

Siskind's Immigration Bulletin
June 28, 2004

Published by Greg Siskind, partner at the Immigration Law Offices of Siskind Susser, Attorneys at Law; telephone: 800-748-3819, 901-737-3194 or 615-345-0225; facsimile: 800-684-1267 or 630-604-9306, email: gsiskind@visalaw.com, WWW home page: <http://www.visalaw.com>.

Siskind Susser serves immigration clients throughout the world from its offices in the US, Canada, Mexico, Argentina and the People's Republic of China. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>.

Editor: Greg Siskind. Associate Editor: Penny Egel. Contributors: Paola Palazzolo, Rae Richardson, Esther Schachter, Maryam Tanhaee, Megan Turngren, Claire Workman and Joel Wimbiscus.

To receive a free e-mail subscription to Siskind's Immigration Bulletin, fill out the form at <http://www.visalaw.com/subscribe2.html>. To unsubscribe, send your request to visalaw-unsubscribe@topica.com.

To subscribe to the free Siskind's Immigration Professional Newsletter, go to <http://www.visalaw.com/sip-intro.html>.

Are you a jobseeker looking for an employer to sponsor your work visa?
Are you an employer or recruiter who can benefit from free online job postings?
Visit [Visajobs.com](http://www.visajobs.com), the online career network, and create your new account (<http://www.visajobs.com>).

1. Openers
 2. The ABC'S Of Immigration: J-1 Visas - Waivers of the Two-Year Home Residency Requirement
 3. Ask Visalaw.com
 4. Border and Enforcement News
 5. News From The Courts
 6. Government Processing Times
 7. News Bytes
 8. International Roundup
 9. Legislative Update
 10. Campaign 2004
 11. USCIS Unveils Updated Version of Backlog Elimination Plan
 12. Immigration: Foreign Physicians and the J-1 Visa Waiver Program
 13. GAO Reports That Although SEVIS is Improving, Issues Remain
 14. USCIS Sets Goals on its One-Year Anniversary
 15. Immigrants Fill 3 Out of 10 of New Jobs
 16. Interior Border Patrol Checks Create Fear
 17. Department of State Will Cease Revalidation in the U.S. of Certain Non-immigrant Visas
-

1. Openers

Dear Readers:

Many readers have written to me asking about the report in our last issue that visa revalidation would be ending on July 16th. So here's a quick primer. Visa revalidation is a process where a person in the US in certain visa categories – E, H-1B, L, I and a few others – can get a new visa stamp rather than traveling to a consulate when they leave the US. This is only available if you have previously gotten a visa stamp abroad in that particular category and you are applying for a new stamp in that category within a year of the visa stamp expiring. This is a process that is not used very often anyway because it means parting with your passport for 3 to 6 months while waiting on the new stamp.

Visa revalidation does NOT apply to extensions of status and changes of status. A visa stamp and a non-immigrant status are two entirely different things and many people are confusing the concepts. You normally need a visa stamp to present at a port of entry to enter the US in a particular non-immigrant category. The port officer will grant you an I-94 card that officially allows you to remain in the US in that particular non-immigrant category for a set period of time. You can remain in the US with an unexpired I-94 even if your visa stamp has expired since the stamp is only used as a ticket to enter the country. The I-94 controls how long you can remain in the US on any particular trip.

I-94s can also be obtained for a new non-immigrant category by filing for a change of status from one non-immigrant category to another. You can still file for a change of status by mail in the US. An expiring I-94 can also be extended by mail from within the US. These two processes are NOT changing and these processes affect many, many more people than visa revalidation. Most people will not be affected by the end of visa revalidation.

For those that do use visa revalidation, the alternative will mean getting a new visa stamp to reenter the US at a consulate in one's home country or at a US consulate in Mexico or Canada.

I have received with skepticism my reports in this column in recent months that the USCIS is finally getting serious about improving processing times and making changes to improve customer service. I've discussed new pilot programs involving super-fast processing of certain types of applications, initiatives like making Employment Authorization Documents valid for two years instead of one, and the expansion of electronic filing to more types of applications.

