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[DOS Issues Notice of Class-Wide Relief in *Emami* Litigation](#) – The Department of State announced class-wide relief to begin August 12, 2024, following litigation, "to allow certain visa applicants who were refused visas under Presidential Proclamation 9645...to receive a one-time, non-transferable fee credit to submit a new visa application and (for eligible class members) to have the option to get a prioritized visa appointment."

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[USCIS Increases Investment and Revenue Thresholds Under International Entrepreneur Rule](#) – In a final rule effective October 1, 2024, U.S. Citizenship and Immigration Services will increase the investment and revenue thresholds under International Entrepreneur Rule, as required every three years. The application fee will not change.

[DOS Clarifies Guidance on Easing the Nonimmigrant Visa Process for College Graduates](#) – On June 18, 2024, the Biden administration announced actions to more efficiently process employment-based nonimmigrant visas for those who have graduated from college in the United States and have a job offer. As part of this initiative, the Department of State clarified existing guidance to consular officers related to when they should consider recommending that the Department of Homeland Security grant a waiver of ineligibility, where applicable.

[USCIS Issues New Policy Guidance on Noncompliance With EB-5 Regional Center Program](#) – U.S. Citizenship and Immigration Services has issued policy guidance, effective immediately, on new provisions in the Immigration and Nationality Act that cover consequences for noncompliance with the EB-5 immigrant investor regional center program.

[USCIS Publishes FAQs on H-1B Nonimmigrant Status](#) – U.S. Citizenship and Immigration Services released frequently asked questions that address common questions by individuals in H-1B nonimmigrant status, particularly related to applying for lawful permanent resident status, job changes or terminations, international travel, and dependent family members.

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[USCIS Updates Public Information on International Entrepreneur Rule](#) – U.S. Citizenship and Immigration Services (USCIS) recently updated its public information under the International Entrepreneur Rule.

[TPS Extended and Redesignated for Yemen; Work Authorization for F-1 Nonimmigrant Students From Yemen Announced](#) – The Department of Homeland Security announced that the designation of Yemen for Temporary Protected Status (TPS) has been extended and redesignated for 18 months, ending on March 3, 2026. DHS also announced work authorization relief for F-1 students from Yemen.

[Visa Bulletin: No Further Retrogression in EB-3 Category for August](#) – The bulletin notes that although retrogression has not been necessary for August in the EB-3 category, it will likely be necessary to either retrogress the final action date or make the category "Unavailable" in September.

[DHS Proposes Expansion of Hefty Fees on H-1B and L-1 Visas Under 9-11 Response and Biometric Entry-Exit Requirements](#) – The proposed regulatory changes would require covered employers to submit the 9-11 Biometric Fee for all extension-of-stay petitions, regardless of whether a Fraud Fee applies, so as to include extension-of-stay petitions that do not involve a change of employer. The 9-11 Biometric Fee would continue to apply unchanged to petitions seeking an initial grant of status.

[USCIS Seeks Comments on Revisions to Application for Employment Authorization](#) – Comments are due by August 12, 2024.

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[ABIL Global: France](#) – A new law to control immigration entered into force on January 26, 2024. France also announced procedures related to the Olympic and Paralympic Games in Paris and other cities this summer, and France is on notice for failure to transpose a European Union directive relating to the European Blue Card.

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USCIS Will Conduct Second Random Selection for Regular Cap From Previously Submitted FY 2025 H-1B Cap Registrations

Following its initial selections in March 2024, U.S. Citizenship and Immigration Services (USCIS) announced that it will need to select additional registrations for unique beneficiaries to reach the FY 2025 regular cap numerical allocation. USCIS will make the selections from previously submitted electronic registrations using a random selection process.

USCIS said it will notify prospective petitioners with selected registrations that they are eligible to file an H-1B cap-subject petition for the beneficiary. Those with selected registrations will have their USCIS online accounts updated to include a selection notice, which includes details of when and where to file.

USCIS will not conduct a second selection for the advanced degree exemption (master's cap) because a sufficient number of master's cap registrations were already selected and petitions received are projected to meet the FY 2025 master's cap numerical allocation. The second round of selection for the regular cap will include previously submitted registrations that indicated eligibility for the master's cap along with those that indicated only eligibility for the regular cap.

Details:

- [USCIS notice](#) (July 30, 2024).

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I-9 Expiration Date Extended

U.S. Citizenship and Immigration Services (USCIS) has extended the expiration date of [Form I-9, Employment Eligibility Verification](#), to 05/31/2027.

Employers must use the Form I-9 with the edition date of 08/1/23, which may have an expiration date of either 07/31/2026 or 05/31/2027. Either form may be used until its respective expiration date, USCIS said. However, downloads from the Form I-9 download page will only include the new 05/31/2027 expiration date.

USCIS said that employers "are encouraged to update their electronic Forms I-9 systems to use the 05/31/2027, expiration date as soon as possible and must do so no later than July 31, 2026, the expiration date on the previously issued Form I-9."

