS) issued a notice requesting comments by February 18, 2022, on a new Form I-129H1. USCIS made edits to the I-129H1 form and Instructions in response to previous comments. USCIS also removed form items and instructional language associated with a final rule published on January 8, 2021.

The notice is part of agency efforts to separate Form I-129, Petition for a Nonimmigrant Worker, into individual forms. USCIS explained that the I-129H1 form is intended to standardize requests for H-1B and H-1B1 nonimmigrant workers.

Details:

- To register, visit https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new?topic_id=USDHSCIS_530 and complete the registration process. Send any questions to public.engagement@uscis.dhs.gov or see <https://www.uscis.gov/outreach/contact-public-engagement>

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USCIS Clarifies Guidance on O-1 Nonimmigrants in Arts vs. Motion Pictures and Television

U.S. Citizenship and Immigration Services (USCIS) clarified guidance on how the agency determines whether an O-1B beneficiary will be evaluated as a person of extraordinary ability in the arts or as a person of extraordinary achievement in the motion picture or television industry when a case has elements of both.

USCIS explained that individuals of extraordinary ability in the arts or extraordinary achievement in the motion picture or television industry may be eligible for O-1B classification. The updated guidance "will help officers and petitioners determine whether a beneficiary falls into the arts category or the motion picture and television category" and "will help with cases that have elements of both classifications, such as actors, directors, composers, or set designers who work in both motion pictures and television and live theater. It will also help officers and petitioners understand where streaming internet productions fall in these categories," USCIS said.

Among other things, the guidance notes that analysis of whether a production is within the motion picture or television industry (MPTV) is not limited to whether it will air on a television screen or in a movie theater, as the industry has grown to encompass some online content. "While static web materials and self-produced video blogs and social media content generally do not fall into the MPTV category, USCIS considers streaming movies, web series, commercials, and other programs with formats that correspond to more traditional motion picture and television productions to generally fall within the MPTV industry's purview," USCIS said. Accordingly, USCIS "may properly consider work on such productions to fall under the O-1B (MPTV) classification."

Details:

- USCIS alert, Jan. 13, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-provides-clarifying-guidance-on-o-1-nonimmigrants-in-arts-vs-motion-picture-and-television>
- "Policy Alert: Determining the Appropriate O-1B Classification for Persons of Extraordinary Ability in the Arts or Extraordinary Achievement in the Motion Picture or Television Industry," USCIS, Jan. 13, 2022, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220113-ExtraordinaryAbility.pdf>
- USCIS Policy Manual, Chapter 4, O-1 Beneficiaries, <https://www.uscis.gov/policy-manual/volume-2-part-m-chapter-4>

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February Visa Bulletin Warns of High Demand in Employment Fourth Category, Notes Upcoming Expiration of SR Religious Workers Category

The Department of State's Visa Bulletin for February 2022 notes that high demand in the employment fourth preference 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 2022 annual limit. DOS said the situation will be continually monitored and any necessary adjustments will be made.

The bulletin notes that for El Salvador, Guatemala, and Honduras, the rate of demand increased primarily for adjustment of status cases "and will require corrective action as early as March to hold number use within allowable limits. Also, for Mexico, the bulletin says that "corrective action may be necessary in the coming months."

The bulletin also notes the upcoming expiration of the employment fourth preference Certain Religious Workers (SR) category as of February 18, 2022: "No SR visas may be issued overseas, or final action taken on adjustment of status cases," after February 17, 2022, and "all individuals seeking admission as a non-minister special immigrant must be admitted (repeat, admitted) into the U.S." by February 17, 2022.

Details:

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

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USCIS Issues Reminder re Immigration Help Available for Natural Disasters, 'Other Unforeseen Circumstances'

U.S. Citizenship and Immigration Services (USCIS) issued a notice on January 12, 2022, reminding the public that the agency offers immigration services "that may help people affected by unforeseen circumstances such as natural disasters," including the Marshall fire in Colorado.

