

IMMIGRATION INSIDER

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Headlines:

State Dept. Releases Guidance on Immigrant Visa Prioritization – DOS released guidance on how its embassies and consulates are prioritizing immigrant visa applications as they work to reduce the backlog resulting from travel restrictions and operational constraints caused by the global COVID pandemic.

DHS Extends I-9 Flexibility to End of December – DHS announced an extension until December 31, 2021, of the flexibility in complying with certain requirements related to Form I-9, Employment Eligibility Verification, due to continuing issues related to the COVID-19 pandemic.

DHS, OFLC Release Hurricane Ida-Related Guidance – DHS and OFLC released guidance related to Hurricane Ida and its aftermath, including immigration enforcement and other employer-related issues.

DHS To Serve as Lead Federal Agency Coordinating Afghan Resettlement – President Biden has directed DHS to serve as the lead agency coordinating ongoing efforts across the federal government "to resettle vulnerable Afghans, including those who worked on behalf of the United States."

DHS 'Respectfully Disagrees' With Court Decision on MPP – DHS "respectfully disagrees" with a district court decision that maintains the Migrant Protection Protocols.

USCIS Requests Public Comments on Revision of H-1B Registration Tool – USCIS requests public comments on a revision of the H-1B Registration Tool. This includes changes associated with a final rule USCIS published in January.

USCIS Creates New Webpage for Lockbox Filing Location Updates – USCIS has launched a new Lockbox Filing Location Updates page, to be updated regularly.

COVID Vaccinations To Be Required for Many Green Card Applicants – Effective October 1, 2021, with few exceptions, those applying for permanent residence (green card) must be vaccinated against COVID-19, now classified as a "Class A inadmissible condition," the CDC announced.

Justice Dept. Settles Immigration-Related Discrimination Claims With Large Health Care Organization – DOJ reached a settlement related to immigration discrimination claims with Ascension Health Alliance, a Missouri-based health care organization with more than 2,600 sites—including 146 hospitals and more than 40 senior living facilities—in 19 states and the District of Columbia.

DHS Releases Guidance for Immigration Processing of Afghan Citizens Fleeing Afghanistan – DHS released new guidance for the immigration processing of Afghan citizens during Operation Allies Refuge, under which many thousands are being evacuated from Afghanistan.

DHS Seeks Comments on New Civil Rights/Liberties Form – DHS seeks comments by September 22, 2021, on a new DHS civil rights and civil liberties complaint and privacy waiver form.

Cap Reached for Remaining H-2B Visas for Returning Workers for FY 2021 – USCIS has received enough petitions for returning workers to reach the additional 22,000 H-2B visas made available under the FY 2021 H-2B supplemental visa temporary final rule.

USCIS Extends Flexibilities Through October for Certain OPT Applicants Filing Work Authorization Applications – USCIS extended flexibilities through October 31, 2021, for certain applicants filing Form I-765, Application for Employment Authorization, for OPT and STEM OPT.

Court Orders State Dept. to Adjudicate More Than 9,000 DV-2020 Visas – A federal court ordered the Department of State to adjudicate more than 9,000 DV-2020 cases that were not processed before the fiscal year deadline. The case concerned the Department's suspension of the processing and issuance of diversity visas for certain classes of foreign nationals during the COVID-19 pandemic.

Settlement Agreement Reached in 'No Blank Space Rejection Policy' Case – USCIS reached a settlement agreement that allows certain individuals to receive updated receipt dates for resubmitted immigration benefit applications or petitions originally rejected under the former "No Blank Space" rejection policy.

DHS Seeks Comments on Public Charge Rulemaking – DHS is seeking data and information from the public that the agency intends to use to develop a new proposed public charge rule.

OFLC Announces Enhancements to Foreign Labor Application Gateway – The Department of Labor's Office of Foreign Labor Certification announced several enhancements to the Foreign Labor Application Gateway (FLAG) system

State Dept. Updates Guidance for Afghans; Pro Bono Help Needed With Afghan SIV/P-2 Applications – The Department of State released new information for Afghan nationals seeking to leave Afghanistan. Also, an online form has been posted for those interested in helping with applications on a pro bono basis.

Federal Judge Blocks Biden Administration's Immigration Enforcement Priorities; ICE Suspends Memo – According to reports, the judge's action upends the hope that many employees and others around the country have had to reopen their removal orders under the Biden prosecutorial discretion policy, and OPLA offices nationwide are not considering prosecutorial discretion requests.

USCIS Expands Partnership With Social Security Administration – Applicants filing for lawful permanent resident status can now apply for a Social Security number or replacement card as part of the adjustment of status application process.

Visa Bulletin for September 2021 Released – The bulletin notes, among other things, that the Worldwide employment-based preference limit for fiscal year 2021 is 262,288.

USCIS Temporarily Extends Validity Period of Medical Exam and Vaccination Record Form – The agency temporarily extended the validity period for medical exams from two years to four years due to COVID-19 pandemic-related delays in processing.

USCIS Rescinds Guidance on Discretionary Work Authorization for Parolees – The agency rescinded policy guidance in the *USCIS Policy Manual* on discretionary work authorization for noncitizens paroled into the United States.

President Biden Appoints Tracey Jacobson to Lead Afghan Special Immigrant Evacuation Effort – President Joe Biden has placed Ambassador Tracey Jacobson in charge of a "whole-of-government effort to process, transport, and relocate Afghan Special Immigrant Visa applicants and other Afghan allies." He said the United States is "working to evacuate thousands" of those who helped the United States, along with their families.

Biden Administration Develops Plan to Require Full Vaccination for Most Travelers to United States – The Biden administration is developing a "phased" plan to require most travelers to the United States to be fully vaccinated, with exceptions. The idea is to make it possible to safely re-open travel to the United States and lift pandemic-related restrictions on foreign travelers.

125 Indians and Chinese Sue USCIS Over Risk of Green Card Loss – Plaintiffs argue that delayed processing is risking the potential loss of up to 100,000 "rollover" green cards. They ask the court to compel USCIS to adjudicate their adjustment applications by the end of this fiscal year, September 30, 2021, or reserve the visa numbers through the next fiscal year.

USCIS Is Sending RFEs for I-693s; Medicals Should Be Filed Soon After Receiving RFE – USCIS informed the American Immigration Lawyers Association (AILA) that it is sending communications to adjustment applicants or their representatives with notice that a Request for Evidence (RFE) will be sent for Form I-693, Report of Medical Examination and Vaccination Record.

USCIS Extends Initial Registration Period for New TPS Applicants From Venezuela, Syria, and Burma, and Corrects Venezuelan TPS Notice – USCIS extended the initial registration periods from 180 days to 18 months for initial (new) applicants under the TPS designations for Venezuela, Syria, and Burma. The notice also corrected the Federal Register notice regarding Venezuela.

DHS Suspends Requirements for F-1 Nonimmigrant Students Who Are Haitian Citizens – Eligible students may request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain F-1 nonimmigrant student status. The notice is effective through February 1, 2023.

U.S. to Defer Removal of Certain Hong Kong Residents in United States – President Biden directed the Department of Homeland Security to "take appropriate measures to defer for 18 months the removal for Hong Kong residents presently in the United States." Such residents may also seek work authorization.

New Refugee Resettlement Program Announced for Certain Afghans Not Eligible for Special Immigrant Visas – Secretary of State Antony Blinken announced a new resettlement program for Afghans who assisted the United States but who do not qualify for special immigrant visas. The "Priority-2" (P-2) designation will grant access to the U.S. refugee admissions program for eligible Afghans and their family members.

New USCIS Director Appointed: Ur M. Jaddou – Ur M. Jaddou was appointed on August 3, 2021, as the new director of USCIS. Ms. Jaddou previously served as chief counsel at USCIS from June 2014 to January 2017.