Details:

- [USCIS notice](#) (Aug. 2, 2024).

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USCIS Releases Stats on O-1A Visas, National Interest Waivers, and EB-2 Receipts Since 2022 Guidance

U.S. Citizenship and Immigration Services (USCIS) has reported movement in the numbers of O-1A and EB-2 visa applications and approvals since Biden administration guidance was released in early 2022, along with an overall increase in applications for national interest waivers, although the approval rate for the latter declined. The approval rate for both O-1A and EB-2 applications remained at 90 percent or above in fiscal years (FYs) 2018 through 2023. Below are highlights.

O-1A Visas: Applications and Approvals Increased

According to reports, after the Biden administration announced new guidance in January 2022, there were significant increases in applications and approvals for high-skilled visas, including O-1A visas for individuals with an extraordinary ability in the sciences, education, business, or athletics (not including the arts, motion pictures, or television industry).

The 2022 guidance provided "examples of evidence that may satisfy the O-1A evidentiary criteria and discusse[d] considerations that are relevant to evaluating such evidence, with a focus on the highly technical nature of STEM [science, technology, engineering, and mathematics] fields and the complexity of the evidence often submitted."

U.S. Citizenship and Immigration Services (USCIS) reported that from FY 2021 to FY 2022, total receipts of Forms I-129 for O-1A petitioners increased 29 percent, from 7,710 to 9,970. They continued to increase slightly from 9,970 in FY 2022 to 10,010 in FY 2023. Approvals followed a similar trend by increasing by 25 percent from FY 2021 to FY 2022, from 7,320 to 9,120. They continued to increase slightly from 9,120 in FY 2022 to 9,490 in FY 2023. The approval rate remained stable at 90 percent or above in FYs 2018 through 2023.

EB-2 Receipts Increased; Approvals Increased, Then Decreased

There were also increases in EB-2 receipts, although approvals declined after increasing. USCIS reported that from FY 2021 to FY 2022, total receipts of Forms I-140 with and without waivers (combined) increased by 20 percent, from 70,600 to 84,470. Receipts continued to increase by another 10 percent from FY 2022 to FY 2023. Approvals increased by 60 percent from 57,810 in FY 2021 to 92,280 in FY 2022 but decreased about 12 percent from 92,280 in FY 2022 to 81,380 in FY 2023. The approval rate remained at 90 percent or above in FYs 2018 through 2023.

USCIS also noted that total EB-2 receipts in STEM job categories decreased by almost 13 percent, from 61,790 in FY 2022 to 53,960 in FY 2023. Receipts in non-STEM job categories increased by 28 percent during that time. Increasing numbers of EB-2 petitioners are requesting national interest waivers.

Details:

- [STEM-Related Petition Trends: EB-2 and O-1A Categories FY 2018-FY 2023](#), USCIS (N.D.)
- [O-1A Visas, National Interest Waivers Rise After Immigration Guidance](#), Forbes (July 30, 2024).

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DOS Issues Notice of Class-Wide Relief in *Emami* Litigation

The Department of State (DOS) announced class-wide relief to begin August 12, 2024, following litigation in the consolidated cases *Emam v. Mayorkas* and *Pars Equality Center v. Blinken*, "to allow certain visa applicants who were refused visas under Presidential Proclamation 9645...to receive a one-time, non-transferable fee credit to submit a new visa application and (for eligible class members) to have the option to get a prioritized visa appointment." The fee credit may be used once toward any immigrant or nonimmigrant visa at any U.S. embassy or consulate, DOS said.

Class members include eligible nationals of Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen who were denied a visa under Presidential Proclamation 9645 between December 8, 2017, and January 20, 2021, and did not receive a waiver under Presidential Proclamation 9645. The notice includes details on eligibility and how to apply.

Details:

- [DOS notice](#) (Aug. 2, 2024).

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CIS Ombudsman Expands Nationwide Reach With Regional Representatives

The Citizenship and Immigration Services (CIS) Ombudsman has expanded its reach across the United States with four regional representatives based in Los Angeles (Western), Dallas (Central), Boston (Northeast), and Orlando (Southeast).

According to a statement from the CIS Ombudsman's office, the regional representatives will:

- Engage with local immigration stakeholders to build relationships and hear about their experiences with U.S. Citizenship and Immigration Services (USCIS);
- Help identify issues that may only be occurring in specific areas or USCIS offices;
- Share feedback from local stakeholders with the CIS Ombudsman's headquarters team to inform the recommendations it sends to USCIS to improve the agency's policies and processes; and
- Provide an overview of the CIS Ombudsman's case assistance services and clarify the process to the public.

The CIS Ombudsman said its public engagement team will continue to meet with stakeholders throughout the country, focusing on national and international organizations and employers, foreign embassies and consulates, and headquarters-level components of other federal departments and agencies.

Details:

- [CIS Ombudsman statement](#) (Aug. 2, 2024).