USCIS said following measures may be available on a case-by-case basis upon request:

- Changing nonimmigrant status or extending a nonimmigrant stay for an individual currently in the United States. "Failure to apply for the extension or change before expiration of your authorized period of admission may be excused if the delay was due to extraordinary circumstances beyond your control," USCIS said;
- Re-parole of individuals previously granted parole by USCIS;
- Expedited processing of advance parole requests;
- Expedited adjudication of requests for off-campus employment authorization for F-1 students experiencing severe economic hardship;
- Expedited adjudication of employment authorization applications, where appropriate;
- Consideration of fee waiver requests due to an inability to pay;
- Flexibility for those who received a Request for Evidence or a Notice of Intent to Deny but were unable to submit evidence or otherwise respond in a timely manner;
- Flexibility if you were unable to appear for a scheduled interview with USCIS;
- Expedited replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card), Employment Authorization Documents, and Arrival/Departure Record (Form I-94); and
- Rescheduling a biometric services appointment.

Details:

- USCIS alert, Jan. 12, 2022, <https://www.uscis.gov/newsroom/alerts/immigration-help-available-to-those-affected-by-natural-disasters-and-other-unforeseen-circumstances-0>

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Justice Dept. Settles Immigration-Related Discrimination Claims With Frozen Food Company

The Department of Justice (DOJ) reached a settlement agreement with Buddy's Kitchen Inc., a Minnesota-based company that produces and distributes frozen foods. The settlement resolves claims that the company discriminated against non-U.S. citizens based on their citizenship status when checking their permission to work in the United States.

DOJ said its investigation revealed that the company routinely discriminated by asking non-U.S. citizens, primarily lawful permanent residents, to present specific Department of Homeland Security-issued documents to prove their authorization to work in the United States, while making no such request of U.S. citizens. Under the settlement, Buddy's Kitchen will pay \$40,000 in civil penalties, change its employment policies to comply with the anti-discrimination provision of the Immigration and Nationality Act, and train its employees who are responsible for verifying workers' permission to work in the United States.

In a statement released on January 14, 2022, DOJ said, "All employees have the right to choose the valid documentation they wish to present when demonstrating that they have permission to work in the United States."

Details:

- Media release, Dept. of Justice, Jan. 10, 2022, <https://bit.ly/3Gt9UDk>

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USCIS Held Listening Session on L Petition Adjudications

U.S. Citizenship and Immigration Services (USCIS) held a listening session on January 25, 2022, for stakeholders to provide feedback on modernizing and simplifying the regulations governing L petition adjudications. USCIS is seeking input on all aspects of L adjudications, including L-1A managers and executives, L-1B specialized knowledge workers, new office petitions, blanket petitions, and evidentiary issues. USCIS said this is part of a series of listening sessions that USCIS will host in the coming months to seek input on business and foreign worker-related policy considerations.

Details:

- See https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new?topic_id=USDHSCIS_530. Send any questions to public.engagement@uscis.dhs.gov or see <https://www.uscis.gov/outreach/contact-public-engagement>

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DHS OIG Finds That Manual Processing Slowed USCIS Benefits Delivery During Pandemic

The Department of Homeland Security's Office of Inspector General (OIG) released a report on December 28, 2021, finding that continued reliance on manual processing slowed U.S. Citizenship and Immigration Services' benefits delivery during the COVID-19 pandemic.

OIG found that USCIS had limited capability to electronically process more than 80 types of benefits, which still required some manual workflows and paper files to complete cases. Recurring technology performance issues and equipment limitations further constrained USCIS employees' productivity, OIG said, attributing the challenges to "funding cuts and lost fee revenue that limited spending during this time." OIG noted that these challenges "further increased processing times and resulted in a backlog of 3.8 million cases as of May 2021."

The report includes two recommendations aimed at improving USCIS's electronic processing of benefits, with which USCIS concurred:

Recommendation 1: Update the USCIS pandemic plan to incorporate additional technology guidance and lessons learned during the COVID-19 pandemic. The estimated completion date is December 30, 2022. OIG considers this recommendation to be "open and resolved." OIG said a formal closeout letter to be submitted should be accompanied by "evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts."

Recommendation 2: Develop an updated strategy for digitizing all benefits work and tracking the outcome of improving case processing times, including a detailed funding plan, in accordance with the Emergency Stopgap USCIS Stabilization Act. OIG considers this recommendation to be "resolved and closed."

