

IMMIGRATION INSIDER

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Headlines:

Dept. of State Issues New Guidance on Exceptions for Travelers From Schengen Area, United Kingdom, and Ireland – The Department of State rescinded the previous national interest determination regarding categories of travelers eligible for exceptions under Presidential Proclamation (PP) 10143 related to the Schengen Area, the United Kingdom, and the Republic of Ireland. Those categories included "certain technical experts and specialists, senior-level managers and executives, treaty traders and investors, professional athletes, and their dependents." The Department also made a new national interest determination covering "certain travelers seeking to provide vital support for critical infrastructure. Travelers in these categories, as well as certain academics, students, and journalists, may qualify for national interest exceptions to PP 10143 related to the Schengen Area, the United Kingdom, and Ireland.

USCIS Releases Tips to Avoid Common Mistakes in H-1B Registration – USCIS released tips to avoid common mistakes when filing an H-1B electronic registration. The agency said the top two user errors were creating the wrong type of account and entering the same beneficiary more than once.

E-Verify Updates SSA Tentative Nonconfirmation Process – Employees who receive the SSA TNC with a citizenship mismatch now have the option to call the Department of Homeland Security to resolve their cases instead of visiting an SSA field office.

ICE Announces New Case Review Process – ICE announced the "ICE Case Review (ICR)" process for individuals who believe their case does not align with ICE's enforcement, detention, and removal priorities.

OFLC Issues FAQ Guidance for Employers Affected by Texas and Oklahoma Severe Storms – The guidance includes information on how to contact OFLC; communications related to prevailing wage determinations, temporary visa programs, and the PERM program; deadlines/timeframe flexibility; worksite location moves and short-term placements due to storm-related circumstances; and other issues.

President Biden Revokes Trump-Era Ban on Entry of Many Immigrants; State Dept. Issues Instructions on Exceptions to Nonimmigrant Ban – President Biden revoked former President Trump's proclamation issued in April 2020 that banned many immigrants from entering the United States. The Department of State issued instructions on exceptions to the nonimmigrant ban.

March Visa Bulletin Shows Big Leap Forward for Chinese and Indian EB-1s – The Department of State's Visa Bulletin for March 2021 shows a seven-month leap forward for Chinese and Indian EB-1s, with a final action date of August 1, 2020, for both countries.

USCIS Updates FAQ on H-1B Electronic Registration – USCIS updated its frequently asked questions on the H-1B registration process, which opens at noon ET on March 9, 2021, and runs through noon ET on March 25, 2021.

USCIS Extends Flexibilities for Certain F-1 Foreign Students Applying for OPT – USCIS announced flexibilities for certain foreign students applying for Optional Practical Training whose receipt notices for Form I-765, Application for Employment Authorization, are delayed. The flexibilities apply only to applications received from October 1, 2020, through May 1, 2021.

Federal Judge Blocks Biden Administration's 100-Day Pause on Removals – A U.S. district judge in Texas blocked the Biden administration's 100-day "pause" on certain removals announced in a

memorandum on President Biden's first day in office. The order applies nationwide but only to the 100-day pause, not to the entire memorandum.

USCIS Reverts to 2008 Version of Naturalization Civics Test – Starting March 1, 2021, USCIS is reverting from the 2020 revised version to the 2008 version of the naturalization civics test. There will be a transition period in which certain applicants can choose which test to take.

H-2B Cap Reached for Second Half of FY 2021 – February 12, 2021, was the final receipt date for new cap-subject H-2B worker petitions requesting an employment start date before October 1, 2021.

State Dept. Releases Update on Phased Resumption of Routine Visa Services – Among other things, DOS has extended the validity of machine-readable visa fees until September 30, 2022.

DOL Announces 2021 Adverse Effect Wage Rates for Non-Range Occupations – The new AEWRs are effective immediately, pursuant to a recent federal court order.

Premium Processing Service Now Available to Australian E-3 Petitioners – The E-3 classification applies only to nationals of Australia coming to the United States to perform services in a specialty occupation.

"U.S. Citizenship Act of 2021" Unveiled by Biden Administration, Democrats – The Biden administration and Democratic sponsors in the Senate and House of Representatives have put forth a sweeping new immigration reform bill, the 353-page "U.S. Citizenship Act of 2021."

USCIS Reaches FY 2021 H-1B Cap – USCIS issued official confirmation 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 for fiscal year 2021. This officially closes the FY 2021 H-1B cap season, which was based on the March 2020 registration period.

DV-2020 Winners Get Six-Month Reprieve – A U.S. district judge extended DV-2020 visas for six months so they will not lapse while he renders a decision on plaintiffs' challenge to Trump-era travel bans that are still in place.

ICE Issues Interim Guidance on Civil Immigration Enforcement and Removal Priorities – The guidance prioritizes for removal noncitizens with a national security, border security, or public safety issue, as defined in the memorandum.

DHS Announces Process for Individuals in Mexico Under the Migrant Protection Protocols – DHS issued a fact sheet on its plan to process eligible individuals who have pending cases in the United States but were forced to return and wait in Mexico under the Trump administration's "Migrant Protection Protocols (MPP)."

USCIS Clarifies Delays at Lockboxes in Issuing Receipt Notices for I-765 Employment

Authorization for OPT – USCIS notified stakeholders that the agency continues to experience delays at certain lockboxes in issuing receipt notices for Form I-765, Application for Employment Authorization, based on eligibility categories relating to optional practical training (OPT) for F-1 students.

Dept. of State Revises Definition of "Equivalent of Diplomatic Passport" and Clarifies Eligibility for "Diplomatic Type" or "Official Type" Visa Categories – DOS issued a final rule to revise the definition of "equivalent of a diplomatic passport" and to clarify the categories of nonimmigrants who may be eligible for a "diplomatic type" or "official type" visa.

State Dept. Exempts Certain Travelers From Restrictions – DOS announced exemptions for certain travelers from COVID-19-related restrictions based on the national interest.

President Biden Reinstates DED for Liberians – President Biden has directed the Secretary of Homeland Security to reinstate Deferred Enforced Departure for eligible Liberians and to provide for continued work authorization through June 30, 2022.

New Asylum Process at Southern Border To Be Phased In Gradually – The Biden administration's new asylum process will begin phasing in on February 19, 2021.

FY 2021 H-1B Cap-Subject Nonselection Notices Issued – USCIS appears to have finished selecting H-1B cap-subject lottery registrations for fiscal year 2021.

USCIS To Dispose of Old SAVE Records – SAVE users have until May 10, 2021, to download case information if they want to retain information about SAVE cases that are more than 10 years old.

ABIL Global: Belgium – A change in legislation is consequential for European Union/Schengen travel to Belgium.

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Dept. of State Issues New Guidance on Exceptions for Travelers From Schengen Area, United Kingdom, and Ireland

On March 2, 2021, the Department of State rescinded the previous national interest determination regarding categories of travelers eligible for exceptions under Presidential Proclamation (PP) 10143, issued on January 25, 2021. That proclamation barred the admission into the United States of individuals (other than U.S. citizens, lawful permanent residents, and certain other classes of foreign nationals) who were physically present in the Schengen area, the United Kingdom, the Republic of Ireland, Brazil, and South Africa during the 14 days prior to seeking admission to the United States. Affected categories of exceptions included "certain technical experts and specialists, senior-level managers and executives, treaty traders and investors, professional athletes, and their dependents."

The Department also made a new national interest determination covering "certain travelers seeking to provide vital support for critical infrastructure. Travelers in these categories, as well as certain academics, students, and journalists, may qualify for national interest exceptions (NIEs) to PP 10143 related to the Schengen Area, the United Kingdom, and Ireland.

The Department said that no previously issued visas or NIEs will be revoked due to the new policy, and that qualified travelers who are applying for or have valid visas or ESTA authorization may travel to the United States even while PP 10143 remains in effect. The Department also continues to grant NIEs for qualified travelers seeking to enter the United States for purposes related to humanitarian travel, public health response, and national security.