But the mother of all initiatives is the USCIS plan to get ALL processing times to less than six months by no later than September 30, 2006. Granted, Clinton INS Commissioner Doris Meissner made a similar promise in the 90s. But her goal was never funded and other than mentioning this target at meetings with groups like the American Immigration Lawyers Association, nothing really was ever done. But I am optimistic that this time we're going to see results. The money is there, the leadership is interested in making this happen, technology is finally starting to improve and an actual game plan is taking shape. We report on that plan this week and look forward to hearing reports on its implementation.

This was an interesting week for troubleshooting at our office. The cases all illustrate how seemingly minor problems can escalate into major crises. Coincidentally, they all involved doctors. In one case, a physician booked an H-1B appointment at a US consulate in Mexico rather than going to his home country where appointments where visas are taking several weeks to be issued. Unfortunately, the consulate refused the visa because the physician lost an enormous amount of weight and did not look like his passport photo. The physician was actually labeled an imposter and his visa was denied. Resolving the issue involved our speaking to the consulate and then getting the physician a new appointment the next day and presenting documentation of his recent medical history.

Another case involved a university hospital nearly having to shut down because an I-539 change of status application for a spouse was never submitted by the immigration department at the university as part of the physician's visa extension paperwork. By the time the problem was discovered, the wife of the doctor had become subject to a three year reentry bar. The physician made it clear that he was leaving if the USCIS did not grant a late filed change of status application and his threat carried real weight since this physician worked in a critical specialty area. Without his services, the hospital would have no choice but to close. Fortunately, the USCIS did come through after a lot of work from our firm, several key people at USCIS and the hard work of a congressional liaison.

The third case involved another lawyer who is a friend of our firm and who was at a US consulate in Mexico with a husband and wife who both happen to be physicians. The husband was a J-1 who received a waiver and was at the consulate to get his H-1B visa. The wife was a J-2 who used her Employment Authorization Document to participate in a medical residency program as well. Unfortunately, the consular officer did not understand that using a J-2 to work in graduate medical training is perfectly permissible.

Our lawyer friend's office on the east coast was closed and she was stranded in Mexico without the resources to document that the consular officer was wrong. She's helped us out in a pinch and I was happy to return the favor doing the research to document that the officer was in the wrong. The matter was resolved successfully. I actually was able to cite the *J-1 Visa Guidebook* which I co-author for LexisNexis with Bill Stock and Steve Yale-Loehr. I also cited to my friend Bob Aronson's recent article on this subject in AILA's new *Immigration Options for Physicians* (I've written several articles in there as well). The regulation itself only says that a J-2 can work and does not include any restrictions that would prohibit a physician from participating in a residency program. And this has been common practice for many years.

The last case actually illustrates how nice it is to be an immigration lawyer in the US. There is a camaraderie in the immigration bar that is unmatched in any other practice area. Maybe it is because we are never going up against each other as adversaries. The government is always our opponent. This bond is well demonstrated by a group that I've just taken over as chair. The FMG Taskforce (formally known as the "National Healthcare Access Coalition") is a group of about 100 immigration lawyers around the country that work on physician immigration matters. We have bi-weekly conference calls to discuss the latest developments in our practice area, raise money to lobby on behalf of physician immigration, confer regularly agency officials and serve as a resource to each other when we have problems of the type I described above. Sure, we're competitors in this "niche" practice area. But we all know that we're more than about making money. Besides, we'll all make more money if we work together to provide better service to our clients and resolve fundamental problems facing our clients.

Finally, as always, we remind readers that we're lawyers who make our living representing immigration clients and employers seeking to comply with immigration laws. We would love to discuss becoming your law firm. Just go to <http://www.visalaw.com/intake.html> to request an appointment or call us at 800-748-3819 or 901-682-6455.