Details:

- "Continued Reliance on Manual Processing Slowed USCIS' Benefits Delivery During the COVID-19 Pandemic," DHS/OIG, Dec. 28, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-12-Dec21.pdf>

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OFLC Completes Random Assignments of H-2B Applications Submitted for Work Starting April 1, 2022

The Department of Labor's Office of Foreign Labor Certification (OFLC) has completed randomly assigning all H-2B applications submitted during the initial filing window, January 1-3, 2022, requesting an April 1, 2022, work start date for the second half of the fiscal year 2022 H-2B statutory visa cap.

OFLC reported receiving 7,875 H-2B applications requesting 136,555 worker positions during the filing period. OFLC said it will notify employers (and authorized attorneys or agents) of their H-2B Assignment Group. The agency published a list of the H-2B applications assigned to each group on January 7, 2022.

Details:

- OFLC notices, Jan. 7, 2022, and Jan. 4, 2022, <https://www.dol.gov/agencies/eta/foreign-labor>

- Assignment Group list, OFLC, Jan. 7, 2022, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H2B%20Randomization%20List%20January%202022.pdf>
- Randomization procedures, Employment and Training Administration, 84 Fed. Reg. 7399 (Mar. 4, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-03-04/pdf/2019-03809.pdf>

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EOIR Mandates E-Filing as of February 11, 2022

Effective February 11, 2022, the Executive Office for Immigration Review (EOIR) will require electronic filing and records applications for all cases before the immigration courts and the Board of Immigration Appeals.

Users can view training materials on EOIR's website, including infographics and videos on how to upload and download documents on its Courts & Appeals System.

Details:

- EOIR final rule, 86 Fed. Reg. 70708 (Dec. 13, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-12-13/pdf/2021-26853.pdf>
- ECAS User Manual and other how-to information, <https://www.justice.gov/eoir/ecas/attorney-and-ar-resources>

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State Dept. Announces Diversity Visa Reassignment Procedures for Kabul and Baghdad

The Department of State announced on January 5, 2022, that those who are Diversity Visa (DV) selectees for the 2022 DV program year with a case assigned to the U.S. embassy in Kabul, Afghanistan, or Baghdad, Iraq, should request reassignment of their DV cases to another embassy or consulate that processes immigrant visa applications. Such persons must be physically present in the consular district where the embassy or consulate is located at the time of interview and have permission to remain in the country by the host government for a period sufficient to complete processing.

Reassignment of a case to another embassy or consulate does not mean that it will be automatically scheduled for an immigrant visa interview. The interview will be scheduled after the DS-260 immigrant visa application has been fully processed, when the case number is current according to the Visa Bulletin, and when the reassigned embassy or consulate has an interview appointment available.

Details:

- "Diversity Visa Reassignment Procedures for Kabul and Baghdad," Jan. 5, 2022, <https://travel.state.gov/content/travel/en/News/visas-news/diversity-visa-reassignment-procedures-for-kabul-and-baghdad.html>

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USCIS Plans E-Verify Records Disposal for April 1, 2022

U.S. Citizenship and Immigration Services (USCIS) plans to dispose of E-Verify records that are more than 10 years old on April 1, 2022. (USCIS defined "more than 10 years old" as "those dated on or before Dec. 31, 2011.") E-Verify employers have until March 31, 2022, to download case information from the Historic Records Report if they want to retain information about these E-Verify cases, USCIS said.

USCIS noted that employers must record the E-Verify case verification number on the corresponding Form I-9, Employment Eligibility Verification, or attach a copy of the case details page to the I-9 form. Employers should retain the Historic Records Report with the I-9 forms.

Details:

- "E-Verify Records Disposal," USCIS, Jan. 6, 2022, <https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/e-verify-records-disposal>
- "Fact Sheet: E-Verify Records Retention and Disposal," USCIS, Jan. 20, 2021, <https://www.e-verify.gov/sites/default/files/everify/factsheets/E-VerifyNARAFactSheet.pdf>
- "Instructions to Download Historic Records Reports in E-Verify," USCIS, Jan. 20, 2021, <https://www.e-verify.gov/sites/default/files/everify/infosheets/DownloadNARAREportsinE-Verify.pdf>

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ABIL Global: United Kingdom

The United Kingdom's (UK) new Global Business Mobility (GBM) route launch is fast approaching.