Details:

- "National Interest Exceptions for Certain Travelers from the Schengen Area, United Kingdom, and Ireland," Dept. of State, <https://travel.state.gov/content/travel/en/News/visas-news/national-interest-exceptions-from-certain-travelers-from-the-schengen-area-uk-and-ireland.html>
- "Proclamation on the Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease," Jan. 25, 2021, <https://bit.ly/3eeQGpO>

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USCIS Releases Tips to Avoid Common Mistakes in H-1B Registration

U.S. Citizenship and Immigration Services (USCIS) released tips to avoid common mistakes when filing an H-1B electronic registration. The agency said the top two user errors were creating the wrong type of account and entering the same beneficiary more than once.

USCIS noted that a prospective petitioner may only have one registration submitted per beneficiary per fiscal year. Once the initial registration period has closed, if the prospective

petitioner has more than one registration submitted for the same beneficiary, USCIS will remove all registrations submitted for that beneficiary by that prospective petitioner. "This does not prevent other prospective petitioners or their representatives from submitting registrations for that same beneficiary, but they too need to ensure that each prospective petitioner only has one registration submitted for the beneficiary," USCIS noted.

The agency said that those who submitted more than one registration for the same person while the initial registration period is still open can delete the extra submission(s) from their account until there is only one registration for the beneficiary. USCIS does not refund the \$10 fee for a deleted duplicate registration.

If more than one registration was submitted by the same prospective petitioner for the same person and the initial registration period has closed, there is no way to correct this error.

The initial registration period closes after noon ET on March 25, 2021.

Details:

- H-1B Electronic Registration Process, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process>

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E-Verify Updates SSA Tentative Nonconfirmation Process

On March 4, 2021, E-Verify updated the Social Security Administration (SSA) Tentative Nonconfirmation (TNC) process. Employees who receive the SSA TNC with a citizenship mismatch now have the option to call the Department of Homeland Security to resolve their cases instead of visiting an SSA field office.

Details:

- SSA and DHS TNCs, E-Verify, <https://www.e-verify.gov/employers/verification-process/tentative-nonconfirmations/ssa-and-dhs-tncs>
- Tips to Prevent a Tentative Nonconfirmation, E-Verify, <https://www.e-verify.gov/employees/tentative-nonconfirmation-overview/tips-to-prevent-a-tentative-nonconfirmation-tnc>

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ICE Announces New Case Review Process

On March 5, 2021, U.S. Immigration and Customs Enforcement (ICE) announced the "ICE Case Review (ICR)" process for individuals who believe their case does not align with ICE's enforcement, detention, and removal priorities.

Those requesting a detention case review can contact their local Enforcement and Removal Operations (ERO) field office for initial consideration. Cases of those detained in ICE custody or pending imminent removal will be prioritized, ICE said.

Details:

- "ICE Announces Case Review Process," <https://www.aila.org/infonet/creation-ice-case-review-process>

- "ICE Is Adding a New Appeals Process for Immigrants Who've Been Detained," BuzzFeed News, Mar. 5, 2021, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrants-new-appeals-process>

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OFLC Issues FAQ Guidance for Employers Affected by Texas and Oklahoma Severe Storms

On March 4, 2021, the Department of Labor's Office of Foreign Labor Certification (OFLC) released frequently asked questions on how its office is handling communications with employers affected by the Texas and Oklahoma severe winter storms.

The guidance includes information on how to contact OFLC; communications related to prevailing wage determinations, temporary visa programs, and the PERM program; deadlines/timeframe flexibility; worksite location moves and short-term placements due to storm-related circumstances; and other issues.

Details:

- Texas and Oklahoma Severe Winter Storms FAQ, OFLC, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Texas-and-Oklahoma-Severe-Weather-Disaster-Guidance-3.4.2021.pdf>

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President Biden Revokes Trump-Era Ban on Entry of Many Immigrants; State Dept. Issues Instructions on Exceptions to Nonimmigrant Ban

On February 24, 2021, President Biden revoked former President Trump's proclamation issued in April 2020 that banned many immigrants from entering the United States.

Biden Proclamation Revoking Immigrant Ban

Included in the Trump administration's freeze on immigrant admissions were green cards for new immigrants and certain family members.

President Biden's proclamation states that the Trump-era ban, whose stated purpose was to prevent entry by those who presented a risk to the U.S. labor market during the coronavirus outbreak, does not advance the interests of the United States. "To the contrary, it harms the United States" and "harms industries in the United States that utilize talent from around the world," the new proclamation states. It also "harms individuals who were selected to receive the opportunity to apply for, and those who have likewise received" fiscal year 2020 diversity visas.

The Biden proclamation orders the Departments of State, Labor, and Homeland Security to review any related regulations, orders, guidance, policies, or other agency actions and, as appropriate, issue revised guidance consistent with the new proclamation.

DOS Instructions on Exceptions to Nonimmigrant Ban

The new Biden proclamation did not lift a Trump-era ban on certain H-1B, H-2B, L-1, and J-1 temporary work visas, set to expire on March 31, 2021. It is unclear whether the Biden administration plans to revoke that ban before it expires. In the meantime, the Department of State announced on February 24, 2021, that those who believe they may qualify for a national interest or other exception should "follow the instructions on the nearest U.S. Embassy or

Consulate's website regarding procedures necessary to request an emergency appointment and should provide specific details as to why they believe they may qualify for an exception."

Details:

- "A Proclamation on Revoking Proclamation 10014," Feb. 24, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/a-proclamation-on-revoking-proclamation-10014/>
- "National Interest Exceptions to Presidential Proclamation 10052," DOS, Feb. 24, 2021, <https://bit.ly/3kvXRuT>
- "Biden Reopens Gateway for Green Cards, Reversing Trump COVID-19 Freeze," National Public Radio, Feb. 24, 2021, <https://www.npr.org/2021/02/24/971206197/biden-reopens-gateway-for-green-cards-work-visas-reversing-trump-covid-19-freeze>
- "White House Lifts Trump Order That Temporarily Banned Certain Immigrant Visas During Pandemic," CNN, Feb. 25, 2021, <https://www.cnn.com/2021/02/24/politics/biden-immigration-coronavirus-pandemic/index.html>
- "The Biden Administration Reversed a Policy That Used the Coronavirus Pandemic To Limit Immigration," BuzzFeed, Feb. 24, 2021, <https://www.buzzfeednews.com/article/hamedaleaziz/biden-green-card-policy-coronavirus>

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March Visa Bulletin Shows Big Leap Forward for Chinese and Indian EB-1s

The Department of State's Visa Bulletin for March 2021 shows a seven-month leap forward for Chinese and Indian green card applicants in the employment-based first preference category, with a final action date of August 1, 2020, for both countries. In February, , immigrant visas were available for those with priority dates earlier than January 1, 2020.

The March bulletin also includes information on diversity category cut-offs for April and instructions on reporting address changes for overseas cases.

Details:

- Visa Bulletin for March 2021, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-march-2021.html>

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USCIS Updates FAQ on H-1B Electronic Registration

U.S. Citizenship and Immigration Services updated its frequently asked questions (FAQ) on the H-1B registration process, which opens at noon ET on March 9, 2021, and runs through noon ET March 25, 2021. USCIS also announced that employers and their representatives can create H-1B Registrant Accounts beginning at noon ET on March 2, 2021.

Details:

- "H-1B Electronic Registration Process" (scroll down for FAQ dropdown), USCIS, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process>

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USCIS Extends Flexibilities for Certain F-1 Foreign Students Applying for OPT

U.S. Citizenship and Immigration Services (USCIS) announced flexibilities for certain foreign students applying for Optional Practical Training (OPT) whose receipt notices for Form I-765, Application for Employment Authorization, are delayed. The flexibilities apply only to applications received on or after October 1, 2020, through May 1, 2021.