ABIL Global: Italy – Following the European Union's announcement that travelers from the United States have been removed from its safe travel list, Italy added testing and self-isolation requirements for U.S. travelers.

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State Dept. Releases Guidance on Immigrant Visa Prioritization

The Department of State (DOS) released guidance on how its embassies and consulates are prioritizing immigrant visa applications and making "difficult decisions" as they work to reduce the backlog "resulting from travel restrictions and operational constraints caused by the global COVID pandemic."

DOS said the guiding principle is family reunification: "Specifically, the Department's prioritization relie[s] on clear direction from Congress that the Department must adopt a policy of prioritizing immediate relative visa applicants and K-1 [fiancé(e)s] of U.S. citizens, followed by family preference immigrant visa applicants."

Immigrant visas are prioritized over nonimmigrant visas. U.S. embassies and consulates are using a "tiered approach to triage immigrant visa applications based on the category of immigrant visa as they resume and expand processing." Consular sections are scheduling some appointments within all four priority tiers every month. The following lists the main categories of immigrant visas in priority order:

- Tier One: Immediate relative intercountry adoption visas, age-out cases (cases where the applicant will soon no longer qualify due to their age), certain Special Immigrant Visas (SQ and SI for Afghan and Iraqi nationals working with the U.S. government), and emergency cases as determined on a case-by-case basis.
- Tier Two: Immediate relative visas; fiancé(e) visas; and returning resident visas

- Tier Three: Family preference immigrant visas and SE Special Immigrant Visas for certain employees of the U.S. government abroad
- Tier Four: All other immigrant visas, including employment preference and diversity visas

Also, U.S. embassies and consulates were instructed that they may "prioritize as emergencies on a case-by-case basis the immigrant visa cases of certain healthcare professionals who will work at a facility engaged in pandemic response," the guidance states.

Details:

- "Immigrant Visa Prioritization," Dept. of State, Aug. 30, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/immigrant-visa-prioritization.html>

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DHS Extends I-9 Flexibility to End of December

The Department of Homeland Security (DHS) announced an extension until December 31, 2021, of the flexibility in complying with certain requirements related to Form I-9, Employment Eligibility Verification, due to continuing issues related to the COVID-19 pandemic. The temporary guidance previously was set to expire August 31, 2021.

A U.S. Immigration and Customs Enforcement (ICE) release from March 2020 provides information on how to obtain, remotely inspect, and retain copies of the identity and employment eligibility documents to complete Section 2 of Form I-9. DHS said employers must monitor DHS's and ICE's Workforce Enforcement announcements for information on when the extensions will end and normal operations will resume. E-Verify participants who choose the remote inspection option "should continue to follow current guidance and create cases for their new hires within three business days from the date of hire," DHS said.

Details:

- ICE announcement, Aug. 31, 2021, <https://www.ice.gov/news/releases/ice-announces-extension-new-employee-guidance-i-9-compliance-flexibility-1>
- ICE news release, Mar. 31, 2021, <https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance>
- DHS releases, <https://www.dhs.gov/>
- ICE releases, <https://bit.ly/2Ycd6Sw>
- Temporary policies related to COVID-19, USCIS, Aug. 31, 2021, <https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/temporary-policies-related-to-covid-19>

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DHS, OFLC Release Hurricane Ida-Related Guidance

The Department of Homeland Security (DHS) and the Department of Labor's Office of Foreign Labor Certification (OFLC) released guidance related to Hurricane Ida and its aftermath.

- DHS said that absent exceptional circumstances, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection, "will not conduct immigration enforcement at locations where disaster and emergency relief related to Hurricane Ida is

being provided, "such as along evacuation routes, sites used for sheltering or the distribution of emergency supplies, food or water, or registration sites for disaster-related assistance or the reunification of families and loved ones." DHS also said that DHS officials "do not and will not pose as individuals providing emergency-related information as part of any enforcement activities."

- OFLC released frequently asked questions (FAQ) advising that whenever possible, the most effective means of communicating with the OFLC is through the established Foreign Labor Application Gateway (FLAG) or the PERM Case Management System. The FAQ provides alternative methods of contacting OFLC for each of its programs in the event that an employer or its authorized attorney or agent is unable to communicate via FLAG.

OFLC said that it will grant extensions to deadlines and make other reasonable accommodations for employers affected by Hurricane Ida, including delays caused by the storm and those that occurred as a result of businesses preparing to adjust their normal operations due to the storm.

The OFLC FAQ also includes guidance on short-term placements of H-1B workers at worksites outside of the areas of intended employment and other issues.

Details:

- DHS statement on safety and immigration enforcement during Hurricane Ida, Aug. 27, 2021, <https://www.dhs.gov/news/2021/08/27/dhs-statement-safety-and-immigration-enforcement-during-hurricane-ida>
- Same statement translated into Chinese, French, Haitian Creole, Spanish, and Vietnamese, Aug. 28, 2021, <https://www.dhs.gov/publication/dhs-statement-safety-and-immigration-enforcement-during-hurricane-ida>
- OFLC FAQ, Sept. 1, 2021, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Hurricane%20Ida%20Disaster%20Guidance%20-%209.1.21.pdf>

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DHS to Serve as Lead Federal Agency Coordinating Afghan Resettlement

President Biden has directed the Department of Homeland Security to serve as the lead agency coordinating ongoing efforts across the federal government "to resettle vulnerable Afghans, including those who worked on behalf of the United States."

DHS Secretary Alejandro N. Mayorkas announced that Robert J. Fenton, Jr., will lead the interagency Unified Coordination Group (UCG). UCG will report directly to Secretary Mayorkas and will include "a broad range of services throughout the resettlement process, from initial immigration processing, COVID-19 testing, and isolation of COVID-positive individuals for anticipated quarantine, to resettlement support for individuals who are neither U.S. citizens nor lawful permanent residents. The resettlement support will include initial processing at pre-designated U.S. military bases prior to being resettled into communities."

Details:

- DHS release, Aug. 29, 2021, <https://www.dhs.gov/news/2021/08/29/dhs-serve-lead-federal-agency-coordinating-efforts-resettle-vulnerable-afghans>

- SIV/Iraqi & Syrian P-2/Afghan P-2 instructions, Refugee Processing Center, <https://www.wrapsnet.org/siv-iraqi-syrian-afghan-p2/>

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DHS 'Respectfully Disagrees' With Court Decision on MPP

The Department of Homeland Security (DHS) said on August 24, 2021, that it "respectfully disagrees" with a district court decision that maintains the Migrant Protection Protocols (MPP) and "regrets that the Supreme Court declined to issue a stay." DHS said it appealed the district court's order "and will continue to "vigorously challenge" it, but that as the appeal process continues, DHS "will comply with the order in good faith."

DHS said that alongside interagency partners, the agency has begun to engage with the government of Mexico in diplomatic discussions surrounding MPP. DHS also "continues to expel single adults and families encountered at the Southwest Border."

Details:

- DHS statement, Aug. 24, 2021, <https://www.dhs.gov/news/2021/08/24/dhs-statement-supreme-court-decision-mpp>

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USCIS Requests Public Comments on Revision of H-1B Registration Tool

U.S. Citizenship and Immigration Services (USCIS) requests public comments on a revision of the H-1B Registration Tool. This includes changes associated with a final rule USCIS published on January 8, 2021, "Modification of Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions."

USCIS said the hour and cost time burden estimates also include the time and cost burden estimates associated with the final rule. On February 8, 2021, USCIS published a rule delaying the effective date to December 31, 2021.