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DHS Adds Environmental Economics to STEM Designated Degree Program List

Effective July 23, 2024, the Department of Homeland Security (DHS) has amended its STEM [Science, Technology, Engineering and Mathematics] Designated Degree Program List by adding "Environmental/Natural Resource Economics" to the qualifying fields of study, and the corresponding Department of Education Classification of Instructional Programs code for that field:

The list is used to determine whether a degree obtained by certain F-1 nonimmigrant students following the completion of a program of study qualifies as a STEM degree as determined by DHS, as required for the F-1 student to be eligible to apply for a 24-month extension of their post-completion optional practical training (OPT) work authorization (EAD).

Details:

- [DHS notice](#), 89 Fed. Reg. 59748 (July 23, 2024).

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White House Orders Deferred Enforced Departure for Certain Lebanese Nationals

On July 26, 2024, President Biden issued a memorandum directing the deferral, for 18 months, of the removal of any Lebanese national who was present in the United States on that date, with a few exceptions.

The memo also directs the Department of Homeland Security to authorize employment for noncitizens whose removal has been deferred under the memo for the duration of such deferral, and to consider suspending regulatory requirements with respect to F-1 nonimmigrant students who are Lebanese nationals "as the Secretary of Homeland Security determines to be appropriate."

Details:

- [White House memorandum](#) (July 26, 2024).

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USCIS Increases Investment and Revenue Thresholds Under International Entrepreneur Rule

In a final rule effective October 1, 2024, U.S. Citizenship and Immigration Services (USCIS) will increase the investment and revenue thresholds under the [International Entrepreneur Rule](#) (IER), as required every three years. The application fee will not change.

The IER allows the Department of Homeland Security (DHS) to "grant a period of authorized stay [parole], on a case-by-case basis, to noncitizen entrepreneurs who show that their stay in the United States would provide a significant public benefit through their business venture and that they merit a favorable exercise of discretion." Under the rule, entrepreneurs granted parole are eligible to work only for their start-up businesses. The spouses and children of noncitizen entrepreneur may also be eligible for parole.

USCIS will make the following adjustments:

- For an initial application, entrepreneurs must show at least **\$311,071** (currently \$264,147) in qualified investments from qualifying investors, at least **\$124,429** (currently \$105,659) in qualified government awards or grants, or, if only partially meeting the threshold investment or award criteria, alternative reliable and compelling evidence of the start-up entity's substantial potential for rapid growth and job creation.
- For a second period of authorized stay under the IER, the entrepreneur generally must demonstrate that the start-up entity has either:
 - Received a qualified investment, qualified government grants or awards, or a combination of such funding, of at least **\$622,142** (currently \$528,293);
 - Created at least five qualified jobs; or
 - Reached annual revenue in the United States of at least **\$622,142** (currently \$528,293) and averaged at least 20% in annual revenue growth.
- The definition of a "qualified investor" requires the investor to have a history of substantial investment in successful startup entities. USCIS generally considers such an individual or organization a qualified investor if, during the preceding five years, the following apply:

- The individual or organization made investments in startup entities of at least **\$746,571** (currently \$633,952) in total, in exchange for equity, convertible debt, or other security convertible into equity commonly used in financing transactions within the startup entities' respective industries; and
- After such investment by such individual or organization, at least two such startup entities each created at least five qualified jobs or generated at least **\$622,142** (currently \$528,293) in revenue with average annualized revenue growth of at least 20%.

Details:

- [USCIS final rule](#), 89 Fed. Reg. 60298 (July 25, 2024).

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[DOS Clarifies Guidance on Easing the Nonimmigrant Visa Process for College Graduates](#)

On June 18, 2024, the Biden administration announced actions to more efficiently process employment-based nonimmigrant visas for those who have graduated from college in the United States and have a job offer. As part of this initiative, on July 15, 2024, the Department of State (DOS) clarified existing guidance to consular officers related to when they should consider recommending that the Department of Homeland Security grant a waiver of ineligibility under INA § 212(d)(3), where applicable.

The DOS guidance explains that there is a clear and significant U.S. public interest in requesting a waiver on an expedited basis "if the applicant has graduated with a degree from an institution of higher education in the United States, or has earned credentials to engage in skilled labor in the United States, and is seeking to travel to the United States to commence or continue employment with a U.S. employer in a field that requires the education that the applicant attained in the United States."

Details:

- [DOS notice](#) (July 15, 2024).
- [DOS Foreign Affairs Manual guidance](#) (July 15, 2024).
- White House [Fact Sheet](#) (June 18, 2024).

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[USCIS Issues New Policy Guidance on Noncompliance With EB-5 Regional Center Program](#)

U.S. Citizenship and Immigration Services (USCIS) has issued policy guidance, effective immediately, on new provisions in the Immigration and Nationality Act (INA) that cover consequences for noncompliance with the EB-5 regional center program.