What can we expect from the UK's new GBM visa?

The intended launch of the GBM route is fast approaching. The Home Office promised a "cohesive system" for overseas businesses to assign employees to the UK for a range of business purposes by spring 2022. The new visa route will consolidate and expand on an array of existing immigration routes and introduce new opportunities for businesses both with and without a UK presence.

The GBM route will consist of five categories:

- **Senior or specialist worker**—for individuals whose skills are required in the UK for a specific business purpose;
- **Graduate trainee**—for individuals who are on a UK placement as part of a structured training program;
- **UK expansion worker**—for individuals who are on an assignment as part of a UK expansion of the business;
- **Secondment worker**—for business-specific secondments; and
- **Service supplier**—for individuals travelling to the UK to deliver a service in line with a UK trade commitment.

The requirements for the GBM visa will be based predominantly on those of the Intra-Company Transfer (ICT) route. This means that the UK business receiving the workers will require a sponsor license. The workers will need to satisfy salary and skill thresholds and should have completed a minimum period of employment overseas before applying. There will be no English language requirement. Although assignments on the GBM route will be temporary, there will be flexibility to switch to other permanent routes, such as the Skilled Worker route.

The Home Office said that the exact requirements for the route will be subject to the Migration Advisory Committee's (MAC) review and may depend on the GBM subcategory in question. In its review of the ICT route in October 2021, the MAC made a series of recommendations, including increasing the minimum salary threshold and allowing time spent on the ICT route to count toward settlement. It will be interesting to see if these recommendations are incorporated within the GBM provisions under the Immigration Rules.

While some of the subcategories of the GBM visa mirror existing routes (the Graduate trainee, for example, is similar to the Intra-Company Graduate Trainee), others provide a new route for overseas businesses to send employees to the UK. The UK expansion worker, for example, is set to supplement the Representative of an Overseas Business route, allowing overseas businesses to send more than one worker and access the Sponsor Management System to manage assigned employees. However, unlike the Representative of an Overseas Business route, the UK expansion worker, and all the subcategories of the GBM visa, will be a sponsored route. This raises additional challenges—in terms of both logistics and costs—for employers and the Home Office, with the latter having to monitor the compliance of sponsor license holders located outside the UK.

In the coming weeks, further clarification is expected from the Home Office on how individuals and companies can apply under the GBM route and the permitted activities for a GBM migrant in the UK. It is hoped that the Home Office will also clarify the potential sponsor license system for overseas businesses and how it plans to carry out future compliance checks.

Details:

- "Intra-Company Transfer Report: October 2021," Gov.uk, <https://bit.ly/3uuXE2c>

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New Publications and Items of Interest

Readout and fact sheet on immigration-related executive order progress. U.S. Citizenship and Immigration Services (USCIS) released a readout of USCIS Director Ur M. Jaddou's virtual briefing with stakeholders to mark the one-year anniversary of immigration-related executive orders and a related fact sheet on progress on those orders. Readout: <https://bit.ly/3J63pan>; Fact Sheet: https://www.uscis.gov/sites/default/files/document/fact-sheets/FINAL_EO_Anniversary_Progress_FactSheet_2_3.pdf

DACA survey. Results from a survey of Deferred Action for Childhood Arrivals (DACA) recipients conducted by the Center for American Progress, United We Dream, and the National Immigration Law Center were released. This year's responses showed that "amid the backdrop of continued uncertainty for DACA recipients and the ongoing COVID-19 pandemic, the gains made possible through DACA are vulnerable." Even with legal challenges threatening its future, DACA "remains a critical lifeline for hundreds of thousands of people. The 2021 survey results make it abundantly clear why Congress must take immediate action to permanently protect DACA recipients—as well as people who have been unable to access the program due to the legal challenges—by providing them a pathway to citizenship," the Center for American

Progress said. <https://www.americanprogress.org/article/2021-survey-of-daca-recipients-underscores-the-importance-of-a-pathway-to-citizenship/>