Details:

- Federal Register notice, Sept. 1, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-09-01/pdf/2021-18850.pdf>
- Final rule, USCIS, Jan. 8, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-01-08/pdf/2021-00183.pdf>
- Final rule, delay of effective date, USCIS, Feb. 8, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-02-08/pdf/2021-02665.pdf>

USCIS Creates New Webpage for Lockbox Filing Location Updates

U.S. Citizenship and Immigration Services (USCIS) has launched a new Lockbox Filing Location Updates page, to be updated regularly. USCIS noted that it periodically adjusts filing locations among its lockbox facilities to balance its incoming workload.

Details:

- USCIS alert, Sept. 1, 2021, <https://www.uscis.gov/news/alerts/uscis-creates-new-webpage-for-lockbox-filing-location-updates>

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COVID Vaccinations To Be Required for Many Green Card Applicants

Effective October 1, 2021, with few exceptions, those applying for permanent residence (green card) must be vaccinated against COVID-19, now classified as a "Class A inadmissible condition," the Centers for Disease Control and Prevention (CDC) announced. The CDC explained that the COVID-19 vaccination meets the criteria for required vaccinations and is a requirement for applicants eligible for the vaccine regardless of evidence of immunity, a negative COVID-19 test, or prior COVID-19 infection. The new vaccine requirements apply to a foreign national filing an I-485 application for adjustment of status and completing the I-693 medical examination with a designated U.S. Citizenship and Immigration Services (USCIS) civil surgeon or to a foreign national applying for an immigrant visa or refugee status at a U.S. consulate and undergoing a medical examination with a panel physician.

With respect to I-485 adjustment applicants, the CDC has stated that the applicant "must complete the COVID-19 vaccine series and provide documentation of vaccination to the civil surgeon in person before completion of the medical examination." The COVID-19 vaccination requirement differs from previous requirements in that "the entire vaccine series (1 or 2 doses depending on formulation) must be completed in addition to the other routinely required vaccines. COVID-19 vaccinations can now be given at any time, without regard to the timing of other vaccinations." Acceptable vaccines include Pfizer-BioNTech, Moderna, and Janssen (Johnson & Johnson).

Panel physicians in countries outside the United States may accept vaccines [authorized for emergency use or approved by the U.S. Food and Drug Administration](#) or vaccines [listed for emergency use by the World Health Organization](#) (WHO). In addition to the three vaccines used in the United States, WHO lists many other vaccines used outside the United States, such as AstraZeneca, Covishield and Covaxin, Sputnik, Sinopharm and Sinovac, among others.

Waivers are available for applicants under both circumstances if the vaccine is not age-appropriate, the vaccine is medically contraindicated, or the applicant does not have access to one of the approved vaccines in their home country. Applicants may also apply for an individual waiver on religious or moral grounds.

According to reports, the Biden administration also is developing plans for a COVID-19 vaccine mandate for almost all foreign visitors to the United States, with some exceptions. As there is a great disparity in COVID-19 vaccination programs across the world, the mandating of vaccines for green card applicants and visitors may hinder the ability of people to easily come to the United States. According to the [New York Times vaccine tracker](#), the United Arab Emirates has the highest percentage of fully vaccinated people within its population (76%), while the percentage of fully vaccinated people in countries such as India (10%), Senegal (3.5%), and Haiti (<0.1%) is abysmally low.

Details:

- "CDC Requirements for Immigrant Medical Examinations: COVID-19 Technical Instructions for Civil Surgeons," Aug. 17, 2021, <https://www.cdc.gov/immigrantrefugeehealth/civil-surgeons/covid-19-technical-instructions.html>
- "CDC Requirements for Immigrant Medical Examinations: COVID-19 Technical Instructions for Panel Physicians," Aug. 17, 2021, <https://www.cdc.gov/immigrantrefugeehealth/panel-physicians/covid-19-technical-instructions.html>

- "COVID-19 Vaccinations Required for Most Green Card Applicants," Roll Call, Aug. 26, 2021, <https://www.rollcall.com/2021/08/26/covid-19-vaccinations-required-for-most-green-card-applicants/>
- "Biden Administration Developing Plan to Require Almost All Foreign Visitors to be Vaccinated," Aug. 4, 2021, <https://www.cnn.com/2021/08/04/politics/vaccines-foreign-visitors-to-us/index.html>
- "New COVID-19 Vaccination Requirement for Green Card Applicants," JDSupra, Aug. 26, 2021, <https://www.jdsupra.com/legalnews/new-covid-19-vaccination-requirement-7487840/>

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Justice Dept. Settles Immigration-Related Discrimination Claims With Large Health Care Organization

The Department of Justice (DOJ) announced on August 25, 2021, that it reached a settlement related to immigration discrimination claims with Ascension Health Alliance, a Missouri-based health care organization with more than 2,600 sites—including 146 hospitals and more than 40 senior living facilities—in 19 states and the District of Columbia.

The settlement resolves DOJ's claims that Ascension violated the Immigration and Nationality Act (INA) when it discriminated against work-authorized non-U.S. citizens because of their citizenship status. Based on its investigation, DOJ determined that Ascension told its non-U.S. citizen employees to present new documents to prove their continued work authorization even when it was not required. The investigation found that Ascension improperly programmed customized software to send automated emails requesting proof of continued work authorization to all non-U.S. citizen employees, including U.S. nationals, lawful permanent residents, asylees and refugees, close to the expiration date of the documents they provided when completing the Form I-9. These non-U.S. citizen employees often presented documents that did not require reverification of employment eligibility. In some instances after sending the emails, Ascension further required non-U.S. citizen employees to present new documents to continue working. In contrast, Ascension did not program the software to send emails to U.S. citizens and therefore did not notify U.S. citizens near the expiration of their documents.

Under the terms of the settlement agreement, Ascension will pay the United States a civil penalty of \$84,832.00. Additionally, Ascension will train its employees on the requirements and be subject to monitoring for a three-year period.

Details:

- Press release, Dept. of Justice, <https://www.justice.gov/opa/pr/justice-department-settles-large-health-care-organization-resolve-software-based-immigration>
- Settlement agreement, <https://www.justice.gov/opa/press-release/file/1427891/download>

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DHS Releases Guidance for Immigration Processing of Afghan Citizens Fleeing Afghanistan

The Department of Homeland Security (DHS) released new guidance for the immigration processing of Afghan citizens during Operation Allies Refuge, under which many thousands are being evacuated from Afghanistan.

The memo states that some of these individuals were in various stages of processing for immigration status in the United States, and through various paths based on family relationships, Special Immigrant Visas, or refugee programs, for example. Many were not able to complete these processes because of the current situation in Afghanistan. The memo notes that others, despite likely eligibility, never applied because they had not previously sought to leave Afghanistan and relocate to the United States. DHS Secretary Alejandro Mayorkas is therefore authorizing U.S. Customs and Border Protection [CBP] officers to parole certain Afghan nationals into the United States, "on a case-by-case basis, for a period of two years and subsequent to appropriate vetting, provided their movement to the United States is being carried out pursuant to Operation Allies Refuge." Once paroled into the United States by CBP, Afghan nationals may be eligible to apply for status through U.S. Citizenship and Immigration Services. "Afghan nationals paroled by CBP may also have conditions placed on their parole, to include medical screening and reporting requirements. Failure to follow these conditions may be cause for termination of the parole and initiation of detention and removal," the memo notes.

Details:

- "Guidance for the Immigration Processing of Afghan Citizens During Operation Allies Refuge," DHS memorandum, Aug. 23, 2021.

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DHS Seeks Comments on New Civil Rights/Liberties Form

The Department of Homeland Security (DHS) seeks comments by September 22, 2021, on a new DHS civil rights and civil liberties complaint and privacy waiver form. The form will allow DHS's Office for Civil Rights and Civil Liberties (CRCL) to review and investigate civil rights and civil liberties complaints filed by the public regarding DHS programs and activities. The information provided also will be entered into a CRCL complaint management system and may be used by CRCL to track allegations and identify trends and systemic issues within CRCL's jurisdiction.