The guidance updates Part G, Investors, in [Volume 6 of the Policy Manual](#), to incorporate statutory reforms included in the [EB-5 Reform and Integrity Act of 2022](#) (RIA). USCIS explained:

The guidance interprets the provisions related to sanctions, including terminations, debarments, and suspensions, for noncompliant regional centers, new commercial enterprises, job-creating entities, investors, and others. The guidance also explains what may be considered threats to the national interest, fraud, intentional material misrepresentation, deceit, and criminal misuse in the context of discretionary determinations that require us to take adverse action on certain

EB-5 petitions, applications, and benefits. It also outlines special considerations for good-faith pre-RIA investors a to retain eligibility under INA sec. 203(b)(5)(M) after we terminate or debar their regional center, new commercial enterprise, or job-creating entity due to noncompliance.

Details:

- [USCIS alert](#) (July 16, 2024).

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USCIS Publishes FAQs on H-1B Nonimmigrant Status

U.S. Citizenship and Immigration Services (USCIS) released frequently asked questions (FAQs) that address common questions by individuals in H-1B nonimmigrant status, particularly related to applying for lawful permanent resident (LPR) status, job changes or terminations, international travel, and dependent family members.

For example, USCIS noted that:

- An eligible H-1B worker can change employers as soon as the new employer’s nonfrivolous H-1B petition is properly filed with USCIS.
- USCIS will not revoke a Form I-140 petition approval solely due to termination of the petitioner's business or the employer's withdrawal, as long as the petition has been approved for at least 180 days or the associated adjustment of status application has been pending for at least 180 days, and the petition approval is not revoked on other grounds. In this scenario, the H-1B worker would retain their priority date.
- When an H-1B worker's employment is terminated (either voluntarily or involuntarily), they typically may take one of several actions to remain in a period of authorized stay in the United States beyond 60 days.

A chart in the FAQs summarizes some common scenarios for H-1B workers.

Details:

- USCIS [FAQs for Individuals in H-1B Nonimmigrant Status](#) (July 17, 2024).

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TPS Extended and Redesignated for Somalia; Work Authorization for F-1 Nonimmigrant Students From Somalia Announced

The Department of Homeland Security (DHS) announced that the designation of Somalia for Temporary Protected Status (TPS) has been extended and redesignated for 18 months, from September 18, 2024, to March 17, 2026. DHS also announced work authorization relief for F-1 students from Somalia. Below are highlights of DHS's actions.

TPS Extension and Redesignation

The 60-day re-registration period for existing beneficiaries began July 22, 2024, and runs through September 20, 2024. U.S. Citizenship and Immigration Services (USCIS) encourages those who currently have TPS to timely re-register during the re-registration period and not wait until their Employment Authorization Documents (EADs) expire because delaying re-registration could result in gaps in their

employment authorization documentation. DHS said that USCIS will continue to process pending applications filed under previous TPS designations for Somalia.

The redesignation of Somalia for TPS allows an estimated 4,300 Somali nationals (and individuals having no nationality who last habitually resided in Somalia) who have been continuously residing in the United States since July 12, 2024, to file initial applications for TPS if they are otherwise eligible. The extension of TPS for Somalia allows approximately 600 current beneficiaries to retain TPS through March 17, 2026, if they continue to meet TPS eligibility requirements.

DHS said it recognizes that not all re-registrants may receive a new EAD before their current EAD expires. For that reason, DHS is automatically extending through September 17, 2025, the validity of certain EADs previously issued under Somalia's TPS designation.

Work Authorization Relief for F-1 Nonimmigrant Students From Somalia

DHS is also suspending certain regulatory requirements for F-1 nonimmigrant students from Somalia. These 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 their F-1 nonimmigrant status.

An F-1 nonimmigrant student must file Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the current crisis in Yemen.

Details:

- [DHS news release](#) (July 19, 2024).
- USCIS TPS notice, 89 Fed. Reg. 59135 ([advance copy](#)) (July 22, 2024).
- U.S. Immigration and Customs Enforcement notice on employment authorization for F-1 students from Somalia, 89 Fed. Reg. 59129 ([advance copy](#)) (July 22, 2024).

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USCIS Updates Public Information on International Entrepreneur Rule

U.S. Citizenship and Immigration Services (USCIS) recently updated its public information under the [International Entrepreneur Rule](#) (IER). USCIS noted that the rule allows the Department of Homeland Security (DHS) to "grant a period of authorized stay [parole], on a case-by-case basis, to noncitizen entrepreneurs who show that their stay in the United States would provide a significant public benefit through their business venture and that they merit a favorable exercise of discretion."

Under the rule, entrepreneurs granted parole are eligible to work only for their start-up business. The spouse and children of the noncitizen entrepreneur may also be eligible for parole, USCIS noted. The agency listed several "threshold criteria and key elements" of the rule:

- Entrepreneurs may be either living abroad or already in the United States.
- Start-up entities must have been formed in the United States within the past five years.