To allow F-1 students to complete their full periods of requested OPT (up to 12 months), the 14-month period within which they must complete OPT will start from the date of approval of the I-765 for applications for post-completion OPT. Beginning on February 26, 2021, USCIS is approving applications for post-completion OPT with validity dates reflecting the same amount of time as originally recommended by the designated school official on Form I-20, Certificate of Eligibility for Nonimmigrant Student Status.

USCIS also said that F-1 students requesting post-completion OPT who receive I-765 approval for less than the full amount of OPT time requested (not to exceed 12 months) due to the requirement that the OPT be completed within 14 months of the program end date may request a correction of the employment authorization document due to USCIS error.

USCIS is also accepting certain refiled I-765s for OPT and STEM (science, technology, engineering, and mathematics) OPT as filed on the original date until May 31, 2021.

Details:

- "USCIS Extends Flexibilities to Certain Applicants Filing Form I-765 for OPT," USCIS, <https://www.uscis.gov/news/alerts/uscis-extends-flexibilities-to-certain-applicants-filing-form-i-765-for-opt>

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Federal Judge Blocks Biden Administration's 100-Day Pause on Removals

On February 23, 2021, a U.S. district judge in Texas blocked the Biden administration's 100-day "pause" on certain removals announced in a memorandum on President Biden's first day in office. The order applies nationwide but only to the 100-day pause, not to the entire memorandum.

"This preliminary injunction is granted on a nationwide basis and prohibits enforcement and implementation of the [100-day pause] in every place Defendants have jurisdiction to enforce and implement the January 20 Memorandum," Judge Drew Tipton wrote. He said the Department of Homeland Security's "core failure" was "its omission of a rational explanation grounded in the facts reviewed and the factors considered." This "fatal" failure, Judge Tipton said, made the 100-day pause "arbitrary and capricious."

Details:

- *Texas v. United States*, https://www.courtlistener.com/recap/gov.uscourts.txsd.1811836/gov.uscourts.txsd.1811836.85.0_2.pdf
- "Federal Judge Deals Biden Another Blow on 100-Day Deportation Ban," Politico, Feb. 24, 2021, <https://www.politico.com/news/2021/02/24/texas-judge-biden-deportation-ban-471315>
- "Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities," Dept. of Homeland Security, Jan. 20, 2021, https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf

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USCIS Reverts to 2008 Version of Naturalization Civics Test

U.S. Citizenship and Immigration Services (USCIS) announced that it has reverted to the 2008 version of the naturalization civics test beginning March 1, 2021. USCIS said it determined that the "development process, content, testing procedures, and implementation schedule" for the Trump-era revision implemented on December 1, 2020, "may inadvertently create potential barriers to the naturalization process."

Those who filed naturalization applications on or after December 1, 2020, and before March 1, 2021, "likely have been studying for the 2020 test," USCIS noted. The agency will offer such applicants the option to take either the 2020 or the 2008 civics test. There will be a transition period where both tests are offered. The 2020 test will be phased out on April 19, 2021, for initial test-takers. Applicants filing on or after March 1, 2021, will take the 2008 civics test, USCIS said.

Details:

- "USCIS Reverts to the 2008 Version of the Naturalization Civics Test," USCIS, Feb. 22, 2021, <https://www.uscis.gov/news/news-releases/uscis-reverts-to-the-2008-version-of-the-naturalization-civics-test>

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H-2B Cap Reached for Second Half of FY 2021

U.S. Citizenship and Immigration Services (USCIS) has received enough petitions to meet the congressionally mandated H-2B cap for temporary nonagricultural workers for the second half of fiscal year (FY) 2021.

February 12, 2021, was the final receipt date for new cap-subject H-2B worker petitions requesting an employment start date before October 1, 2021. USCIS said it will reject new cap-subject H-2B petitions received after February 12 that request an employment start date before October 1.

USCIS continues to accept H-2B petitions that are exempt from the congressionally mandated cap. This includes petitions for:

- Current H-2B workers in the United States who wish to extend their stay and, if applicable, change the terms of their employment or change their employers;
- Fish roe processors, fish roe technicians, and/or supervisors of fish roe processing; and
- Workers performing labor or services in the Commonwealth of the Northern Mariana Islands and/or Guam from November 28, 2009, until December 31, 2029.

Details:

- "H-2B Cap Reached for Second Half of FY 2021," USCIS, <https://www.uscis.gov/news/alerts/h-2b-cap-reached-for-second-half-of-fy-2021>

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State Dept. Releases Update on Phased Resumption of Routine Visa Services

On February 24, 2021, the Department of State (DOS) released the latest update on phased resumption of routine visa services.

Among other things, the update notes that as a result of the pandemic, many visa applicants have paid the visa application processing fee but are still waiting to schedule a visa appointment. DOS said it is "working diligently to restore all routine visa operations as quickly and safely as possible." In the meantime, DOS has extended the validity of machine-readable visa (MRV) fees until September 30, 2022, "to allow all applicants who were unable to schedule a visa appointment due to the suspension of routine consular operations an opportunity to schedule and/or attend a visa appointment with the fee they already paid."

Details:

- "Phased Resumption of Routine Visa Services," DOS, Feb. 24, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/phased-resumption-routine-visa-services.html>

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DOL Announces 2021 Adverse Effect Wage Rates for Non-Range Occupations

On February 23, 2021, the Department of Labor (DOL)'s Employment and Training Administration announced the 2021 Adverse Effect Wage Rates for the employment of temporary or seasonal H-2A nonimmigrant foreign workers to perform agricultural labor or services other than the herding or production of livestock on the range.

The AEWRs are effective immediately, pursuant to a recent federal court order in *United Farm Workers v. Dept' of Labor*.

Details:

- "Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2021 Adverse Effect Wage Rates for Non-Range Occupations," DOL notice, Federal Register, Feb. 23, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-02-23/pdf/2021-03752.pdf>

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Premium Processing Service Now Available to Australian E-3 Petitioners

Petitioners filing Form I-129, Petition for a Nonimmigrant Worker, requesting a change or extension of status to E-3 classification now have the option to request premium processing service for their petition, U.S. Citizenship and Immigration Services (USCIS) announced. The E-3 classification applies only to nationals of Australia coming to the United States to perform services in a specialty occupation.

USCIS said that an Australian national who is outside the United States may apply for an E-3 nonimmigrant visa directly through the Department of State or, in the case of an individual already in the United States, by filing Form I-129 with USCIS.

Details:

- "USCIS Expands Premium Processing Service to E-3 Petitioners," USCIS, <https://www.uscis.gov/news/alerts/uscis-expands-premium-processing-service-to-e-3-petitioners>

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"U.S. Citizenship Act of 2021" Unveiled by Biden Administration, Democrats

The Biden administration and Democratic sponsors in the Senate and House of Representatives have put forth a sweeping new immigration reform bill, the 353-page "U.S. Citizenship Act of 2021." The bill states its purpose as providing an earned path to citizenship, addressing the root causes of migration, responsibly managing the southern border, reforming the immigrant visa system, and other goals. The bill does not emphasize enforcement.

The bill would amend the Immigration and Nationality Act by striking the term "alien" and replacing it with "noncitizen." The term "alien" has been in use for centuries, but some find it demeaning. According to reports, Tracy Renaud, who is serving as acting director for U.S. Citizenship and Immigration Services, recently sent a memorandum to agency staff encouraging them to avoid use of the terms "alien" and "illegal alien" and instead to use "more inclusive language in the agency's outreach efforts, internal documents and in overall communication with stakeholders, partners and the general public," including "noncitizen" and "undocumented noncitizen" or "undocumented individual."

It is likely that the bill will not pass intact, but smaller targeted pieces could be moved forward and supported separately. Another avenue being suggested for implementation is via the budget reconciliation process.