Details:

- 86 Fed. Reg. 47133 (Aug. 23, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-08-23/pdf/2021-17959.pdf>

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Cap Reached for Remaining H-2B Visas for Returning Workers for FY 2021

As of August 13, 2021, U.S. Citizenship and Immigration Services (USCIS) has received enough petitions for returning workers to reach the additional 22,000 H-2B visas made available under the fiscal year (FY) 2021 H-2B supplemental visa temporary final rule. USCIS said it will reject and return any cap-subject petitions for H-2B returning workers received after August 13, along with any accompanying fees.

USCIS said it will continue to accept H-2B petitions for workers who are exempt from the congressionally mandated cap, including petitions for:

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

USCIS is also currently accepting cap-subject petitions for the first half of FY 2022 for employment start dates on or after October 1, 2021, and before April 1, 2022.

Details:

- USCIS alert, Aug. 19, 2021, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-non-agricultural-workers/temporary-increase-in-h-2b-nonimmigrant-visas-for-fy-2021>

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USCIS Extends Flexibilities Through October for Certain OPT Applicants Filing Work Authorization Applications

Pursuant to a court order, U.S. Citizenship and Immigration Services (USCIS) extended flexibilities through October 31, 2021, for certain applicants filing Form I-765, Application for Employment Authorization, for optional practical training (OPT) and science, technology, engineering, and mathematics (STEM) OPT.

For applicants who timely filed Form I-765 for OPT and STEM OPT and whose applications were later rejected, USCIS will accept a refiled Form I-765 as filed on the original filing date if:

- The original, timely filed application was received on or after October 1, 2020, through October 31, 2021, inclusive; and
- USCIS subsequently rejected it.

USCIS said refiled applications must be received by November 30, 2021, for USCIS to treat the application as though filed on the original received date. Additionally, for applications received through October 31, 2021, applicants can file Form I-765 up to 120 days before the program end date.

Details:

- USCIS alert, July 29, 2021, <https://www.uscis.gov/news/alerts/uscis-extends-flexibilities-to-certain-applicants-filing-form-i-765-for-opt>

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Court Orders State Dept. to Adjudicate More Than 9,000 DV-2020 Visas

A federal court ordered the Department of State to adjudicate more than 9,000 DV-2020 cases that were not processed before the fiscal year deadline. The case concerned the Department's suspension of the processing and issuance of diversity visas for certain classes of foreign nationals during the COVID-19 pandemic, particularly selectees of the diversity visa lottery during the fiscal year that ended September 30, 2020.

The court ordered the Department to process the DV-2020 applications in a random order until all of the reserved diversity visas have been granted. "The parties shall notify the court by August 25, 2021, whether they have agreed to a time within which to process the reserved

visas. The court will issue a final order once that question is resolved," the court said, finding that the defendants acted arbitrarily and capriciously in excluding diversity visas from mission-critical processing, and that the defendants unreasonably delayed and unlawfully withheld adjudication of their diversity visas.

Details:

- *Gomez v. Biden*, order filed Aug. 17, 2021, https://innovationlawlab.org/media/Gomez_Order-SJ_08.17.21.pdf

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Settlement Agreement Reached in 'No Blank Space Rejection Policy' Case

U.S. Citizenship and Immigration Services (USCIS) announced on August 19, 2021, that it reached a settlement agreement in *Vangala v. USCIS*. The agreement allows certain individuals to receive updated receipt dates for resubmitted immigration benefit applications or petitions originally rejected under the former "No Blank Space" rejection policy. Under the former policy, USCIS rejected filings with any blank fields or spaces.

The agreement applies to three forms: Form I-589, Application for Asylum and for Withholding of Removal; Form I-918, Petition for U Nonimmigrant Status; and Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient. Individuals whose forms were rejected under the former policy may resubmit their requests by July 20, 2022, to obtain an updated receipt reflecting the date their rejected request was originally filed. Individuals who had resubmitted these forms before the effective date of this settlement agreement (July 20, 2021) may also submit documentation by July 20, 2022, to obtain an updated receipt date.

Details:

- USCIS news release, Aug. 19, 2021, <https://www.uscis.gov/news/news-releases/uscis-reaches-settlement-agreement-in-no-blank-space-rejection-policy-case>
- Settlement agreement, *Vangala v. USCIS*, https://www.uscis.gov/sites/default/files/document/legal-docs/Vangala_Order_Adopting_Settlement_7-20-2021.pdf

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DHS Seeks Comments on Public Charge Rulemaking

The Department of Homeland Security (DHS) announced on August 20, 2021, that it is seeking data and information from the public that the agency intends to use to develop a public charge regulatory proposal.

The purpose of public comment is "to ensure that the proposal is fair, consistent with law, and informed by relevant data and evidence. Public comment also will help DHS ensure that the proposed regulation does not impose undue burdens on noncitizens seeking admission to or adjustment of status in the United States," USCIS said.

Details:

- USCIS news release, Aug. 20, 2021, <https://www.uscis.gov/news/news-releases/dhs-seeks-public-comment-on-public-charge-rulemaking>

- Advance copy of proposed rule to be published in the Federal Register on Aug. 23, 2021, <https://www.federalregister.gov/documents/2021/08/23/2021-17837/public-charge-ground-of-inadmissibility>

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OFLC Announces Enhancements to Foreign Labor Application Gateway

On August 17, 2021, the Department of Labor's Office of Foreign Labor Certification (OFLC) announced several enhancements to the Foreign Labor Application Gateway (FLAG) system:

- A new "Notification Center" within user accounts that provides access to OFLC decisions and allows users to upload responses and view documents associated with labor certification applications
- The ability to "reuse" a previously filed Form ETA-9141, Application for Prevailing Wage Determination, to pre-populate key sections in a new request
- New options for reassigning cases among other authorized users within their account networks

Details:

- OFLC announcement, Aug. 17, 2021, <https://www.dol.gov/agencies/eta/foreign-labor>

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State Dept. Updates Guidance for Afghans; Pro Bono Help Needed With Afghan SIV/P-2 Applications

The Department of State released new information for Afghan nationals seeking to leave Afghanistan:

- Afghan immigrant visa applicants, including Special Immigrant Visa (SIV) applicants, should continue monitoring official U.S. government websites, including <https://travel.state.gov/content/travel/en/traveladvisories/ea/AfghanistanEvacuation.html>, for updated information, the Department of State said on August 20, 2021. Immigrant visa applicants outside of Afghanistan may request that their cases be transferred to the nearest U.S. Embassy or Consulate to complete processing. To request a case transfer, applicants can submit a request to the National Visa Center via <https://nvc.state.gov/inquiry>.
- Also, the Department of State said that Afghan nationals who are eligible for the SIV program but have not yet applied are "encouraged to submit one complete application package to the National Visa Center (AfghanSIVapplication@state.gov) to facilitate processing in an expeditious manner." The consular section at the U.S. Embassy in Kabul is closed.

Meanwhile, the American Immigration Lawyers Association (AILA) is receiving inquiries from Afghans abroad, U.S. veterans, and nonprofits seeking assistance regarding the review of Special Immigrant Visa (SIV)/P-2 applications. AILA has posted a form online for those interested in helping on a pro bono basis.