USCIS webinar on H-1B electronic registration process. U.S. Citizenship and Immigration Services (USCIS) will hold a webinar, "H-1B Electronic Registration Process," on Thursday, February 24, 2022, from 2 to 3 p.m. ET. USCIS representatives will updates on the myUSCIS online account features for the FY 2023 H-1B electronic registration process and address questions. USCIS encourages participants to submit questions in advance to public.engagement@uscis.dhs.gov by February 8, 2022, at noon ET. Enter "H-1B Electronic Registration Process" in the subject line. To register, go to USCIS registration page (<https://bit.ly/3GbW9YR>); enter your email address; submit; select "Subscriber Preferences"; select the "Questions" tab; provide your location, organization name and type (if applicable); complete the questions; and select "Submit." USCIS will process your registration and send you a confirmation email with additional details. Email public.engagement@uscis.dhs.gov with any questions or registration issues.

GAO report on DACA. The U.S. Government Accountability Office (GAO) released a new report, "Immigration: Information on Deferred Action for Childhood Arrivals" (GAO-22-104734). The report notes that in 2012, U.S. Citizenship and Immigration Services published guidance explaining that it would not proactively provide information from denied DACA requests to immigration enforcement agencies unless the requestor posed a potential public safety risk or the request was potentially fraudulent. GAO found that USCIS shared such information with enforcement agencies in rare circumstances between June 2012 and June 2021. Specifically, of the 106,000 DACA requests that USCIS denied, it referred fewer than 900 cases (less than 1 percent) to U.S. Immigration and Customs Enforcement. <https://www.gao.gov/products/gao-22-104734>

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

Foster LLP presented a webinar, "Immigration: Are You Ready for 2022?," on January 26, 2022. Presenters discussed what employers should keep in mind when planning their organization's immigration needs for 2022 and the importance of immigration policy. Topics included a brief recap of 2021; business needs and developing corporate immigration policy; immigration timelines and compliance, including H-1B, L-1, TN, global sponsorship, permanent residence sponsorship, and I-9 compliance; and hot topics. Speakers included **Avalyn Langemeier**, **Philip Eichorn**, and **Vi Palacios**. <https://bit.ly/3fsn6g4>

Charles Kuck (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) was quoted by the *Atlanta Journal-Constitution* in " 'A Huge Burden': Bail Bonds for Detained Immigrants Higher in Georgia." Mr. Kuck said, "It disappoints me that Georgia immigration courts seem to be setting higher bonds than other parts of the United States. [But] is there a correlation between a higher bond and an appearance [in court]? I don't think there is. Anecdotally, from my own experience having represented thousands of people in immigration court, there is no correlation at all." <https://www.ajc.com/news/a-huge-burden-bail-bonds-for-detained-immigrants-higher-in-georgia/QAM6MJ4GQBESVIQEHGQZG3PPME/>

Robert Loughran announced:

- **Avalyn Langemeier** spoke on a panel, "What the H?!", at the Texas Bar's 20th Annual Course in Advanced Immigration Law on February 3-4, 2022. The panel discussed the failure to advise an employer/employee correctly on immigration matters, ethics, and situations that might arise. <https://www.texasbarcle.com/materials/Programs/4303/Brochure.pdf>
- **Oxana Bowman, Cathy Liu, and Andrés Zamberk** will discuss in their webinar, "To (H-1)B or Not to (H-1)B—Preparing for the H-1B Cap Season," the definition and elements of eligibility for the H-1B visa, lottery selection, and relevant timelines for the fiscal year 2023 H-1B cap registration process, and helpful tips when working with H-1B candidates and the H-1B process. The webinar, hosted by **Foster LLP**, will be held February 9, 2022. <https://attendee.gotowebinar.com/register/8082799567985137419>
- **Avalyn Langemeier, Philip Eichorn, and Vi Palacios** discussed in their webinar, "Immigration: Are You Ready for 2022?," what employers should keep in mind when planning their organization's immigration needs for 2022 and the importance of an immigration policy. This webinar was held January 26, 2022. <https://attendee.gotowebinar.com/register/244362480959499536>
- **Avalyn Langemeier** discussed in her presentation, "Is Immigration to the U.S. Good for America?," the contributions of immigrants and why immigrants are needed in the United States, in the Legalkwik seminar on January 27, 2022, hosted by HR Houston. <https://www.hrhouston.org/events/EventDetails.aspx?id=1544444&group=>
- **Oxana Bowman and Sandra Dorsthorst** discussed in their webinar, "To (H-1)B or Not to (H-1)B - Cap Season," strategies for contingency planning for employers whose sponsored employees are not selected in the H-1B cap lottery. This webinar, hosted by HR Houston, was held January 13, 2022. <https://www.hrhouston.org/events/EventDetails.aspx?id=1578132&group=>