- Start-up entities must demonstrate substantial potential for rapid growth and job creation by showing at least \$264,147 in qualified investments from qualifying investors, at least \$105,659 in qualified government awards or grants, *or* alternative evidence.
- The spouse of the entrepreneur may apply for employment authorization after being paroled into the United States.
- The entrepreneur may be granted an initial parole period of up to 2½ years. If approved for re-parole, based on additional benchmarks in funding, job creation, or revenue described in the guidance, the entrepreneur may receive up to another 2½ years, for a maximum of five years. (At that point or earlier, there are other [Options for Noncitizen Entrepreneurs to Work in the United States](#), USCIS noted.)
- Up to three entrepreneurs per start-up can be eligible for parole under the rule.

Details:

- [USCIS guidance](#) (July 12, 2024).

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TPS Extended and Redesignated for Yemen; Work Authorization for F-1 Nonimmigrant Students From Yemen Announced

The Department of Homeland Security (DHS) announced that the designation of Yemen for Temporary Protected Status (TPS) has been extended and redesignated for 18 months, beginning on September 4, 2024, and ending on March 3, 2026. DHS also announced work authorization relief for F-1 students from Yemen. Below are highlights of DHS's actions.

TPS Extension and Redesignation for Yemen

This extension and redesignation allows Yemeni nationals (and individuals having no nationality who last habitually resided in Yemen) who have been continuously residing in the United States since July 2, 2024, and who have been continuously physically present in the United States since September 4, 2024, to apply or re-register for TPS, the notice states.

The 60-day re-registration period for existing beneficiaries began on July 10, 2024, and runs through September 9, 2024. U.S. Citizenship and Immigration Services encouraged re-registrants to timely re-register during the re-registration period and not wait until their Employment Authorization Documents (EADs) expire because delaying re-registration could result in gaps in their employment authorization documentation.

The redesignation of Yemen for TPS allows an estimated 1,700 Yemeni nationals (and individuals having no nationality who last habitually resided in Yemen) who have been continuously residing in the United States since July 2, 2024, to file initial applications for TPS if they are otherwise eligible, the notice states. The extension of TPS for Yemen allows approximately 2,300 current beneficiaries to retain TPS through March 3, 2026, if they continue to meet TPS eligibility requirements.

Work Authorization Relief for F-1 Nonimmigrant Students From Yemen

DHS is also suspending certain regulatory requirements for F-1 nonimmigrant students from Yemen who are experiencing severe economic hardship as a direct result of the current crisis in Yemen. These 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 their F-1 nonimmigrant status. This action covers eligible F-1 nonimmigrant students from Yemen beginning on September 4, 2024, and ending on March 3, 2026.

An F-1 nonimmigrant student must file Form I-765, Application for Employment Authorization, with U.S. Citizenship and Immigration Services to apply for off-campus employment authorization based on severe economic hardship directly resulting from the current crisis in Yemen.

Details:

- [DHS notice of TPS extension and redesignation for Yemen](#), 89 Fed. Reg. 56765 (July 10, 2024).
- [DHS notice of work authorization relief for Yemeni F-1 nonimmigrant students](#), 89 Fed. Reg. 56759 (July 10, 2024).
- [DHS news release](#) on Yemeni TPS (July 8, 2024).

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Visa Bulletin: No Further Retrogression in EB-3 Category for August

The Department of State's [Visa Bulletin for August 2024](#) shows no further retrogression in the EB-3 visa category following retrogression in [July](#). However, the August bulletin notes:

As readers were informed in Item D of the July 2024 *Visa Bulletin*, demand and number use has remained high in the EB-3 visa category. Although retrogression has not been necessary for August, it will likely be necessary to either retrogress the final action date or make the category "Unavailable" in September. This situation will be continually monitored, and any necessary adjustments will be made accordingly.

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DHS Proposes Expansion of Hefty Fees on H-1B and L-1 Visas Under 9-11 Response and Biometric Entry-Exit Requirements

The Department of Homeland Security (DHS) has proposed to amend and clarify regulations concerning the 9-11 Response and Biometric Entry-Exit fee for H-1B and L-1 visas. The proposed regulatory changes would require covered employers to "submit the 9-11 Biometric Fee for all extension-of-stay petitions, regardless of whether a Fraud Fee applies, so as to include extension-of-stay petitions that do not involve a change of employer. The 9-11 Biometric Fee would continue to apply unchanged to petitions seeking an initial grant of status."

Reaction. Commenting on the proposed rule on July 8, 2024, the American Immigration Lawyers Association (AILA) noted that "DHS is proposing to significantly change its interpretation regarding when the 9-11 Biometric Fee, implemented under Public Law 114-113 for H-1B and L-1 visas, is required. This law created an additional fee of \$4,000 for H-1B petitions and \$4,500 for L-1 petitions when H-1B or L-1 workers comprise more than 50% of the petitioner's U.S. workforce (Covered Employers). This fee is in addition to the other filing fees associated with these petitions." In 2019, AILA explained, "in response to the DHS proposed revisions to the USCIS fee schedule that was ultimately enjoined, AILA urged DHS not to adopt the same statutory interpretation it proposes now, citing, among other reasons, the significant harm it would cause for certain U.S. employers, and that it was contrary to the plain language and intent of the statute." In its comment, AILA delineated the reasons for its disagreement with the current proposal, which would require covered employers to pay the 9-11 Biometric Fee "not only for initial

benefit requests with which all employers must include the Fraud Fee but also for requests by the same Covered Employer to extend the same worker's H-1B or L-1 status, even though in the latter scenario the Fraud Fee is not required."