Below is a non-exhaustive list of selected highlights of the proposed legislation. The bill would:

- Establish an "earned path to citizenship" for "eligible entrants" (and their spouses and children) that provides for an initial period of authorized admission as a "lawful prospective immigrant," valid for six years and extendable. Qualifying individuals would also receive a work permit and travel authorization. A lawful prospective immigrant could become eligible for permanent residence after at least five years of prospective status. Prospective applicants would need to have been in the United States before 2021.
- Raise to 170,000 (from 140,000) the annual number of employment-based immigrants, and add unused employment-based green cards to the maximum. (Derivatives of employment-based immigrants will not count against numerical caps.)
- Provide permanent residence, without numerical limits, to international students with PhDs in science, technology, engineering, and math fields from U.S. universities.
- Provide for adjustment to lawful permanent resident status for noncitizens who entered the United States as children (e.g., "Dreamers" under the Deferred Action for Childhood Arrivals program).
- Provide permanent residence to those who have had an approved immigrant petition for 10 years.
- Provide for adjustment to lawful permanent resident status for agricultural workers who have performed agricultural labor or services during the immediately preceding five-year period for at least 2,300 hours or 400 work days.
- Provide for adjustment to lawful permanent resident status for certain nationals of countries designated for temporary protected status or deferred enforced departure.
- Increase diversity green cards from 55,000 to 80,000 each year. (Derivatives of DV immigrants will not count against numerical caps.)
- Eliminate employment-based per-country levels.
- Increase immigrant visas for "other workers."

- Provide for the establishment of a procedure to temporarily limit admission of certain immigrants in geographic areas or labor market sectors that are experiencing high levels of unemployment.
- Establish a pilot program for up to five years to admit annually up to 10,000 "admissible immigrants whose employment is essential to the economic development strategies of the cities or counties in which they will live or work."
- Consider prioritizing nonimmigrant visas (including H-1B) based on the wages offered by employers.
- Allow work authorization for H-4 nonimmigrant spouses and children of H-1B nonimmigrants.
- Provide for expediting legitimate trade and travel at ports of entry.
- Authorize employment for asylum applicants who are not detained and whose applications have not been determined to be frivolous.
- Establish an employment authorization commission to make recommendations on policies to verify the eligibility of noncitizens for employment in the United States.
- Conduct a study on factors affecting employment opportunities for immigrants and refugees with professional credentials obtained in foreign countries.

The bill also includes provisions to address "migration needs by strengthening regional humanitarian responses for refugees and asylum seekers in the Western Hemisphere and [strengthen] repatriation initiatives, promote "immigrant and refugee integration," address immigration court backlogs, and expand programs to address the "root causes of migration" and "responsibly [manage] the southern border."

Details:

- Text of House bill, <https://lindasanchez.house.gov/sites/lindasanchez.house.gov/files/2021.02.18%20US%20Citizenship%20Act%20Bill%20Text%20-%20SIGNED.pdf>
- Text of Senate bill, <https://www.menendez.senate.gov/imo/media/doc/USCitizenshipAct2021BillText.pdf>
- Siskind Summary, <https://bit.ly/3duYkfn>
- "Joe Biden's Administration Orders Immigration Officials to Remove 'Alien' and 'Illegal Alien' From Official Communications and Use 'Noncitizen' Instead to Avoid 'Dehumanizing Language,'" Daily Mail, Feb. 16, 2021, <https://www.dailymail.co.uk/news/article-9265823/Biden-orders-officials-remove-illegal-alien-official-communications-use-non-citizen.html?ITO=applenews>
- "'Aliens' No More: Biden Administration Directs Immigration Officials To Use 'Inclusive Language,'" Forbes, Feb. 16, 2021, <https://bit.ly/3dx978H>
- "New Bill Has Many Good But Two Bad Measures for Employment Immigrants," Forbes, Feb. 19, 2021, <https://www.forbes.com/sites/stuartanderson/2021/02/19/new-bill-has-many-good-but-two-bad-measures-for-employment-immigrants/?sh=4bec5be35af9>
- "Democrats Introduce an Immigration Overhaul Bill. Here's What Would Change," NBC News, Feb. 18, 2021, <https://www.nbcnews.com/politics/immigration/white-house-throws-support-behind-democratic-immigration-bill-ahead-rollout-n1258206>
- "Biden's Immigration Bill Lands on the Hill Facing Bleak Odds," Politico, Feb. 18, 2021, <https://www.politico.com/news/2021/02/18/bidens-immigration-bill-bleak-odds-469769>

- "Democratic Lawmakers Unveil Biden-Backed Immigration Overhaul Bill," CBS News, Feb. 18, 2021, <https://www.cbsnews.com/news/immigration-bill-democrats-biden-unveil/>
- "House Announces Sweeping Immigration Bill," CNN, Feb. 18, 2021, <https://www.cnn.com/2021/02/18/politics/biden-immigration-legislation/index.html>

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USCIS Reaches FY 2021 H-1B Cap

U.S. Citizenship and Immigration Services (USCIS) formally announced 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 for fiscal year (FY) 2021. USCIS has also completed posting of non-selection notifications to registrants' online accounts. This announcement formally closes the FY 2021 H-1B lottery season based on the registration period of March 2020. Any selected and timely filed FY 2021 H-1B petitions still pending adjudication with USCIS are included in the count and will proceed to adjudication.

USCIS will continue to accept and process petitions that are otherwise exempt from the cap.

Details:

- "USCIS Reaches Fiscal Year 2021 H-1B Cap," USCIS, Feb. 16, 2021, <https://www.uscis.gov/news/alerts/uscis-reaches-fiscal-year-2021-h-1b-cap>
- H-1B Cap Season, USCIS, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-cap-season>

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DV-2020 Winners Get Six-Month Reprieve

A U.S. district judge extended DV-2020 immigrant visas for six months so they will not lapse while he renders a decision on plaintiffs' challenge to Trump-era travel bans that are still in place.

"Even if the court were to declare the proclamations unlawful as plaintiffs request, a DV-2020 plaintiff who lacked a current, valid visa still could not enter the country. Accordingly, an order declaring the proclamations unlawful would provide no relief to a DV-2020 plaintiff without a current, valid visa," the judge said in his opinion in *Gomez v. Trump*.

According to reports, shortly before the judge issued his order, the Department of State announced an exemption from the travel ban for diversity lottery green card winners whose visas will expire soon.

Details:

- "Diversity Visas Extended While Legal Battle Continues," Law360, Feb. 20, 2021, <https://www.law360.com/classaction/articles/1357149/diversity-visas-extended-while-legal-battle-continues>

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ICE Issues Interim Guidance on Civil Immigration Enforcement and Removal Priorities

On February 18, 2021, U.S. Immigration and Customs Enforcement (ICE) issued interim guidance, effective immediately, on priorities for enforcement actions, custody decisions, the execution of final orders of removal, financial expenditures, and strategic planning. The guidance will remain in effect until Alejandro Mayorkas, Department of Homeland Security Secretary, issues new enforcement guidelines, which are expected in fewer than 90 days.

The guidance prioritizes for removal noncitizens with a national security, border security, or public safety issue, as defined in the memorandum. Any civil immigration enforcement or removal actions that do not meet the criteria in the memorandum for "presumed priority" cases will require written justification and preapproval.

Details:

- "Interim Guidance: Civil Immigration Enforcement and Removal Priorities," ICE, Feb. 18, 2021, https://www.ice.gov/doclib/news/releases/2021/021821_civil-immigration-enforcement_interim-guidance.pdf

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DHS Announces Process for Individuals in Mexico Under the Migrant Protection Protocols

The Department of Homeland Security issued a fact sheet on its plan to process eligible individuals who have pending cases before the Executive Office for Immigration Review and were forced to return to Mexico to await their hearing dates under the Trump administration's "Migrant Protection Protocols (MPP)." DHS began processing a small group of such individuals under phase 1 on February 19, 2021.

A virtual registration process is available at <https://conecta.acnur.org/>.