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) and **Jessica Paszko** co-authored a new blog post: "Amin v. Mayorkas: Fifth Circuit Denies EB-1 Extraordinary Ability Petition Even Though Petitioner Met Three Out of Ten Regulatory Criteria." <https://bit.ly/3HvzZID>

Mr. Mehta and Kaitlyn Box co-authored several new blog posts: "Expansion of STEM Practical Training and Broadening of O-1A Standards Allows Foreign Talented Students to Contribute to the U.S. Even If Rejected in the H-1B Lottery," <https://bit.ly/34ftlvM>; "Frequently Asked Questions on Transferring the Underlying Basis of an I-485 Application From an I-140 Petition Under India EB-3 to an I-140 Under India EB-2," <https://bit.ly/3fOmG3D>

Greg Siskind, of **Siskind Susser PC**, was quoted by *Time* in "Tens of Thousands of Afghans Who Fled the Taliban Are Now Marooned in America's Broken Immigration Bureaucracy." The

article notes that Afghans left behind after the U.S. evacuation were caught in a Catch-22: to be approved for humanitarian parole, they were told they must go to a U.S. embassy for vetting and biometrics screenings, but the U.S. embassy in Afghanistan suspended operations. Mr. Siskind said that when Afghans fled to nearby countries and reported to a U.S. Embassy there, USCIS's response was, "if you're out of the country, you're not in danger anymore, and therefore you're not eligible for humanitarian parole. His law firm has taken on pro bono cases for Afghans abroad applying for humanitarian parole. Mr. Siskind received his first denial notice from USCIS recently for an Afghan woman who fled to Pakistan with her three teenage children. The woman is a single mother who fears being a target of the Taliban because she worked with the World Bank, he said. USCIS didn't explain why the woman was rejected; a line from the USCIS notice said simply that the agency "determined that parole is not warranted. Therefore we have denied your request for parole," Mr. Siskind said. <https://time.com/6141516/afghans-humanitarian-parole/>

William Stock (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>), **Michele Madera**, and **Nigel James** of **Klasko Immigration Law Partners, LLP**, presented on January 19, 2022, lessons learned from the 2021 H-1B cap season to help companies plan for the upcoming 2022 H-1B lottery. They also provided updates on regulations and litigation outcomes. https://us06web.zoom.us/webinar/register/7216413311518/WN_vwfA4iA2QTO95p2dttvdlg

Wolfsdorf Rosenthal LLP has published several new blog posts: "State Dept. Announces F/M/J Nonimmigrant Visa Processing Posts Outside of Moscow for Applicants Resident in Russia"; "Biden Administration Implements New Actions to Increase Opportunities for STEM Students, Professionals, Others"; "Immigration Update"; "February 2022 Visa Bulletin Update"; and "I-9 Form Update: COVID-19 Pandemic-Related Temporary Policies, Employer Tips." <https://wolfsdorf.com/news/> <https://wolfsdorf.com/news/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by *Baptist News Global* in "America's Economy Urgently Needs More Immigrant Labor, Experts Explain." Noting that the fields of science, technology, engineering, and mathematics (STEM) are areas where the United States could use a boost of immigrants, Mr. Yale-Loehr commented that the Biden administration's shift in federal policy to make it easier for STEM scholars to work in the United States is a good first step, "but we must do more to address existing backlogs. So many workers have to be laid off because their [work] permits have expired." <https://baptistnews.com/article/americas-economy-urgently-needs-more-immigrant-labor-experts-explain/#.YfXCRprMK71>