Details:

- [DHS proposed rule](#) (U.S. Customs and Border Protection), 89 Fed. Reg. 48339 (June 6, 2024).
- [AILA comment](#) (July 8, 2024).

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USCIS Seeks Comments on Revisions to Application for Employment Authorization

U.S. Citizenship and Immigration Services (USCIS) seeks additional comments on its revisions to [Form I-765, Application for Employment Authorization](#). Comments are due by August 12, 2024.

The notice states that instead of going to a Social Security Office, an applicant for work authorization can now apply for a Social Security Number (SSN) and Social Security card using Form I-765. If the relevant data elements are filled out, USCIS will send the applicant's information to the Social Security Administration (SSA) upon approval of the employment authorization request. If the applicant already has an SSN and requested a Social Security card on Form I-765, SSA will issue a replacement SSN card.

Details:

- [USCIS 30-day notice](#), 89 Fed. Reg. 57159 (July 12, 2024).

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OFCL Releases Technical Notes on How It Will Apply the 2018 Standard Occupational Classification to Wages

The Department of Labor's Office of Foreign Labor Certification (OFCL) released [technical notes](#) that explain how OFCL will apply the 2018 Standard Occupational Classification (SOC) structure to Occupational Employment and Wage Statistics (OEWS) wages for the July 2024 through June 2025 wage year.

OFCL said that OEWS has aggregated certain 2018 SOC detailed occupations into a single broad occupation. OFCL will apply the single broad occupation wage estimate to each of the 2018 SOC detailed occupations. OEWS has published a list of OEWS occupations and definitions that include 2018 SOC detailed occupations that have been aggregated; a link to the list is included in the technical notes.

OFCL also explained that in certain instances, the 2018 SOC codes "may be aggregated, may not have wage estimates due to OEWS data limitations, may not have American Competitiveness and Workforce Improvement Act (ACWIA) Higher Education wage estimates due to OEWS data limitations, or may not have Job Zone data due to the Occupational Information Network (O*NET) data limitations." The technical notes include examples of such instances.

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ABIL Global: France

A new law to control immigration entered into force on January 26, 2024. France also announced procedures related to the Olympic and Paralympic Games in Paris and other cities this summer, and France is on notice for failure to transpose a European Union directive relating to the European Blue Card.

The new law's legislative journey and the media debate around it have been very intense over several months. Important measures like massive regularization of undocumented workers in short-staffed professions have finally been rejected by the Senate.

The legislative process has been lively: after the adoption by the Senate of a text presenting several setbacks for foreigners' rights, a motion for prior rejection was adopted by the National Assembly. Finally, Deputies from the majority, the right wing, and the far right wing agreed on the final text, including several measures already identified as unconstitutional.

The Constitutional Council, in its decision of January 25, censored 35 articles of the law. The Constitutional Council has deemed the following measures unconstitutional:

- *Migration quotas.* The law planned the establishment of "quotas" to cap for the next three years the number of foreigners admitted to the country. Because this measure was considered unconstitutional by the Constitutional Council, quotas will not be implemented.
- *Family reunification.* The conditions for family reunification will remain the same. The extension of the duration of residence in France for more than 24 months has been deemed unconstitutional as well as the other new measures regarding family reunification.

With regard to aspects relating more to private life, the following measures deemed unconstitutional have been excluded:

- Tightening of the conditions to be met by a foreigner married to a French national to be issued with a temporary residence permit bearing the title "private and family life" for a period of one year;
- Tightening of the conditions for issuing a residence permit for reasons of study; and
- Full right issuance of a long-stay visa to British nationals who own a secondary home in France.

Legislative Changes

Measures under this new law that directly impact professional immigration include:

Talent Passport Residence Permits

"Talent Passport" residence permits change their name to "Talent" residence permits, in a simplification effort.

The following three Talent Passport residence permits all merge to a single "Talent—Qualified employee" residence permit: (1) Talent—Passport Qualified employee, (2) Talent Passport employee of an innovative company, and (3) Talent Passport intra-company. This simplification does not modify the initial conditions required for each status, but the minimum salary thresholds could change since the article refers to "*a salary threshold set by decree in the Council of State,*" which has not yet been published.

The following three Talent Passport residence permits will all merge into a single "Talent—Project Bearer" residence permit: (1) Talent Passport—Business Creation, (2) Talent Passport innovative economic project, and (3) Talent Passport economic investment.

The new law also creates a "Talent—medical and pharmacy professions" residence permit for doctors, midwives, dental surgeons, and pharmacists.