Details:

- Update on Visa Processing at U.S. Embassy Kabul, Dept. of State, Aug. 20, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/update-on-visa-processing-at-us-embassy-kabul.html>
- Afghanistan Evacuation, Dept. of State, Aug. 21, 2021, <https://travel.state.gov/content/travel/en/traveladvisories/ea/AfghanistanEvacuation.html>
- Special Immigrant Visas for Afghans, Dept. of State, <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immig-visa-afghans-employed-us-gov.html>
- Afghan Allies Application Review Form, AILA, <https://airtable.com/shrU198Ld6VP7uOI9>

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Federal Judge Blocks Biden Administration's Immigration Enforcement Priorities; ICE Suspends Memo

Due to an August 19, 2021, preliminary injunction issued by U.S. District Judge Drew Tipton in *Texas v. United States* that blocked, nationwide, the Biden administration's prioritization of enforcement action against those who are threats to national security or public safety, U.S. Immigration and Customs Enforcement's (ICE) Office of the Principal Legal Advisor (OPLA) suspended reliance on a May 27, 2021, OPLA memorandum, "Interim Guidance to OPLA Attorneys Regarding Civil Immigration Enforcement and Removal Policies and Priorities."

According to reports, the judge's action upends the hope that many employees and others around the country have had to reopen their removal orders under the Biden prosecutorial discretion policy, and OPLA offices nationwide are not considering prosecutorial discretion requests. ICE said that questions from noncitizens and their legal representatives about OPLA's exercise of prosecutorial discretion in individual cases should be referred to local OPLA offices.

Details:

- Preliminary injunction, Aug. 19, 2021, [http://myfloridalegal.com/webfiles.nsf/WF/GPEY-C62QED/\\$file/Texas+case.pdf](http://myfloridalegal.com/webfiles.nsf/WF/GPEY-C62QED/$file/Texas+case.pdf)
- ICE announcement, <https://www.ice.gov/about-ice/opla/prosecutorial-discretion>
- OPLA office locations, <https://www.ice.gov/contact/field-offices?office=12>
- Interim guidance memo, May 27, 2021, https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_interim-guidance.pdf

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USCIS Expands Partnership With Social Security Administration

Applicants filing for lawful permanent resident status can now apply for a Social Security number (SSN) or replacement card as part of the adjustment of status application process, U.S. Citizenship and Immigration Services (USCIS) announced. Previously, such an individual had to apply for the SSN at a Social Security office.

USCIS revised Form I-485, Application to Register Permanent Residence or Adjust Status, to include the additional questions needed to apply for an SSN or a replacement card.

Details:

- USCIS news release, Aug. 9, 2021, <https://www.uscis.gov/news/news-releases/uscis-expands-partnership-with-social-security-administration>
- Form I-485 (see Social Security questions #14-17 on page 2), <https://www.uscis.gov/sites/default/files/document/forms/i-485.pdf>

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Visa Bulletin for September 2021 Released

The Department of State's Visa Office released the Visa Bulletin for September 2021. The bulletin notes, among other things, that:

- The diversity visa (DV) category for September shows that all DV chargeability areas except those listed separately are Current.
- Because the EB-5 immigrant investor pilot program was extended only until June 30, 2021, no I5 or R5 visas may be issued overseas or final action taken on adjustment of status cases after that date. The final action dates for the I5 and R5 categories are "Unavailable" for September.
- The Worldwide employment-based preference limit for fiscal year 2021 is 262,288, which is much higher than the normal annual limit of 140,000 for employment-based green cards.
- In another positive development, the Employment-Based Third Preference Final Action Date for India advanced to January 1, 2014, which is where the Filing Date was in the December 2020 Visa Bulletin.

Details:

- Visa Bulletin, Dept. of State, Sept. 2021, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-september-2021.html>

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USCIS Temporarily Extends Validity Period of Medical Exam and Vaccination Record Form

U.S. Citizenship and Immigration Services (USCIS) temporarily extended the validity period for Form I-693, Report of Medical Examination and Vaccination Record, from two years to four years due to COVID-19 pandemic-related delays in processing.

USCIS said it may consider a completed Form I-693 as valid if:

- The civil surgeon's signature is dated no more than 60 days before the applicant filed Form I-485, Application to Register Permanent Residence or Adjust Status;
- No more than four years have passed since the date of the civil surgeon's signature; and
- A decision on the applicant's Form I-485 is issued on or before September 30, 2021.

- USCIS also stated that it is on track to approve more employment-based adjustment of status applications than it has since FY 2005. "We have prioritized employment-based adjustment of status applications during every step of its processing and adjudication during this fiscal year. We continue to make processing and resource allocation decisions to increase the pace of adjudications and limit the potential for employment-based visa numbers to go unused."

Details:

- USCIS alert, Aug. 12, 2021, <https://www.uscis.gov/news/alerts/uscis-temporarily-extending-validity-period-of-form-i-693>

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USCIS Rescinds Guidance on Discretionary Work Authorization for Parolees

U.S. Citizenship and Immigration Services (USCIS) rescinded policy guidance in the *USCIS Policy Manual* on discretionary employment authorization for noncitizens paroled into the United States. The guidance was issued in 2019 in response to a presidential proclamation and related national emergency that were revoked and terminated, respectively, in 2021.

Details:

- USCIS policy alert, Aug. 12, 2021, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210812-EmploymentAuthorizationForParolees.pdf>

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President Biden Appoints Tracey Jacobson to Lead Afghan Special Immigrant Evacuation Effort

President Joe Biden announced on August 14, 2021, that he has placed Ambassador Tracey Jacobson in charge of a "whole-of-government effort to process, transport, and relocate Afghan Special Immigrant Visa [SIV] applicants and other Afghan allies." He said the United States is "working to evacuate thousands" of Afghans who helped the United States, along with their families.

As of press time, the Taliban had overtaken much of Afghanistan and had begun moving into the capital, Kabul. Under "Operation Allies Refuge," the United States is working "quickly" to relocate eligible Afghans in danger of Taliban reprisals as the United States withdraws many troops from Afghanistan. President Biden authorized up to 5,000 troops to provide security while evacuations of U.S. personnel and SIV applicants continue. The program has been beset with delays, backlogs, and vetting issues. Almost 77,000 SIV Afghans have already come to the United States over the past 15 years, but thousands more remained in the pipeline in recent weeks.

U.S. Citizenship and Immigration Services (USCIS) is issuing Afghan special immigrant parolees a Form I-766, Employment Authorization Document, with a C11 parolee category, and a Form I-551, Permanent Resident Card, according to USCIS's Systematic Alien Verification for Entitlements. The International Rescue Committee and U.S. partner agencies are providing services for a group of Afghan SIV applicants relocating to Virginia, including reception, medical care, case management, and resettlement by a sponsoring resettlement agency.

Details:

- Statement by President Biden, Aug. 14, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/14/statement-by-president-joe-biden-on-afghanistan/>
- Statement by President Biden, July 30, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/30/statement-of-president-joe-biden-on-the-arrival-of-the-first-flight-of-operation-allies-refuge/>
- Dept. of State SIV for Afghans page, <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immig-visa-afghans-employed-us-gov.html>
- "International Rescue Committee to Assist Afghan SIVs Relocated to United States," July 30, 2021, <https://www.rescue.org/press-release/international-rescue-committee-assist-afghan-sivs-relocated-united-states>
- "First Group of Afghan Interpreters Who Served With U.S. Troops Are On Their Way to a New Life in the U.S.," *USA Today*, July 30, 2021, <https://www.usatoday.com/story/news/politics/2021/07/30/afghan-interpreters-who-worked-troops-relocating-u-s-ahead-of-withdrawal/5414929001/>
- "U.S. Government Rush to Evacuate Afghan Allies and Allocate Sufficient Special Visas Comes at Eleventh Hour," Migration Policy Institute, July 27, 2021, <https://www.migrationpolicy.org/article/us-government-rush-evacuate-afghan-allies-allocate-special-visas>

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Biden Administration Develops Plan to Require Full Vaccination for Most Travelers to United States

According to reports, the Biden administration is developing a "phased" plan to require most travelers to the United States to be fully vaccinated, with exceptions. The idea is to make it possible to safely re-open travel to the United States and lift pandemic-related restrictions on foreign travelers.