Regards,

Greg Siskind

2. The ABC'S Of Immigration: J-1 Visas - Waivers of the Two-Year Home Residency Requirement

Many people who come to the US as J-1 Exchange Visitors are subject to a requirement that precludes them from changing to many other major non-immigrant visa categories or adjusting to permanent resident status unless they have spent two years after completing their stays in J-1 status in their home country, or country of last permanent residence.

The IAP-66 Form or SEVIS Form DS-2019 issued by a J-1 program sponsor provides for a consular or immigration official to make a preliminary determination regarding the applicability of the home residency requirement. This determination may also be stamped or written next to the visa stays in the passport. Note, however, that this determination is only preliminary and should not necessarily be relied on without carefully reviewing with an attorney whether the J-1 visa holder falls into one of three exclusion categories.

Am I subject to the home residency requirement?

Three categories of J-1 visa holders are subject to the home residency requirement. The first category is for J-1s whose field of training and expertise appears on a Skills List maintained by the State Department. The list is periodically revised by the State Department (most recently on March 17, 1997) and includes countries where various skills are in short supply. Most industrialized countries do not appear on the Skills List. A J-1 visitor is subject to the home residency requirement if his skill was on the Skills List at the time the J-1 entered the US, even if the skill is later removed.

J-1 s who receive funding either from their home government or a US government agency for participating in their J-1 program are also subject to the home residency requirement. Any amount of funding triggers the requirements. Financing includes monetary payments, even in the form of loans, as well as other forms of financial aid such as covering expenses for tuition, books, insurance, etc.

Finally, any J-1 who enters the US to receive "graduate medical education or training" is subject to the two-year home residency requirement. Such education or training includes residency or fellowship programs involving health care services to patients. Programs involving observing, consulting, researching or teaching with no patient care are not considered "medical education or training." The Educational Commission on Foreign Medical Graduates sponsors J-1 medical education or training programs.

Am I eligible for a Waiver?

Waivers of the home residency requirement are available in a few situations:

- the requirement would result in exceptional hardship to a US citizen or permanent resident alien spouse or child,
- the requirement will result in persecution to the alien on the basis of race, religion or political opinion,
- the alien's home country government indicates no objection to the alien's remaining in the US (it is important to note that physicians cannot obtain a waiver with this method), or
- an interested government agency recommends the waiver as being in the national interest.

In order to demonstrate exceptional hardship to a US citizen or permanent resident spouse or child, the J-1 might try and document medical hardship, persecution of the US citizen or permanent resident if they go to the J-1's home country, as well as other unusual hardships. Lesser hardships such as spousal separation, separation from children and language problems by themselves may not be enough to prove hardship. Rather, the totality of hardship must be measured. A greater degree of hardship must be found in cases involving foreign medical graduates or those receiving U.S. government funding. Also, the hardship must arise both upon a separation of family members or if the family is together in the J-1's home country.

A waiver is available if the J-1 will face persecution in his or her home country due to race, religion or political opinion. The criteria are similar to asylum claims. However, the burden of proof in a persecution-based waiver claim is higher than for an asylum claim. Consequently, most people pursue asylum applications rather than a J-1 waiver based on persecution. Furthermore, asylum claims usually lead to permanent residency status while this is often not true for a J-1 waiver. One instance where a persecution-based waiver may be favored is when an asylum claim is unavailable due to the applicant waiting longer than a year after entering to apply.

Waivers may be granted if a J-1 visa holder obtains a "no objection" letter from the exchange visitor's country of nationality or last permanent residence. The "no objection" letter is a formal, diplomatic statement from the home country to the State Department. Most foreign embassies in Washington have officials designated to handle these statements. The procedures vary widely from country to country and may take up to a year or more. Note that a "no objection" letter is not a basis for a waiver when the exchange visitor came to the US to receive "graduate medical education or training."

A statement from a US government agency to the State Department that the granting of a waiver would be in the public interest and that two years of home residency would jeopardize the agency's interests is a basis for a waiver. This is usually available if the agency employs the J-1, but an agency may request a waiver even if it does not employ that individual. Waivers are almost always granted in these cases. One exception would be in the case of funding from an agency like the Fulbright Commission of U.S.A.I.D.