Details:

- Fact sheet, Feb. 18, 2021, <https://www.dhs.gov/news/2021/02/18/fact-sheet-dhs-announces-process-address-individuals-outside-united-states-active>

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USCIS Clarifies Delays at Lockboxes in Issuing Receipt Notices for I-765 Employment Authorization for OPT

U.S. Citizenship and Immigration Services (USCIS) notified stakeholders that the agency continues to experience delays at certain lockboxes in issuing receipt notices for Form I-765, Application for Employment Authorization, based on eligibility categories relating to optional practical training (OPT) for F-1 students. USCIS currently recommends that such applicants wait eight weeks before contacting the agency to ask about case status.

USCIS provided clarifications and reminders:

- The delays will not affect the received date. All submissions are date-stamped upon arrival at the lockbox, so regardless of when the lockbox processes the application, the received date will reflect the date it actually arrived at the lockbox.
- USCIS will not reject applications solely because they were filed at the lockbox address in use before the change to the filing address instructions announced on January 8,

2021. The agency encourages applicants filing Form I-765 to always check the form instructions on USCIS's website for the most up-to-date filing instructions.

- If an applicant timely filed Form I-765 based on STEM [science, technology, engineering, and mathematics] OPT, and the post-completion OPT period expires while the application is pending, USCIS will automatically extend the employment authorization for 180 days. The Form I-20 endorsed by the designated school official recommending a STEM extension together with the expired Form I-766 employment authorization document issued for post-completion OPT establishes identity and work authorization for purposes of documenting employment authorization.

Details:

- "Direct Filing Addresses for Form I-765, Application for Employment Authorization," Feb. 19, 2021, <https://www.uscis.gov/i-765-addresses>
- USCIS Lockbox Updates (the notice above had not yet been posted on USCIS's website as of February 21, 2021), <https://www.uscis.gov/news/alerts/uscis-lockbox-updates>

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Dept. of State Revises Definition of "Equivalent of Diplomatic Passport" and Clarifies Eligibility for "Diplomatic Type" or "Official Type" Visa Categories

The Department of State issued a final rule on February 22, 2021, to revise the definition of "equivalent of a diplomatic passport" to include non-national passports issued by a competent authority other than a foreign government and as designated by the Secretary of State; and to clarify the categories of nonimmigrants who may be eligible for a "diplomatic type" or "official type" visa, irrespective of the nonimmigrant visa classification.

Details:

- Visas: Eligibility for Diplomatic and Official Visas, Final Rule, Dept. of State, Feb. 22, 2021, <https://bit.ly/3s7xfmk>

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State Dept. Exempts Certain Travelers From Restrictions

The Department of State announced exemptions for certain travelers from COVID-19-related restrictions based on the national interest:

- On February 10, 2021, the Department of State (DOS) announced that certain business travelers, investors, treaty traders, academics, students, and journalists may qualify for national interest exceptions under the Presidential Proclamation (PP) covering travelers from the Schengen Area, United Kingdom (UK), and Ireland. Qualified travelers who are applying for or have valid visas or Electronic System for Travel Authorization (ESTA) may travel to the United States while the PP remains in effect following the procedures below, DOS said.
- Also, on January 28, 2021, DOS announced that certain H-2 travelers from South Africa may qualify for national interest exceptions.

Students traveling from the Schengen Area, the UK, and Ireland with valid F-1 and M-1 visas do not need to contact an embassy or consulate to seek an individual national interest exception to travel. Students seeking to apply for new F-1 or M-1 visas should check the status of visa

services at the nearest embassy or consulate. Applicants who are otherwise qualified for an F-1 or M-1 visa will automatically be considered for a national interest exception to travel.

Business travelers, investors, academics, J-1 students, journalists, and treaty traders who have a valid visa in the appropriate class or an ESTA authorization issued before the PP's effective date, or who are seeking to apply for a visa, and believe they may qualify for a national interest exception should contact the nearest U.S. embassy or consulate before traveling. If a national interest exception is approved, they may travel on either a valid visa or ESTA authorization, as appropriate.

"Granting national interest exceptions for this travel to the United States from the Schengen area, UK, and Ireland, will assist with the economic recovery from the COVID-19 pandemic and bolster key components of our transatlantic relationship," DOS said.

H-2A and certain H-2B travelers who have been present in South Africa may qualify for national interest exceptions "if they are providing temporary labor or services essential to the United States food supply chain." A non-exhaustive list of covered occupations includes seafood processors, fish cutters, salmon roe technicians, farm equipment mechanics, and agriculture equipment operators. Applicants applying for a visa will be considered for an exception at the time of interview, DOS said. "Travelers who already hold valid H-2A or food-supply-chain related H-2B visas and believe they meet the exception criteria should follow the procedures set forth on the Embassy/Consulate website where their visa was processed for consideration for an exception," DOS said. The exception criteria only apply to H-2 travelers and applicants subject to a January 25, 2021, Presidential Proclamation due to physical presence in South Africa.

DOS said it continues to grant national interest exceptions for qualified travelers seeking to enter the United States for purposes related to humanitarian travel, public health response, and national security.

Details:

- "National Interest Exceptions for Certain Travelers From the Schengen Area, United Kingdom, and Ireland," Dept. of State, Feb. 10, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/national-interest-exceptions-from-certain-travelers-from-the-schengen-area-uk-and-ireland.html>
- "National Interest Exception for Certain H-2 Travelers From South Africa," Dept. of State, Jan. 28, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/national-interest-exception-for-certain-h-2-travelers-from-south-africa.html>

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President Biden Reinstates DED for Liberians

President Biden has directed the Secretary of Homeland Security to reinstate Deferred Enforced Departure (DED) for eligible Liberians and to provide for continued work authorization through June 30, 2022.

Eligible Liberian nationals (and persons without nationality who last habitually resided in Liberia) covered under DED as of January 10, 2021, may remain in the United States through June 30, 2022. Their employment authorization documents (EADs) with a March 30, 2020, or January 10, 2021, expiration date are automatically extended through June 30, 2022.

U.S. Citizenship and Immigration Services said that reinstating DED "will allow additional time for eligible Liberians to apply for adjustment of status on or before Dec. 20, 2021, under the extension of the Liberian Refugee Immigration Fairness (LRIF) provision. Liberians who apply

for adjustment of status under LRIF may immediately apply for employment authorization consistent with that provision. Individuals who applied for LRIF but were denied are not covered under this DED extension."

Details:

- "President Biden Reinstates DED for Eligible Liberians," USCIS, Feb. 12, 2021, <https://www.uscis.gov/news/alerts/president-biden-reinstates-ded-for-eligible-liberians>
- "Reinstating Deferred Enforced Departure for Liberians," USCIS (scheduled for publication in the February 16, 2021, edition of the Federal Register), <https://bit.ly/3d7BN8c>

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New Asylum Process at Southern Border To Be Phased In Gradually

According to reports, the Biden administration's new asylum process at the southern border began phasing in on February 19, 2021. The Department of Homeland Security started with a very small number of asylum-seekers from the estimated 25,000 who have "active cases" in the former Migrant Protection Protocols program. Few details have been shared in an effort to avoid overwhelming ports of entry.

Secretary of Homeland Security Alejandro Mayorkas warned migrants not to begin traveling to the U.S. border immediately. "It's a very, very important cautionary note that they should not travel to the border. That will only increase the pressure on the humanitarian effort to provide for them carefully and safely," he said.

The new system, publicized via social media networks, includes registration with certain nongovernmental organizations (NGOs), according to National Public Radio. After initial screening, there are additional steps, including an appointment to enter the United States and be tested for the coronavirus. They are then enrolled in "alternative detention programs" while awaiting their asylum proceedings.

The effort also includes rescinding Trump-era agreements with El Salvador, Guatemala, and Honduras "as efforts to establish a cooperative, mutually respectful approach to managing migration across the region begin," Secretary of State Antony Blinken said.