A White House official told CBS News that federal interagency working groups "are working to develop a plan for a consistent and safe international travel policy, in order to have a new system ready for when we can reopen travel. This includes a phased approach that over time will mean, with limited exceptions, that foreign nationals traveling to the United States (from all countries) need to be fully vaccinated. Currently, the interagency working groups are developing a policy and planning process to be prepared for when the time is right to transition to this new system."

Under discussion are the details of how to implement such a policy, what proof of vaccination will be accepted, and which vaccines will be accepted. It is unclear whether only air travel will be affected or whether vaccines will also be required before crossing land borders.

Details:

- "Biden Administration Prepares Plan Requiring Foreign Travelers to be Vaccinated," CBS News, Aug. 5, 2021, <https://www.cbsnews.com/news/covid-vaccine-travelers-united-states-biden-administration-plan/>
- "Exclusive: U.S. Developing Plan to Require Foreign Visitors to be Vaccinated, Official Says," Reuters, Aug. 4, 2021, <https://www.reuters.com/world/us/exclusive-us-developing-plan-require-foreign-visitors-be-vaccinated-official-2021-08-04/>

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125 Indians and Chinese Sue USCIS Over Risk of Green Card Loss

A group of 125 Indian and Chinese immigrants approved for employment-based green cards sued U.S. Citizenship and Immigration Services in federal court in Maryland on August 3, 2021. In *Chakrabarti v. USCIS*, they argue that delayed processing is risking the potential loss of up to 100,000 "rollover" green cards from the unused family preferences to the employment preferences. Family-based green cards went unused due to closures at U.S. consulates as a result of the Covid-19 pandemic and former President Trump's ban on the issuance of immigrant visas in April 2020. Any green cards that are not given by September 30, 2021, will be wasted. Plaintiffs ask the court to compel USCIS to adjudicate their adjustment applications by the end of this fiscal year, September 30, 2021, or reserve the visa numbers through the next fiscal year.

Jeff Joseph of Joseph & Hall PC, Charles Kuck of Kuck Baxter Immigration LLC, and Greg Siskind of Siskind Susser PC are representing the immigrants.

Details:

- "Would-Be U.S. Residents Sue USCIS Over 'Wasted' Green Cards," Law360, Aug. 3, 2021, <https://www.law360.com/immigration/articles/1409263/would-be-us-residents-sue-uscis-over-wasted-green-cards> (registration required)

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USCIS Is Sending RFEs for I-693s; Medicals Should Be Filed Soon After Receiving RFE

U.S. Citizenship and Immigration Services (USCIS) informed the American Immigration Lawyers Association (AILA) that it is sending communications to adjustment applicants or their representatives with notice that a Request for Evidence (RFE) will be sent for Form I-693, Report of Medical Examination and Vaccination Record. USCIS said it is attempting to adjudicate as many adjustment of status applications as possible before the end of the fiscal year. Applicants may respond to the RFE with completed medicals. The RFE will provide instructions for filing. The I-693 should be filed as soon as possible after receiving the RFE so the case can be adjudicated before September 30, 2021.

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USCIS Extends Initial Registration Period for New TPS Applicants From Venezuela, Syria, and Burma, and Corrects Venezuelan Notice

U.S. Citizenship and Immigration Services (USCIS) extended the initial registration periods from 180 days to 18 months for initial (new) applicants under the Temporary Protected Status (TPS) designations for Venezuela, Syria, and Burma. The notice also corrected the Federal Register notice regarding Venezuela.

USCIS said this extension allows an individual to apply as an initial applicant any time during the 18-month designation periods for the three countries. However, USCIS noted that "applicants should be aware that the ability to file a late initial TPS application may not be available during any potential subsequent extensions of these designations, so individuals desiring TPS should take action to apply during this 18-month initial registration period in order to ensure that they do not miss the opportunity to obtain TPS."

The notice also makes several corrections to the Venezuela notice, including changing September 7, 2021, to September 9, 2021, and making other adjustments in the sentence, "Although not required to do so, if you want to obtain an EAD valid through September 9, 2022, you must file an Application for Employment Authorization (Form I-765) and pay the Form I-765 fee or request a fee waiver."

Details:

- Federal Register notice, Aug. 4, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-08-04/pdf/2021-16611.pdf>

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DHS Suspends Requirements for F-1 Nonimmigrant Students Who Are Haitian Citizens

The Department of Homeland Security suspended certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth) and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. Eligible students may request work authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain F-1 nonimmigrant student status. The notice is effective through February 1, 2023.

DHS said it will deem an F-1 nonimmigrant student who receives work authorization by means of the notice to be engaged in a "full course of study" for the duration of the employment authorization, if the student satisfies the minimum course load requirement as described in the notice.

Details:

- Federal Register notice, Aug. 3, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-08-03/pdf/2021-16480.pdf>

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U.S. to Defer Removal of Certain Hong Kong Residents in United States

On August 5, 2021, Secretary of Homeland Security Alejandro Mayorkas announced Deferred Enforced Departure would be provided to eligible Hong Kong residents in the United States. President Biden issued a memorandum directing the Department of Homeland Security to "take appropriate measures to defer for 18 months the removal for Hong Kong residents presently in the United States." Such residents "may also seek employment authorization through U.S. Citizenship and Immigration Services," he said.

Secretary Mayorkas said the decision was made "based on the ongoing assault on democracy, and rights and freedoms in Hong Kong by the People's Republic of China."

Details:

- White House Memorandum, Aug. 5, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/05/memorandum-on-the-deferred-enforced-departure-for-certain-hong-kong-residents/>
- Statement from Secretary Mayorkas, Aug. 5, 2021, <https://www.dhs.gov/news/2021/08/05/statement-secretary-mayorkas-deferred-enforcement-departure-certain-residents-hong>

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New Refugee Resettlement Program Announced for Certain Afghans Not Eligible for Special Immigrant Visas

At a press conference on August 2, 2021, Secretary of State Antony Blinken announced a new resettlement program for Afghans who assisted the United States but who do not qualify for special immigrant visas. The Department of State has created a "Priority-2" (P-2) designation "granting access to the U.S. refugee admissions program for many of these Afghans and their family members," he said.

Secretary Blinken gave a few examples of Afghans who might be eligible for the P-2 designation, including some who worked for a project funded by the U.S. government but not for the government itself; who began working for the United States more recently and may not have met the minimum time and service requirements for a special immigrant visa; or who were employed by American media or nongovernmental organizations (NGOs) "doing vital work to support democratic progress in Afghanistan."

The Department's Bureau of Population, Refugees, and Migration (PRM) created a U.S. Refugee Admissions Program (USRAP) Afghan Referrals Workgroup comprising federal agencies to refer individuals directly to the USRAP. Once cases receive access to the USRAP, they will undergo the same processing steps as other refugees, including extensive security vetting. A fact sheet released on August 2, 2021, by the Department says that Afghans who do not qualify for the P-2 program may be referred to the P-1 program by the United Nations High Commissioner for Refugees, a U.S. Embassy, or a designated NGO.