A statement from a US government agency to the State Department that the granting of a waiver would be in the public interest and that two years of home residency would jeopardize the agency's interests is a basis for a waiver. This is usually available if the agency employs the J-1, but an agency may request a waiver even if it does not employ that individual. Waivers are almost always granted in these cases. One exception might be in the case of funding from an agency like the USAID.

Where can I find more information about J-1 Visas and other specific waivers?

Attorneys at Siskind Susser made flowcharts to better understand different types of waivers and how to go about obtaining them. Links to these flowcharts follow.

- [J-1 Flowchart Part I: Section 212\(e\)](#) - November 14, 2003
- [J-1 Flowchart Part II: No Objection Letters](#) - November 25, 2003
- [J-1 Flowchart Part III: Interested Government Agency Waivers for Non-Physicians](#) - December 2, 2003
- [J-1 Flowchart Part IV: Persecution Waivers](#) - December 9, 2003
- [J-1 Flowchart Part V: Hardship Waivers](#) - January 5, 2004
- [J-1 Flowchart Part VI: J-1 Physician Waivers Overview](#) - January 12, 2004
- [J-1 Flowchart Part VII: J-1 Physician Conrad State 30 Waivers](#) - January 19, 2004
- [J-1 Flowchart Part VIII: J-1 IGA Physician Waivers](#) - January 26, 2004

Greg Siskind is also the author of the J-1 Visa Guidebook. The book can be purchased online at http://bookstore.lexis.com/bookstore/catalog?action=product&prod_id=12991&cat_id=T&pub_id=31. The book was just released in its seventh edition and is now two volumes with more than 1500 pages.

3. Ask Visalaw.com

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

I am a landed immigrant in Canada. Do I need a visa to attend school for 4 months in the US? What kind of visa is this?

Yes, landed immigrants in Canada need visas to come to the US including student visas. You would need a visitor visa to come to look at schools and you would need an F-1, M-1, or J-1 student visa to attend a school. You can find information on these student visa categories on our web site at www.visalaw.com/abcs.html.

I had an H4 visa and now have a green card stamp and I am planning to proceed with a divorce. If I don't receive my plastic green card can my divorce cause me any trouble? Can my husband send any letter now that would cause any problem in getting my card? How much time does plastic card normally takes?

If you have the I-551 stamp, that is the legal equivalent of having the physical green card. The main difference is that one is valid for a year and the other is valid for ten years. Since the green card was not based on a marriage to a US citizen, it should not be conditional and a divorce would not have an impact (unless, by very remote chance, the USCIS believed there was fraud involved). The only reason to be concerned would be if your husband somehow tried to claim that your marriage was not real. In that case, there might be an issue with visa fraud. Of course, that might expose your husband to liability as well. And it

might not look good to a divorce judge if your husband resorted to this kind of behavior. If you relocate, by the way, you need to notify the USCIS. The card processing times vary from a few weeks to a few months.

My L-1 visa stamp has expired. I have an I-94 valid until 2006. Would I be able to leave US and travel to Canada and re-enter US on an expired visa?

You may be able to travel to Canada under a process called "automatic revalidation." There are a couple of key requirements:

- you must be traveling to a "contiguous territory" which would mainly include Canada and Mexico
- your trip outside the US must be less than 30 days
- you must not venture beyond the contiguous territory
- you must not apply for a visa on the trip
- you must not be from a handful of countries on a special terrorist watch list
- you must have an unexpired I-94 and be complying with your immigration status in the US

Always check with your immigration lawyer before traveling outside the US with an expired visa.

I obtained permanent residency through employment in 2002, and subsequently married a US citizen in 2003. When is the earliest I would be eligible to apply for citizenship? Is it the 5-year wait or the 3-year wait?

It is actually both - you must have had your green card for 3 years, during which you were also married to a USC. Thus you would start counting after whichever was last.