Regularization of Undocumented Workers in Short-Staffed Professions

The law gives prefects discretion to regularize an undocumented worker who has lived in France for at least three years; worked at least 12 months, consecutive or not, over the last 24 months; and has a job in a short-staffed profession in a specific area. This will allow the issuance of a residence permit bearing the title "temporary worker" or "employee" for a period of one year. The worker can apply without the employer's approval.

Olympic Games 2024

The Olympic Games are taking place in Paris and other cities (Marseille, Toulouse, Lille). They began July 26 and will run until August 11, 2024. The Paralympic Games will take place from August 28 to September 8, 2024.

Among measures for foreigners is the possibility for foreign students to participate in private security activities. The work time performed in these activities will not be considered in the calculation of the ancillary work time allowed for foreign students, which is 60 percent of the annual work time (i.e., around 964 hours per year).

Also, according to the French Ministry and consulates in the United States, a simplified process has been implemented for travelers for whom an accreditation request is submitted to the Olympic or Paralympic Committee, such as members of the Olympic and Paralympic Committees, athletes, accompanying persons, media, and official guests.

They can appear in any visa center to apply for a visa without an appointment; a time slot is dedicated to them every morning. They only need to provide their passport, proof of accreditation, and photos. Fingerprinting takes place as well. There are no visa fees to be paid and no visa form to be filled out before submission of the application.

Absence of Transposition of EU Blue Card Directive

On January 25, 2024, the European Commission announced adoption of a set of decisions concerning delays in the transposition of European Union (EU) Directives. France is on notice for failure to transpose the directive of October 20, 2021, relating to the European Blue Card.

States had until November 18, 2023, to adapt their internal laws to EU Directives. In France, the law of January 26, 2024 (which includes several articles related to the work of foreigners) did not include any modification of the Foreigners Code (CESEDA) for European Blue Card status.

French authorities had two months to respond and complete the transposition. Failing this, the Commission could issue a reasoned opinion and, in the absence of a response, bring the matter before the EU Court of Justice. As of early August, there was no update regarding the transposition of the EU Blue Card Directive into French law, and the Commission had not yet issued its opinion.

The Foreigners Code (CESEDA) includes several provisions relating to the multi-year "talent, European blue card" residence card, but those are not in line with the Directive: the possibility for the foreigner to present an employment contract or a job offer of at least six months (currently 12 months); duration of

the residence permit set at a minimum of 24 months (currently one year); and possible mobility to another Member State after 12 months of legal residence in the first Member State (instead of 18).

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New Publications and Items of Interest

On August 7, 2024, the [Department of Labor](#) will host a public [webinar](#) (scroll to July 26, 2024) to educate stakeholders, program users, and other interested members of the public on the changes to the H-2A nonimmigrant agricultural workers program made by the 2024 H-2A Farmworker Protection Final Rule. Participants in this webinar will receive tips on the new forms, filing instructions, and explanation of the transition process. The Final Rule became effective June 28, 2024, and the Office of Foreign Labor Certification will begin accepting applications subject to the provisions of this rule on August 29, 2024.

[Video of briefing on executive actions to streamline D-3 waivers and access to employment-based visas for college and university graduates, including Dreamers.](#) On July 10, 2024, the Presidents' Alliance, TheDream.US, Cornell Law School, and partners hosted a [briefing](#) on the significance of the Biden-Harris administration's new executive actions to streamline D-3 waivers and access to employment-based visas for eligible college and university graduates, including Deferred Action for Childhood Arrivals (DACA) recipients and other Dreamers. The briefing covered various topics, including who could be eligible and how businesses and campuses can engage to support eligible beneficiaries.

[CIS Ombudsman updated FAQ page, webinar on Annual Report.](#) The Citizenship and Immigration Services Ombudsman recently updated its [Frequently Asked Questions page](#). Also, the CIS Ombudsman held a [webinar](#) on its [2024 Annual Report](#) on July 30, 2024.

[E-Verify webinars:](#) E-Verify has updated its [calendar of webinars](#). There is a new webinar focusing on acceptable documents for the Form I-9 work authorization verification process, to be presented August 14 and 27, 2024. Other topics include E-Verify for existing and Web services users, employee rights, employer responsibilities, information for federal contractors, an overview of E-Verify and Form I-9 requirements, and myE-Verify, among others.

[SAVE webinars:](#) Systematic Alien Verification for Entitlements (SAVE) has updated its [calendar of webinars](#). Topics include current users and best practices, and an overview.

[Immigration agency X \(formerly Twitter\) accounts:](#)

- EOIR: [@DOJ_EOIR](#)
- ICE: [@ICEgov](#)
- Study in the States: [@StudyinStates](#)
- USCIS: [@USCIS](#)

[Alliance of Business Immigration Lawyers:](#) ABIL is available on X (formerly Twitter): [@ABILImmigration](#)

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Dagmar Butte was quoted by *Forbes* in [O-1A Visas, National Interest Waivers Rise After Immigration Guidance](#). She said she was not surprised that the approval rate for national interest waivers declined. "I think while the category has been broadened, *Matter of Dhanasar* still rules the day, so for me, every case has to pass that test before I'll file it." Ms. Butte referenced the Administrative Appeals Office decision [Matter of Dhanasar](#) (December 27, 2016), which established a three-factor test for national interest waivers.