Mr. Yale-Loehr was quoted by Vox in "Biden Is Defending Key Trump Immigration Policies in Court." For the Biden administration, he said, defending some of the Trump administration's most controversial immigration policies could be an attempt to preserve tools to manage the border, or they could mark an internal disagreement on righting the wrongs of the Trump era. "Every administration wants to have as much flexibility and discretion as it can on immigration because you never know what conditions will arise in the future," he said. <https://www.vox.com/22893065/biden-family-separations-title-42-border-court>

Mr. Yale-Loehr was quoted by *Law360* in "Breyer Leaves Legacy of Extending Constitution to Migrants." The article noted that U.S. Supreme Court Justice Stephen Breyer, who announced his retirement after nearly three decades on the bench, leaves behind a legacy of influential legal opinions and dissents that sought to extend constitutional rights and protections to noncitizens. Mr. Yale-Loehr stated that Justice Breyer "did not always prevail in extending constitutional or statutory rights to noncitizens." But "whether he won or lost, Justice Breyer showed a commitment to apply the Constitution to noncitizens." <https://www.law360.com/immigration/articles/1459013/breyer-leaves-legacy-of-extending-constitution-to-migrants> (registration required)

Mr. Yale-Loehr was quoted by several media outlets regarding recent U.S. policy changes making it easier for STEM international students to work in the United States:

- "Biden Admin. Expands Definition Of STEM For Int'l Students," Law360. Mr. Yale-Loehr said, "Together, these administrative changes provide a small but significant step to help keep U.S. companies competitive in a global economy and to address workforce shortages. Larger actions, such as increasing the number of employment-based green cards, will require Congressional action."
<https://www.law360.com/immigration/articles/1457587/biden-admin-expands-definition-of-stem-for-int-l-students> (registration required)
- "Foreign Students Will Now Have More Job Opportunities After Visa Modification," Univision. Mr. Yale-Loehr said, "These changes will help keep American businesses competitive. The policy changes will make it easier for international students and professionals in so-called STEM fields to stay and work in the United States for an extended period of time after they complete their studies and graduate. Among other things, the changes add 22 new STEM fields, including bioenergy, cloud computing, and data science, that international students can study to qualify for work in the United States for up to three years after graduation."
<https://www.univision.com/noticias/inmigracion/estudiantes-visas-f-1-tendran-mas-oportunidades-para-trabajar-eeuu> (in Spanish, with English translation available)

Mr. Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by the *Utica NY Observer-Dispatch* in " 'Not to be there...is killing me': Professor Aches for Comatose Wife Stuck in Ethiopia." Mr. Yale-Loehr noted that both the pandemic and the United States' "broken" immigration system have led to many family separations. "Family separation is a large and continuing problem in all of immigration," he said. <https://bit.ly/3255Eeo> (subscription required)

Mr. Yale-Loehr was quoted by *Univision* in "Supreme Court Hears Arguments on the Release of Undocumented Persons Detained for More Than 6 Months." He said, "Two lower courts held that, in certain cases, immigrants have that right [to a bail hearing]. But the conservative majority of the Supreme Court may disagree with those rulings," he warns. The arguments, presented by immigration defense attorneys and the Justice Department, concern whether foreigners who have been detained for more than six months "have the right to a bail hearing to be released," he said. In one of the cases, the immigrant Antonio Arteaga-Martínez argues that to avoid a violation of due process, "he and some other immigrants should have the right to a bond hearing after six months in detention. However, last year, the Supreme Court ruled 6-3 that immigrants who return illegally to the United States after being deported must be held without bond while they await a second deportation hearing," he noted. Mr. Yale-Loehr said that "the cases are important, in part due to the large backlog of cases in immigration court. More than 1.5 million immigrants have cases pending with the [Executive Office for Immigration Review]. It can take years to get a decision. If immigrants have to be detained all that time, the monetary and social costs will be immense."
<https://www.univision.com/noticias/inmigracion/corte-suprema-indocumentados-liberacion-detenido-seis-meses> (in Spanish, with English translation available)

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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/>

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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.

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