As a naturalized citizen am I supposed to carry any identification to prove my citizenship while in the US?

No. As an American, we are not required to carry identification. From a practical point of view, you'll probably want to carry identification. If you drive, you must have a driver's license and a very recent Supreme Court decision confirmed the requirement to present identification to a law enforcement officer when pulled over. When you travel by air, you need picture identification. When you make purchases using a check or credit card, you need identification. But none of the documents need identify your nationality, just your identity.

Note that this really goes beyond immigration law and if there are civil liberties lawyers out there reading this column, I'd be interested in hearing from you on this question.

A helpful reader pointed out a problem in a recent Ask Visalaw.com column and I wanted to pass along our correspondence:

I am writing regarding an answer given in your latest Ask-Visalaw section of your Bulletin. The question was about requesting advance parole while on a valid K-3 visa during the adjustment of status process. While it is necessary to apply for advance parole during the adjustment of status process after entering on a K-1 fiancée visa in order to leave and return to the United States, a K-3 visa holder may travel outside the US during the adjustment process without obtaining advance parole. The information below is from the USCIS website regarding advance parole and the K-3 visa.

Thank you for the great bulletin you publish. I look forward to reading it every week as an overview of recent news and developments in US immigration law.

“Can I Travel Outside the United States?”

If you are in K-3 or K-4 status, you may travel using your unexpired K-3/K-4 nonimmigrant visa to travel outside of the United States and return, even if you are applying for adjustment of status simultaneously.

<http://uscis.gov/graphics/howdoi/hdiknonimm.htm>

Advance Parole

Most aliens who have pending applications for immigration benefits or for changes in nonimmigrant status need Advance Parole to re-enter the U.S. after traveling abroad. Aliens applying for advance parole on the basis of a pending application for adjustment of status must be approved for advance parole prior to leaving the United States in order to avoid the termination of their pending application for adjustment. Note: this does not apply to aliens who have applied to adjust to permanent resident status and who maintain H-1B (Specialty Worker) or L-1 (Intracompany Transferee) status, or their dependents, who have applied to adjust to permanent resident status and who have valid H-1B or L status and valid visas, V nonimmigrants who have a valid V nonimmigrant visa, are in valid V nonimmigrant status and have or obtain a valid V nonimmigrant visa before applying for readmission to the US, and K-3/4 nonimmigrants who have applied to adjust to permanent resident status and who have a valid K-3/4 nonimmigrant visa, are in valid K-3/4 nonimmigrant status and have or obtain a valid K-3/4 nonimmigrant visa before applying for readmission to the US.

<http://uscis.gov/graphics/services/Emergency/index.htm#Advanced> “

The El Paso Times reported last week that Border Patrol has recorded the fifth immigration-related death this month for a person traveling through the El Paso sector of the U.S. - Mexico border. Officials believe that this route is used in many alien smuggling rings.

A Mexican man was waiting at US-Mexico border town Naco, Sonora, for his ride to Arizona when several men pulled up in a vehicle and severely beat him. His sister, who witnessed the attack, told officials at the Mexican consulate, that when the vehicle pulled up, they assumed it was their ride. The men in the car demanded money from the pair and made threats against the sister. When the brother protested, the driver pulled over and the group beat him severely and robbed him. He recovered in a state-owned hospital.

Five border-crossers were injured in a crash last week when the truck they were riding in rolled over. The injured people did not get immediate medical attention, because they hid themselves after the wreck to avoid being seen by authorities. When an area resident called the sheriff's department to report several people on his property, the people were discovered and treated for their injuries.

Last week, the Office of the Press Secretary of the Transportation Security Administration (TSA) announced the launch of its Registered Traveler Pilot Program. The program seeks to alleviate the screening process for certain frequent travelers while maintaining tight security. Participating airlines will recruit volunteers in certain markets who fly at least weekly. These frequent flyers will impart their identifying information to TSA, including biometric finger and iris imprints. After obtaining security clearances, these individuals will be able to pass directly through a Registered Traveler lane at the airport, where a finger or iris scan will confirm their registrations. They will then undergo only primary screening, bypassing secondary screening in most cases.