Details:

- "U.S. Refugee Admissions Program Priority 2 Designation for Afghan Nationals," Fact Sheet, Dept. of State, Aug. 2, 2021, <https://www.state.gov/u-s-refugee-admissions-program-priority-2-designation-for-afghan-nationals/>
- "Secretary Antony J. Blinken Remarks to the Press on the Announcement of a U.S. Refugee Admissions Program Priority 2 (P-2) Designation for Afghan Nationals," Aug. 2, 2021, <https://www.state.gov/secretary-antony-j-blinken-remarks-to-the-press-on-the-announcement-of-a-u-s-refugee-admissions-program-priority-2-designation-for-afghan-nationals/>
- Press Briefing, Dept. of State, Aug. 2, 2021, <https://www.state.gov/briefings/department-press-briefing-august-2-2021/>
- Refugee Processing Center, <https://www.wrapsnet.org/siv-iraqi-syrian-afghan-p2/>

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New USCIS Director Appointed: Ur M. Jaddou

Ur M. Jaddou was appointed on August 3, 2021, as the new director of U.S. Citizenship and Immigration Services (USCIS). Ms. Jaddou previously served as chief counsel at USCIS from June 2014 to January 2017.

More recently, Ms. Jaddou directed DHS Watch, an America's Voice-led project focused on good governance and accountability in the Immigration system. She also served as an adjunct professor of law at American University's Washington College of Law, and counsel at Potomac Law Group, PLLC.

From 2012 to 2014, Ms. Jaddou was responsible for developing and implementing congressional strategy for the Department of State as deputy assistant secretary for the Bureau of Legislative Affairs. Ms. Jaddou also served as chief counsel for the Subcommittee on

Immigration and Citizenship in the U.S. House of Representatives, and as senior counsel to Rep. Zoe Lofgren.

Ms. Jaddou, a daughter of immigrants from Mexico (mother) and Iraq (father), received her bachelor's and master's degrees from Stanford University and her law degree from UCLA School of Law.

Details:

- Statement from Ur M. Jaddou, USCIS, Aug. 4, 2021, <https://www.uscis.gov/news/news-releases/statement-from-ur-m-jaddou-as-new-director-of-us-citizenship-and-immigration-services>
- Ur M. Jaddou, Director, USCIS, Aug. 3, 2021, <https://www.uscis.gov/about-us/organization/leadership/ur-m-jaddou-director-us-citizenship-and-immigration-services>

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ABIL Global: Italy

Following the European Union's announcement that travelers from the United States have been removed from its safe travel list, Italy added testing and self-isolation requirements for U.S. travelers.

Following the European Union's announcement that travelers from the United States have been removed from its safe travel list, Italy added testing and self-isolation requirements for U.S. travelers. All travelers must receive a negative coronavirus test result (molecular or antigenic swab) within 72 hours before arrival and complete a digital passenger locator form. Unvaccinated people without proof of recovery must quarantine (self-isolate) for five days and take another test after that.

Those from European Union and Schengen area countries can enter Italy with a COVID-19 "Green Certificate" after either completing the vaccination cycle for at least 14 days, recovering from COVID-19, or receiving a negative molecular or antigen swab test within 48 hours before entering Italy. Vaccinated U.S. citizens who want to enter Italy can avoid the quarantine by showing their vaccination certificates, which Italy considers to be equivalent to the Green Certificate. Acceptable vaccines include those approved by the European Medicines Agency: Comirnaty (Pfizer-BioNTech), Janssen (Johnson & Johnson), Moderna, and Vaxzevria.

Admission requirements worldwide have been changing frequently due to rapidly evolving pandemic conditions, so travelers should check for the latest updates before traveling.

Details:

- COVID-19 information for travelers, <https://www.salute.gov.it/portale/nuovocoronavirus/dettaglioContenutiNuovoCoronavirus.jsp?lingua=english&id=5412&area=nuovoCoronavirus&menu=vuoto>
- "Italy Tightens Entry Requirements on U.S. Tourists, Adds Self-Isolation Mandate for the Unvaccinated," USA Today, Aug. 31, 2021, <https://www.usatoday.com/story/travel/destinations/2021/08/31/italy-travel-country-tightens-entry-requirements-us-tourists/5667008001/>
- European Digital Passenger Locator Form, <https://app.euplf.eu/#/>
- Green Certificate (Italian), <https://www.dgc.gov.it/web/>

- Information on European Union Digital COVID Certificate, https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans/eu-digital-covid-certificate_en
- "Accessing Italy with Green Certificate: Japan, Canada, United States and Israel," Aug. 28, 2021, <https://www.dgc.gov.it/web/>

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New Publications and Items of Interest

Podcast on E-Verify and I-9. In a two-part podcast, Tammy Meckley, USCIS Associate Director for the Immigration Records and Identity Services Directorate is interviewed. The two-part interactive session includes an overview of E-Verify and questions pertaining to current and future plans for the program. Ms. Meckley explains key aspects of E-Verify and why many employers are using E-Verify to confirm the employment eligibility of their employees. Part 1 of the podcast, "E-Verify and I-9 News: Straight from the Top," by Equifax Workforce Solutions is at <https://workforce.equifax.com/e-verify-and-i-9-news-straight-from-the-top-part-1>; Part 2 is at <https://workforce.equifax.com/e-verify-and-i-9-news-straight-from-the-top-part-2>

Immigrant and Employee Rights Section webinars. The Immigrant and Employee Rights Section of the Department of Justice's Civil Rights Division is offering free webinars for the public. There are webinars for workers, employers, and advocates. <https://www.justice.gov/crt/webinars>

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](#): Primary federal site for general coronavirus information
- [USA.gov/coronavirus](#): Catalog of U.S. government's response to coronavirus
- [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)
- NAFA: <https://www.nafsa.org/regulatory-information/coronavirus-critical-resources>

Immigration Agency Information

Department of Homeland Security: [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](#)
- 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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ABIL Member/Firm News

Dagmar Butte (bio: <http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) was quoted by *Forbes* in "Lawsuit Aims to Overturn Costly H-1B Visa Policy." Commenting on the impact of a USCIS policy that requires employers to file amended H-1B petitions when employees work in a new geographic area, Ms. Butte said, "The impact was substantial both in terms of costs and the ability to carry on business, especially if you wanted to be scrupulous about complying. When one of my clients loses a contract, or a project ends, they have to scramble to find a place for their workers, but they have to do it fast and pay filing and legal fees. Due to inconsistent adjudications and fear of accruing unlawful presence, that usually includes paying premium processing fees. Since the jobs themselves are typically the same—a physical therapist will not suddenly work as a nurse—there is little utility in the USCIS requirement other than to allow FDNS [Fraud Detection and National Security Directorate] to be able to locate the worker for a site visit. That could be accomplished much more easily by just adapting the AR-11 [Alien Change of Address form] for this purpose. Absent *Simeio*, there is still a posting requirement, and all other U.S. worker protections mandated by the Department of Labor remain in place, including the need for a new LCA [Labor Condition Application] if the new placement is outside the prior MSA [Metropolitan Statistical Area].