Details:

- "Biden Team Unveils New Asylum System to Replace Trump's 'Remain in Mexico,'" National Public Radio, Feb. 12, 2021, <https://www.npr.org/2021/02/12/967201293/biden-team-unveils-new-asylum-system-to-replace-trumps-remain-in-mexico>
- "Fact Sheet: President Biden Outlines Steps to Reform Our Immigration System by Keeping Families Together, Addressing the Root Causes of Irregular Migration, and Streamlining the Legal Immigration System," Feb. 2, 2021, <https://bit.ly/3aZD5zy>
- "Biden Administration Takes Steps to Dismantle Trump-Era Asylum Agreements," Politico, Feb. 6, 2021, <https://www.politico.com/news/2021/02/06/biden-dismantle-trump-era-asylum-agreements-466565>

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FY 2021 H-1B Cap-Subject Nonselection Notices Issued

According to reports, U.S. Citizenship and Immigration Services (USCIS) appears to have finished selecting H-1B cap-subject lottery registrations for fiscal year (FY) 2021 (Oct. 1, 2020-Sept. 30, 2021). Employers and counsel who have not yet been notified can check their

accounts in <https://my.uscis.gov/> for a Form I-797C, Registration Nonselection. (The nonselection notices include a typo referring to FY 2022 rather than FY 2021. USCIS said it will send corrected notices.)

Details:

- "H-1B Electronic Registration Process," USCIS, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process> (scroll down to "Step-by-Step Instructions" for video)
- "H-1B Visa Registration for 2022 to Begin on Mar. 9, Lottery Results to be Notified by Mar. 31," Economic Times, <https://bit.ly/3rqxuJ2>

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USCIS To Dispose of Old SAVE Records

On May 14, 2021, U.S. Citizenship and Immigration Services (USCIS) will dispose of Systematic Alien Verification for Entitlements (SAVE) records that are more than 10 years old, which are defined as those dated on or before December 31, 2010. SAVE users have until May 10, 2021, to download case information from the Historic Records Report if they want to retain information about these SAVE cases.

Questions and requests for additional information may be emailed to SAVE.Help@uscis.dhs.gov.

Details:

- "SAVE Instructions to Download Historic Records Report Tip Sheet," https://www.uscis.gov/sites/default/files/document/guides/Instructions_to_Download_NA_RA_Reports_in_SAVE.pdf

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ABIL Global: Belgium

A change in legislation is consequential for European Union (EU)/Schengen travel to Belgium.

A change in legislation, published in the Belgian Official Journal on January 26, 2020, and effective January 27, 2021, is having substantial consequences for EU/Schengen travel to Belgium.

Between January 27, 2021, and March 1, 2021, all non-essential travel was forbidden for all those whose main place of residence is located abroad. The Belgian State Council recently extended the ban until April 1, 2021. This does not change the situation for travel from most third countries, which was already limited to non-essential travel. However, the EU/Schengen travel restriction was new. Third countries are defined as non-EU/non-Schengen countries.

The definition of essential travel and the required formalities depend on the country of origin and/or citizenship:

- Travel from a third country, other than "safe" third countries (currently Australia, South Korea, Japan, New Zealand, Rwanda, Singapore, and Thailand), by a third country national with main residence in the third country (e.g., United States, Canada, India): An overview of essential travels is available at the website of the Belgian federal immigration office (point 2.2., <https://dofi.ibz.be/sites/dvzoe/EN/Pages/International%20travels.aspx>). An essential

travel certificate, issued by the Belgian embassy/consulate with jurisdiction, will in principle be required. Before the traveler boards, the transporter must check whether an essential travel certificate is available. If not, boarding must be refused.

- All other travels by non-residents (e.g., travel from an EU/Schengen country; travel from a "safe" third country (see list above); travel by an EU/Schengen country national): A sworn statement must be completed by the traveler (see https://d34j62pglfr.cloudfront.net/downloads/20210126_BU_Verklaring_op_eer_Final_EN_Goedgekeurd_Blanco.pdf). The sworn statement lists all essential travels; the relevant travel purpose must be selected (see also the website of the Belgian federal immigration office—point 2.1., <https://dofi.ibz.be/sites/dvzoe/EN/Pages/International%20travels.aspx>). Before the traveler boards, the transporter must check whether a sworn statement was completed. If not, boarding must be refused. Failure to make a sworn statement or making a false, misleading, or incomplete statement may result in denial of entry.

These travel restrictions have been added to other current measures, such as the requirements to complete a Public Health Passenger Locator Form (PLF), a prior negative Covid-19 test, and quarantine/isolation/testing in Belgium.

Details:

- "Belgium Rejects Proposal to Suspend Non-Essential Travel Ban," <https://www.schengenvisainfo.com/news/belgium-rejects-proposal-to-suspend-non-essential-travel-ban/>

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New Publications and Items of Interest

Webinar on H-1B electronic registration process. The Office of the Citizenship and Immigration Services Ombudsman invites stakeholders to a webinar on the H-1B electronic registration process for attorneys and representatives on Thursday, March 4, 2021, from 2 to 3:30 pm ET. The webinar will include a discussion with USCIS subject matter experts.

<https://www.dhs.gov/event/cis-ombudsmans-webinar-series-overview-h-1b-electronic-registration-process-attorneys-and>

DOL virtual agricultural seminar. The Department of Labor's Wage and Hour Division will hold a two-day virtual seminar for agricultural industry employers and other stakeholders on March 3-4, 2021. The free training event will provide information and guidance on the regulations pertaining to agricultural employment, including a panel discussion and workshops. Space is limited.

<https://www.dol.gov/newsroom/releases/whd/whd20210222>

COVID-19 resources. The response of the U.S. immigration agencies to the coronavirus (COVID-19) pandemic is constantly evolving, making it difficult to report relevant, up-to-date information. The list of online resources below is intended to serve as a quick reference to the most current available agency information.

General Information

- [Coronavirus.gov](https://www.coronavirus.gov): Primary federal site for general coronavirus information
- [USA.gov/coronavirus](https://www.usa.gov/coronavirus): Catalog of U.S. government's response to coronavirus
- [CDC.gov/coronavirus](https://www.cdc.gov/coronavirus): Centers for Disease Control and Prevention information
- American Immigration Lawyers Association: <https://www.aila.org/advo-media/issues/all/covid-19> (links to practice alerts on this site are restricted to members)
- NAFSA: <https://www.nafsa.org/regulatory-information/coronavirus-critical-resources>

Immigration Agency Information

Department of Homeland Security: [DHS.gov/coronavirus](https://www.dhs.gov/coronavirus)

- <https://www.dhs.gov/coronavirus-news-updates>
- <https://www.dhs.gov/news/2020/03/17/fact-sheet-dhs-notice-arrival-restrictions-china-iran-and-certain-countries-europe>
- USCIS: [USCIS.gov/coronavirus](https://www.uscis.gov/coronavirus)
- ICE:
 - Overview and FAQs: <https://www.ice.gov/coronavirus>
 - Requirements for ICE Detention Facilities:
<https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>
- CBP:
 - Updates and Announcements: <https://www.cbp.gov/newsroom/coronavirus>
 - Accessing I-94 Information: <https://i94.cbp.dhs.gov/i94/#/home>

Department of Labor:

- Office of Foreign Labor Certification:
 - OFLC Announcements (COVID-19 announcements included here):
<https://www.foreignlaborcert.doleta.gov/>
 - COVID-19 FAQs:
 - Round 1 (Mar. 20, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%201_03.20.2020.pdf
 - Round 2 (Apr. 1, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%202_04.01.2020.pdf
 - Round 3 (Apr. 9, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%203.pdf

State Department: <https://www.state.gov/coronavirus/>

- Travel advisories: <https://travel.state.gov/content/travel/en/traveladvisories/ea/covid-19-information.html>
- Country-specific information:
<https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html>
- J-1 exchange visitor information: <https://j1visa.state.gov/covid-19/>

Justice Department

- Executive Office for Immigration Review: <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic>

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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Chin & Curtis LLP, based in Boston, Massachusetts, became a partner firm with **Wolfsdorf Rosenthal LLP**, based in California, effective January 1, 2021. Wolfsdorf Rosenthal said in a press release that the partnership "brings together Chin & Curtis' high-touch, creative, and specialized business immigration solutions with WR's technology-focused approach to providing strategic, detail-oriented, client-centered services. Chin & Curtis will retain its brand [and] operational autonomy, and there will be no staffing changes."

https://wolfsdorf.com/news_posts/leading-boston-immigration-law-firm-chin-curtis-llp-joins-wr-immigration/

Glasko Immigration Law Partners, LLP, has released a new podcast in the "Statutes of Liberty" series: "What Happens When a U.S. Green Card Holder Gets Stuck Abroad."