Northwest Airlines will implement the program at the Minneapolis-St. Paul International Airport later this month, followed by additional airlines operating in Los Angeles, Houston, Boston, and Washington D.C. by the end of the summer. Unisys Corporation of Reston, VA and EDS of Herdon, VA contracted with TSA to provide program management, biometrics, tactical operations, and systems integration.

A press release issued this week by the Public Affairs division of the U.S. Immigration and Customs Enforcement (ICE) invited the media to download b-roll footage via satellite feed for a pilot project, the Intensive Supervision Appearance Program (ISAP). This program is billed by officials as an efficient and innovative way to confirm that aliens released from custody show up at immigration hearings and comply with court orders.

The ISAP is to begin on June 21, 2004 in eight ICE locations that include Baltimore, Miami, St. Paul, Denver, Kansas City, San Francisco, and Portland, Oregon. Up to 200 aliens will be monitored by one of the following methods: electronic monitoring devices; home visits; work visits; or reporting by telephone in each of the eight cities.

To be eligible for this program an alien must be an adult with a confirmed identity who does not pose a threat to the community or national security. Also, only aliens who are not subject to mandatory detention, who have pending immigration court proceedings, or are awaiting removal on a final order of removal and who will be residing within the managed area are eligible for this program. This is a voluntary program and all aliens must agree to comply with the conditions of their release.

5. News From The Courts

Desta v. Ashcroft
U.S. Court of Appeals for the Ninth District
2004 U.S. App. LEXIS 7204

The Petitioner, Tilahun Fantaye Desta, applied for asylum after leaving his native Ethiopia due to alleged beatings and imprisonment for his political associations. The Immigration Judge ("IJ") denied asylum and the Board of Immigration Appeals ("BIA") affirmed, giving the Petitioner 30 days for voluntary departure. After 25 days, the Petitioner appealed to the Ninth District Court of Appeals and moved for a stay of removal. After the 30-day voluntary departure period had expired, the Petitioner moved for a stay of voluntary departure. The Ninth District Court of Appeals affirmed the BIA's denial of asylum, but granted the stay of voluntary departure reasoning that it was included in the motion for a stay of removal.

The Petitioner claims that he was persecuted because of his participation in anti-government groups. He says that governmental officials arrested and tortured him on one occasion. The Petitioner also claims that on another occasion, he was forced to sign a confession admitting participation in an anti-peace movement and was subsequently imprisoned. The Petitioner also says that his wife was imprisoned and raped because of his political affiliations. Citing inconsistencies throughout his testimony, the IJ denied asylum due to the lack of credibility of the evidence.

While asylum was not granted, this case is unique because the court used its equitable powers to include a motion for stay of voluntary departure within a motion for stay of removal. The court reasoned that once the motion for stay of removal was granted, the 30-day period for voluntary departure was paused at 25 days. Even though the Petitioner did not move for stay of voluntary departure until 30 days had passed, it is assumed by the court that the motion for stay of removal included a motion for stay of voluntary departure. Therefore, the stay of voluntary departure motion was not untimely filed. Once the Ninth Circuit affirmed the BIA's decision, the Petitioner had 5 days remaining for voluntary departure.

The Ninth Circuit Court of Appeals cited prior case law and the Illegal Immigration Reform and Immigrant Responsibility Act as the source of its equitable power to make this decision. The court also pointed out that the standards for satisfying each motion are the same. The court reasoned that the motions are ancillary because when the standard for the motion to stay removal is satisfied, the standard to stay voluntary departure is also satisfied.