Glasko Immigration Law Partners, LLP (KILP) is celebrating its [20th anniversary](#) since its formation as a firm in 2004. Since its inception, KILP has grown from four partners to nine, from 30 employees to more than 110, from offices in two cities to offices in three cities with employees in 19 states. Over the last 20 years, KILP attorneys and the firm have been recognized by various publications, such as *Chambers and Partners*, *U.S. News & World Report's* Best Lawyers in America®, Best Law Firms in America®, and Best Companies to Work For; *EB5 Investors* magazine; *Human Resources Executive* magazine; *Lawdragon*; and *Lexology*.

Cyrus Mehta authored a blog post: [Obtaining Advance Parole on a Pending Adjustment of Status Application](#).

Mr. Mehta and **Jessica Paszko** authored a blog post: [Does the Signing of the I-485 Supplement J by a New Employer Constitute Visa Sponsorship?](#)

Greg Siskind of **Siskind Susser PC** authored a [column on mastermind groups](#) that was published by the American Bar Association (available by registration).

Jason Susser of **Siskind Susser PC** was quoted extensively by *Forbes* in [USCIS Seeks to Boost Immigration Policy for Entrepreneurs](#) (available via subscription). The article explains that Mr. Susser obtained approval for a client in the United States under the International Entrepreneur Rule, but the process took a long time, and the client returned to Canada and now runs a business there. "She was a graduate student and built a nice company. It took so long to get approved, and Canada has some major tax credits for startup [research and development] salaries that she told me she probably will not use the parole under the International Entrepreneur Rule after waiting two years and will remain in Canada." The article notes that Mr. Susser said his client raised more than \$1 million after completing her MBA at Stanford. Nine months passed after submitting the application before receiving a Request for Evidence from USCIS. "The first red flag was that the RFE came from the Immigrant Investor Program office, which are the officers who deal with EB-5 applications, and that program is notoriously slow. Then the RFE did not ask about the client but instead entirely focused on whether the U.S. investor is a 'qualified investor.' Even there, the big hang-up with the investor was not whether he had invested, but instead whether his investments in other companies had led to the required growth." He said, "They were asking for documents of the U.S. investor's other portfolio companies, which were unrelated to the case. Even though the investors we were working with were very supportive, they couldn't go to companies they have invested in and ask for their employees' I-9s, taxes and other private information to give to another company for an immigration case." The case was approved after about two years, the article notes, but by that time, the client had decided to remain in Canada.

WR Immigration published a blog post: [Corporate & Counsel Interlude: Employer Impact Statement on Parole and DACA/Dreamer Executive Order](#).

The *Cornell International Law Journal* will host "The (Im)possibility of Immigration Reform?," a symposium celebrating the career of [Stephen Yale-Loehr](#) and his contributions to the field of immigration law. The symposium will be held at Cornell Law School on November 8, 2024, from 9:30 a.m. to 4 p.m., followed by a reception. Register to attend the symposium [in person](#), or if you are unable to attend in person, there is a [webinar option](#).

Mr. Yale-Loehr was quoted by the *Boston Globe* in ['Czar' or Not, Harris Bungled Immigration](#). He said that "it's difficult to figure out what can be accomplished in a short period of time. I think she started the groundwork" to address the root causes of migration from Central America to the United States.

Mr. Yale-Loehr was quoted by the *Chicago Sun-Times* in [Immigration Advocates in Chicago "Disappointed and Angry" Over Lack of Reforms, Plan DNC Protests](#). "I think there will be a lively debate at the Democratic National Convention in Chicago about immigration," he said. "The Biden administration has done a lot, but really Congress needs to step up the plate to enact immigration reform to once and for all cure our broken immigration system."

Mr. Yale-Loehr was quoted by *Syracuse.com* in [Ecuadoran Accused of Killing Woman in Syracuse Was Waiting in U.S. for Immigration Hearing](#) (available by subscription). He discussed what happens when a person crosses the border, with the overarching question of whether a person will be released into the United States or sent back. He noted that those requesting asylum will be asked whether they have a credible fear of persecution in their home country. If the answer is yes and the person provides an answer that doesn't seem "frivolous," they are let go with a court date and can remain in the United States while their asylum application is pending. Later they need to appear in immigration court and convince an immigration judge that their fear is based on one of the asylum grounds to remain in the United States, Mr. Yale-Loehr explained. In the case discussed in the article, the man accused of the murder, if convicted, is likely to serve a long sentence and be deported after completing it. "It's clear that now he has come to the attention of the immigration authorities. No matter what happens with the criminal trial, he's got immigration issues he's going to have to deal with."

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Government Agency Links

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

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

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

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About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 400 member lawyers and their more than 1,000 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <https://www.abil.com/>. ABIL is also on X (formerly Twitter): @ABILImmigration.

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