<https://bit.ly/38jqgzz>

Charles Kuck (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) was quoted by *Law360* in "State Dept. Updates COVID-19 Travel Exceptions for Europe." He said, "No one could have imagined a supposedly pro-immigration administration making legal immigration of parents, employees and business investors more difficult, using COVID-19 as an excuse, when alternative methods exist to ensure both the safety of U.S. citizens and protections against new strains, such as with testing and quarantine. It is a certainty that the Biden administration will have to explain to a federal court judge its legal basis for not issuing visas because of this modified proclamation. Every time in the past they have tried to justify this exact action, they have failed. They will fail again."

<https://www.law360.com/publicpolicy/articles/1361015/state-dept-updates-covid-19-travel-exceptions-for-europe>

Mr. Kuck was interviewed by *Mundo Hispánico* on immigration reform and its costs. An English translation of an article summarizing the interview was published by *The Canadian* at

<https://thecanadian.news/2021/02/19/lawyer-talks-about-immigration-reform-and-its-prices/>.

Mr. Kuck was quoted by *Law360* in "Lottery Winners, DOJ Trade Shots in Visa-Expiration Fight." He emphasized the urgency of getting relief from the court for diversity visa lottery winners who have been unable to enter the United States due to COVID-19 restrictions and are at risk of visa expiration. He told the judge that efforts to reach a resolution with the administration to protect those with visas set to expire in March have been unsuccessful, so his team planned to file a motion for expedited injunctive relief. "There's probably 300 or 400 people who will lose their visas within the next week," Kuck said. "Most importantly, this is not something the government was just presented with. That is not accurate. We actually had this conversation two weeks ago ... when the administration publicly said it's considering whether to lift the bans. The reality is it's now on the court to make this happen. Everybody is going to lose their visas while they consider this," he said.

<https://www.law360.com/articles/1354368/lottery-winners-doj-trade-shots-in-visa-expiration-fight>

Mr. Kuck was quoted by *Axios* in "Diversity Visa Winners Losing Chance to Immigrate." Referring to coronavirus-related restrictions that are keeping out diversity visa lottery winners, Mr. Kuck said, "President Biden should immediately renounce this illegal usurpation of congressional power and restore the status quo by declaring those bans void." He said at least 6,500 issued visas are at risk of expiring before the ban instituted by former President Trump ends in March, and that at least 1,000 have already expired. "We feel confident we will shortly have a victory in one of these courts before March," he said.

<https://www.axios.com/diversity-green-card-visa-lottery-d60cd44d-758f-4339-9ffc-d71d4690e201.html>

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) co-authored several new blog postings: "President Biden Must Reject Trump-Era H-1B Lottery Rule and Work Visa Travel Ban," <http://blog.cyrusmehta.com/2021/03/president-biden-must-reject-trump-era-h-1b-lottery-rule-and-work-visa-travel-ban.html>, and "Overcoming a Covid Travel Ban Through the National

Interest Exception," <http://blog.cyrusmehta.com/2021/02/overcoming-a-covid-travel-ban-through-the-national-interest-exception.html>.

Mr. Mehta has authored a new blog posting: "State Department Exempts Certain Travelers From Restrictions: Is There a Better Way So That the Least Number Get Impacted?" <https://bit.ly/2NpuQVA>

Mr. Mehta was quoted by the *Times of India* in "Wait Time in the Green Card Queue for Some is 150 Years!" He noted that the U.S. Citizenship Act of 2021 eliminates country caps for employment-based immigrants, but he pointed out that the big question is whether the bill will be passed by a closely divided Senate. <https://timesofindia.indiatimes.com/nri/us-canada-news/wait-time-in-the-green-card-queue-for-some-is-150-years/articleshow/81245570.cms>

Mr. Mehta was quoted by the *Times of India* in "The Wide Sweeping Reforms in the U.S. Citizenship Act Decoded." He said, "President Joe Biden's U.S. Citizenship Act is sweeping in its humanity and views immigrants as an asset to America rather than as threats either to security or American workers. It starts by abolishing all references to the term 'alien' and instead replaces it with 'noncitizen.'" <https://timesofindia.indiatimes.com/world/us/the-wide-sweeping-reforms-in-the-us-citizenship-act-decoded/articleshow/81110569.cms>

Mr. Mehta was quoted by the *Times of India* in "U.S. Immigration Bill to Help Clear Job-Based Green Card Backlog." He said, "The bill is not perfect, though, and does little to accommodate the demand for scarce H-1B visas each year. Nor does it create a start-up visa for entrepreneurs. One provision authorizes the prioritization of distribution of scarce H-1B visas based on wages offered by their employers and also authorizes similar prioritization based on wages for other nonimmigrant worker categories. However, he added, "Even if the H-1B visa is not reformed, hopefully the ability to get a green card more quickly under the new law may compensate for the imperfect H-1B visa program that may remain in place." Referring to some provisions in the bill that the article calls "ingenious," Mr. Mehta said, "The bill authorizes the extension of nonimmigrant stays for certain categories of visa holders. For instance, an F-1 student in practical training who is sponsored for a green card can remain in F-1 status" and "get a green card directly." <https://timesofindia.indiatimes.com/world/us/us-immigration-bill-to-help-clear-job-based-green-card-backlog/articleshow/81114101.cms>

Mr. Mehta was quoted by the *Times of India* in "Immigration Bill Aims to Keep and Unite Families, It Gives a Boost to the 'V' Visa." He said, "The immigration bill increases the per-country limit from 7% to 20%. In addition, spouses and minor children of green card holders will not be subject to the quotas. Under current law, only spouses and minor children of U.S. citizens are exempt from being included in the quota. Further, the unused family visas from fiscal [year] 1992 through 2020 will be added back. These measures will reduce wait times, including for 'V' visa applicants." <https://timesofindia.indiatimes.com/world/us/immigration-bill-aims-to-keep-and-unite-families-it-gives-a-boost-to-the-v-visa/articleshow/81113335.cms>

Mr. Mehta was quoted by *Forbes* in "New Bill Has Many Good But Two Bad Measures for Employment Immigrants." The article notes that people who reach their 6-year limit in H-1B status while waiting in the immigration backlog can have their H-1B status extended while they remain in the United States. The new Biden administration immigration reform bill expands the provision to be used by more individuals in H-1B status, and also F-1 students, L-1 intracompany transferees and O-1 (individuals with extraordinary ability or achievement) visa holders, the article states. Mr. Mehta said he believes that provision holds the potential for an international student to bypass H-1B status and go straight to a green card, if an employer sponsored him or her and the measure became law. <https://www.forbes.com/sites/stuartanderson/2021/02/19/new-bill-has-many-good-but-two-bad-measures-for-employment-immigrants/?sh=4bec5be35af9>

Cora-Ann Pestaina, of **Cyrus D. Mehta & Partners, PLLC**, has authored a new blog posting: "To Amend, or Not to Amend: That is the Question for Visas Not Associated With a Labor Condition Application." <http://blog.cyrusmehta.com/2021/02/to-amend-or-not-to-amend-that-is-the-question-for-visas-not-associated-with-a-labor-condition-application.html>

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) co-authored a new blog posting: "Hey, Immigration Lawyer: Get Me a Coronavirus Passport." <https://www.bigimmigrationlawblog.com/2021/02/hey-immigration-lawyer-get-me-a-coronavirus-passport/>