Jeff Joseph and **Charles Kuck** (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) were quoted by CNN in "Labor Shortages Expected to Continue as Employers Struggle With Visa Bureaucracy and Covid." Mr. Kuck said, "Our immigration system is so outdated and so unresponsive to the needs of the 21st century, it's literally doing economic damage to our country. I think employers are realizing, 'I'm not going to get these people back.' " The article

also discusses the H-2B visa, for which the fiscal year cap stands at 66,000, with 33,000 for workers starting employment October 1 to March 31, and 33,000 for those employed April 1 to September 30. "It's a race for those 33,000 visas," said Mr. Joseph. "More employers are filing than in the past and that's directly related to unemployment. Where they may have found more workers in the past, there's a struggle," he added, noting that obtaining a visa is not an easy or simple alternative for those seeking employees. <https://www.cbs58.com/news/labor-shortages-expected-to-continue-as-employers-struggle-with-visa-bureaucracy-and-covid>

David Isaacson, of **Cyrus D. Mehta and Partners, PLLC**, authored a new blog post: "The Process By Which Removability Will Be Determined": How the Recent District Court Decision Ordering the Reinstatement of MPP Contradicts Itself." <http://blog.cyrusmehta.com/2021/08/the-process-by-which-removability-will-be-determined-how-the-recent-district-court-decision-ordering-the-reinstatement-of-mpp-contradicts-itself.html>

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) authored a new blog posting: "If the US Does Not Eradicate Vaccine Inequality, the Requirement of COVID Vaccinations for Many Green Card Applicants Will Result in a De Facto Ban." <https://bit.ly/38mL9cz>

Wolfsdorf Rosenthal LLP has published several new blog posts: "Unaccompanied Minors Among Thousands Evacuated From Afghanistan"; United Kingdom: Coronavirus Restrictions for Travelers to England, and Right-to-Work Checks"; "Afghanistan in Crisis: Helping Refugees" <https://wolfsdorf.com/>; "Avoiding Immigration Pitfalls in Cross-Company Collaboration," <https://wolfsdorf.com/avoiding-immigration-pitfalls-in-cross-company-collaboration/>; "Italy: Travel Opening to Canada, Japan, and U.S. Visitors," <https://wolfsdorf.com/italy-travel-opening-to-canada-japan-and-u-s-visitors/>; Immigration Update, https://wolfsdorf.com/immigration-update_20210823/; "The Life Sciences Talent Squeeze and Foreign-Born Workers," <https://wolfsdorf.com/the-life-sciences-talent-squeeze-and-foreign-born-workers/>; "President Biden Grants Deferred Enforced Departure for Certain Hong Kong Residents", <https://wolfsdorf.com/president-biden-grants-deferred-enforced-departure-for-certain-hong-kong-residents/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by several news outlets regarding developments in Afghanistan:

- USA Today, "Thousands of Afghans Are Looking for Refuge in the U.S. But the Immigration Process Isn't Simple." Mr. Yale-Loehr warned that the current options for Afghans are limited or complicated, such as applying for refugee status, a Special Immigrant Visa, or humanitarian parole. He also noted, "The Biden administration is going to have to walk a tightrope politically. The Biden administration has to assure the public that on the one hand they are continuing to vet all refugee applicants, and make sure that they're not terrorist threats. On the other hand, they're trying to do so quickly so that they can get people out of harm's way." <https://news.yahoo.com/thousands-afghans-looking-refuge-u-090142047.html>
- PolitiFact, "How Are Refugees Being Vetted? Here's What We Know." Mr. Yale-Loehr said, "The State Department is trying to speed up the vetting processing for SIV applicants, but it is still taking several months." <https://www.politifact.com/article/2021/aug/25/how-are-afghan-refugees-being-vetted-heres-what-we/>
- Sinclair Broadcast Group, "With 'Remain in Mexico' Order, Supreme Court Challenges Biden on Immigration." Mr. Yale-Loehr said, "The Supreme Court's decision will embolden states like Texas to continue to challenge the Biden administration's immigration policies in court. Even if the administration eventually wins on the merits, such challenges will slow down the process of making immigration policy changes." <https://krcrtv.com/news/connect-to-congress/with-remain-in-mexico-order-supreme-court-challenges-biden-on-immigration>

Mr. Yale-Loehr was quoted by Univision in "How is Biden's Asylum Policy After Ruling on the 'Remain in Mexico' Program?" Mr. Yale-Loehr said, "The government has several options. First,

it can abide by the court order and reinstate the [Migration Protection Protocols] policy and not appeal. But the government has already said it will appeal. Second, it can abide by the injunction for the time being, but also appeal on the merits, arguing that the decision of the court of first instance is wrong on the law. However, that will take several months. Third, the government can abide by the injunction for the time being, but also issue a new rule that attempts to remedy the alleged procedural problems identified by the trial court. However, a new regulation would probably take several months to go through the rulemaking process. In the short term, therefore, the Remain in Mexico policy will continue to prohibit asylum seekers from waiting in the United States for their immigration court hearing."

<https://www.univision.com/noticias/inmigracion/como-queda-la-politica-de-asilo-de-biden-tra-fallo-sobre-programa-quedate-en-mexico> (Spanish, with English translation offered)

Mr. Yale-Loehr was quoted by Voice of America in "Complex U.S. Refugee Policies Likely to Limit Number of Afghan Admissions." He said the Biden administration could use humanitarian parole, an existing refugee process, to allow Afghan refugees into the United States.

"Humanitarian parole is used to bring someone who is not otherwise eligible to enter the country, or who does not have a visa, into the United States temporarily because of an emergency or urgent humanitarian reason," he said. <https://www.voanews.com/us-afghanistan-troop-withdrawal/complex-us-refugee-policies-likely-limit-number-afghan-admissions>

Mr. Yale-Loehr was quoted by the *Ritz Herald* in "Afghan Refugees at Risk: Steps the White House Can Take to Help." He suggested a variety of actions the Biden administration could take to help Afghan refugees. "The situation in Afghanistan requires a coordinated effort. We have done that before. For example, we evacuated more than 100,000 Vietnamese to Guam before and after the fall of Saigon in 1975. After an uprising in Hungary in 1956, we admitted approximately 38,000 refugees from that country. It is our moral duty to do it again for Afghans at risk," he said. <https://ritzherald.com/afghan-refugees-at-risk-steps-the-white-house-can-take-to-help/>

Mr. Yale-Loehr was quoted in several media outlets regarding the United States offering temporary safe haven to Hong Kong residents. An article in the *South China Morning Post* notes that in 1989, President George Bush granted Chinese students temporary safe haven after Beijing's bloody crackdown on pro-democracy demonstrators, and Congress followed up by passing a law in 1992 to allow Chinese students in the United States at the time of the Tiananmen Square violence to apply for permanent residence. "If the human rights situation in Hong Kong worsens, Congress may need to do that here as well," Mr. Yale-Loehr said:

- "U.S. Offers Temporary 'Safe Haven' for Hongkongers in Response to Crackdown on Opposition," *South China Morning Post*, <https://www.scmp.com/news/china/article/3144003/us-offer-safe-haven-hongkongers-following-crackdown-opposition-and>;
- "Biden grants deportation amnesty to Hong Kong residents to protect them from Chinese crackdown," *Washington Times*, <https://www.washingtontimes.com/news/2021/aug/5/joe-biden-grants-deportation-amnesty-hong-kong-res/>

Mr. Yale-Loehr was quoted by *Univision* in "Judge Blocks Order That Allowed Cops to Stop Vehicles Transporting Immigrants in Texas." "The federal government will surely challenge Governor Abbott's immigration plans as illegal. Arizona tried something similar about 10 years ago, but the Supreme Court struck down key parts of SB 1070 as violating federal immigration law," he said. <https://www.univision.com/noticias/inmigracion/juez-bloquea-orden-que-permitio-detener-vehiculos-que-transporten-indocumentados-texas> (Spanish, with English translation offered)

Mr. Yale-Loehr was quoted by *Law360* in "DHS Defense of Trump Rules May Invite Further Litigation." He said, "We saw an explosion of efforts by the prior administration to change immigration law through regulatory proposals, and this administration has withdrawn some of them and brought back more normal regulatory proposals." Mr. Yale-Loehr also noted, however, that the Biden administration "seems intent on continuing the Trump administration's effort to

revise the H-1B program in terms of how they select individuals, going away from a lottery system to a salary-based system. That's going to be controversial and will probably generate litigation if that kind of rule is finalized." <https://www.law360.com/articles/1407896/dhs-defense-of-trump-rules-may-invite-further-litigation> (registration required).

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Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS case processing times online: <https://egov.uscis.gov/processing-times/>

Department of State Visa Bulletin: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

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