Mr. Paparelli authored a new blog posting: "Inclusive Immigration: USCIS Nixes "Alien" Terminology But Much More Must Be Done." <https://www.bigimmigrationlawblog.com/2021/02/inclusive-immigration-uscis-nixes-alien-terminology-but-much-more-must-be-done/>

Greg Siskind, of **Siskind Susser, P.C.**, was featured in "Practicing With Twitter: An Immigration Lawyer's Social Media Journey," published by the American Bar Association's *Law Practice Magazine*. The article discusses Mr. Siskind's lessons for attorneys looking to use social media as a marketing strategy. https://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2021/march21/gaffney/ (also available at <https://dashboard.mazsystems.com/webreader/71975?page=46>)

Mr. Siskind posted a summary of the U.S. Citizenship Act. <https://bit.ly/3duYkfn>

Elissa Taub and **Ari Sauer** are now partners in the firm **Siskind Susser, P.C.** According to **Lynn Susser** (bio: <http://www.abil.com/lawyers/lawyers-susser.cfm?c=US>), "Elissa has managed and expanded our healthcare practice for many years and Ari is the 'finder of answers for all things complex.' We are looking forward to their long-term contributions to the firm as it continues to grow and change."

William Stock (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>) was quoted by *Forbes* in "New Bill Has Many Good But Two Bad Measures for Employment Immigrants." Mr. Stock said that one section of the new Biden administration immigration reform bill "would allow a future president who did not believe in immigration to direct the Department of Homeland Security and Department of Labor to bar employment-based immigration in large parts of the economy. It would allow those agencies to ban immigration based on broad unemployment trends unrelated to labor market shortages in specific industries or for particular skill sets. For the past four years, we have seen that delegations of authority meant to allow for responses to emergencies, like the travel ban authority, can be misused to bar immigration broadly unless the statute provides strict guidelines as to how that authority should be exercised." He also said, "The primary reason the new [H-1B] lottery rule is problematic is that it contradicts the current statutory directive for selecting H-1Bs by order of filing. Section 3407 of the bill would provide a valid statutory basis for selecting H-1Bs by wage level, advantaging larger employers and employers in cities with higher average salaries." <https://www.forbes.com/sites/stuartanderson/2021/02/19/new-bill-has-many-good-but-two-bad-measures-for-employment-immigrants/?sh=4bec5be35af9>

Wolfsdorf Rosenthal LLP has published several new blog postings: "DOL Announces 2021 Adverse Effect Wage Rates for Non-Range Occupations," "H-2B Cap Reached for Second Half of FY 2021," "FY 2021 H-1B Cap-Subject Nonselection Notices Issued," "New Asylum Process at Southern Border To Be Phased In Gradually," "President Biden Reinstates DED for Liberians," "State Dept. Announces National Interest Exceptions for Certain Travelers & Students," "Alejandro Mayorkas Confirmed to Lead Department of Homeland Security," "DOL Proposes to Delay Effective Date of H-1B/PERM Wage Rule Until May," "USCIS Rescinds 2017 Policy Memorandum on H-1B Computer-Related Positions," "Good News for H-1B Applicants as Biden Administration Delays Wage-Based Selection Process for H-1Bs," "Biometrics: Questions and Answers," and "President Biden Signs Executive Orders Setting a Welcoming Tone for Immigrants." <https://wolfsdorf.com/blog/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by *National Public Radio* in "Supreme Court Makes It Harder for Undocumented Immigrants to Fight Deportation." He said the court's decision "increases the burden of proof on immigrants in

deportation proceedings." <https://www.npr.org/2021/03/04/973658292/supreme-court-makes-it-harder-for-undocumented-immigrants-to-fight-deportation>

Mr. Yale-Loehr was quoted by *Bloomberg Law Daily Labor Report* in "U.S. Lawmakers Exploring Regional Visa Programs to Boost Economy." The U.S. Citizenship Act's regional economic development visa proposal echoes a similar initiative that was enacted as part of immigration law in 1990—the Labor Market Information program, which directed the Department of Labor to identify industries with a shortage of workers in the United States and industries with a surplus, he said. The plan was to make it easier to select immigrants in the shortage occupations and harder in the surplus occupations. "The proposed regulations were roundly criticized and the whole program died. In concept, this sounds great, but the devil is always in the details," he said. <https://news.bloomberglaw.com/daily-labor-report/u-s-lawmakers-exploring-regional-visa-programs-to-boost-economy>

Mr. Yale-Loehr was quoted by *Law & Crime* in "Despite Biden Admin's Claims, Southern District of Texas Ruling Does Not Require ICE to Deport." He said, "Today's court order does not require ICE to deport everyone who has a final deportation order. ICE still has discretion in deciding who to deport." <https://lawandcrime.com/immigration/despite-biden-admins-claims-southern-district-of-texas-ruling-does-not-require-ice-to-deport/>

Mr. Yale-Loehr moderated a webinar, "What to Expect on Immigration from the Biden Administration":

- Video link: <https://www.youtube.com/watch?v=gqd3HnJWkE8>
- Slide deck, <https://drive.google.com/file/d/1jonlCr6VI2dK5mPoHW8jkd6VxDylHbxV/view>
- Handouts: <https://drive.google.com/file/d/1mW9jayRmlXJqWmIL2ayZIHMIpBj1rrf1/view> and <https://drive.google.com/file/d/1nxQGmmg-JF13LRs3uW3MeiHwNVU-zZWO/view>.

Mr. Yale-Loehr was quoted by *Bloomberg Law* in "Lawmakers Revisit Changes to H-1B Lottery in Immigration Plan." He said that any plan to implement a wage-based H-1B system from Biden administration agency heads is unlikely to "be identical to the Trump H-1B wage rule, but it is similar in concept." Moreover, "this would only authorize DHS and DOL to consider a wage-based system; it doesn't require it." <https://news.bloomberglaw.com/daily-labor-report/lawmakers-revisit-changes-to-h-1b-lottery-in-immigration-plan>

Mr. Yale-Loehr was quoted by the *Philadelphia Inquirer* in "ICE 'Deep State' is Blocking Biden's Quest for Justice for Refugees." Mr. Yale-Loehr said that President Biden faces a long road in undoing former immigration policies. "First, former President Trump emboldened ICE agents to arrest anyone they suspected of being here illegally, even if the person merely overstayed their visa. ICE officials will not want to return to the pre-Trump era, where they were supposed to prioritize deporting immigrants who had serious criminal convictions. That is harder work." In sum, he said, "changing the ICE bureaucracy is like steering an ocean liner. It takes time to change course. And it is harder when the crew may refuse to comply." <https://www.inquirer.com/opinion/biden-deportations-ice-haiti-cameroon-mexico-20210211.html>

Mr. Yale-Loehr was quoted by *Mediapart France* in "États-Unis: Biden promet une grande réforme de l'immigration" ("United States: Biden promises major immigration reform"). Mr. Yale-Loehr said that two essential questions relate to the content and "timing" of reform, considering that the midterm elections in 2022 could reshuffle the cards in the Senate. For the left, the possibility exists of fragmenting any reform project into first attempting to strengthen measures in Congress that are more "modest" and consensual like the DACA program, he said. Congress is not the only obstacle in the path of the Democrats. A federal judge in Texas, appointed by former President Trump, has effectively temporarily blocked a decision by President Biden to suspend deportations for 100 days, he noted. <https://bit.ly/3d9v79y> (subscription)

Mr. Yale-Loehr was quoted by the *Associated Press* in "ICE Nearly Released Sex Abuse Convicts Despite Biden Memo." He said a conviction for sexual abuse of a minor normally would qualify as an aggravated felony, and that "such individuals remain immigration enforcement priorities." <https://apnews.com/article/joe-biden-us-news-immigration-crime-texas-09f40966250e15b9d54942ddb267df7b>

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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/visas/en/law-and-policy/bulletin.html>

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