6. Government Processing Times

Processing times are available this week for the following service centers:

Texas (06/15/2004): <http://www.visalaw.com/texas.html>

Missouri (06/23/2004): <http://www.visalaw.com/missouri.html>

Vermont (06/23/2004): <http://www.visalaw.com/vermont.html>

7. News Bytes

On June 16th, the Waiver Review Branch of the State Department sent a memorandum to the health department J-1 waiver coordinators in all the states informing them that the Conrad J-1 waiver program had sunset. On Friday, June 18, 2004, the State Department retracted the erroneous memorandum and issued a correction. The corrected memorandum affirms that a foreign medical graduate (FMG) is eligible for a J-1 Conrad waiver if the FMG acquired J-1 status by or before May 31, 2004.

"Drop box" processing of nonimmigrant visas by the U.S. Consulates in India is ending, according to a notice received by some companies from the U.S. Consulate in Chennai, India according to the American Immigration Lawyers Association. The last day for the NIV drop-box in Chennai will be June 30, 2004. As of July 16, all non-immigrant visa applications in Chennai will require an appointment for a personal interview with a consular officer.

The notice states that the reason for ending the drop-box facility is that beginning in July 2004, U.S. consular sections in India will start electronically collecting biometric data from all visa applicants, except those traveling on official government business or who are under age 14 or over age 79.

The notice stated a press release would come out soon outlining the details.

A Texas woman pleaded guilty last week to conspiracy to operate a marriage fraud ring that recruited people primarily from Tanzania, Kenya and Nigeria. According to the *Houston Chronicle*, Emma Guyton admitted to both recruiting four U.S. citizens willing to enter into bogus marriages with foreign nationals seeking green cards, and to getting involved in a conspiracy to arrange more than 200 sham marriages. She paid each U.S. citizen \$150 to \$300 from fees that ranged from \$1,500 to \$5,000. Guyton faces a maximum sentence of 10 years in prison without parole and a \$250,000 fine when she is sentenced in September.

More than 16,000 people will become citizens during special 4th of July naturalization ceremonies. The ceremonies will be held at locations across the U.S., and will also be celebrating the nation's 228th birthday.

8. International Roundup

An immigration scam was uncovered in the United Kingdom last week after over 100 institutions in England and Wales were exposed as bogus colleges and universities. According to *The Guardian*, police are expected to trace the operators of the colleges and the “students” who used their addresses to enter the country illegally on student visas. Two months ago, the compilation of a register of legitimate institutions for higher learning began. The United Kingdom’s education secretary announced last Friday that any student applying to come to Britain to study at a college not on the register would not be allowed into Britain.

Foreign adoption was banned last week in Romania in an effort to end baby auctions. The law stipulates that children can be adopted abroad only by their grandparents and only after every attempt has been made to keep them with their immediate family or place them with another Romanian family.

Germany's Social Democrats-Greens government and the conservative opposition finalized a legislative bill Thursday for major reforms in the country's immigration rules.

The new immigration law covers enticements to highly skilled foreigners, calls for better efforts to integrate foreigners in German society, reforms the rules on granting asylum on humanitarian grounds and allows for quicker ways to expel those foreigners deemed to be a security threat. The draft bill must pass the federal parliament, the Bundestag, as well as the opposition-controlled federal assembly representing the 16 states, the Bundesrat.

9. Legislative Update

House and Senate bills proposing that states offer in-state college tuition to children of undocumented immigrants remain unlikely to pass this term, according to the *Orange County Register*. The proposed legislation would apply to students who have attended high school or college in the U.S. and would make them eligible for legal permanent residency. The Student Adjustment Act has not yet been heard in the House’s immigration subcommittee, and the Development, Relief, and Education for Alien Minors (DREAM) Act passed out of its committee last fall but has so far been blocked from the Senate floor.

The *Orange County Register* asserts that election-year politics and controversy among congressional Republicans have stalled the bills. Opponents of the proposed legislation believe that it would reward and encourage illegal immigration. In contrast, supporters insist that children should not bear the consequences of their parents’ illegal acts, and that the country would profit from the efforts of hardworking immigrants aided by the legislation. Angelica Salas, executive director of the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), estimates that, if passed, the bills would benefit 65,000 students each year.

The American Immigration Lawyers Association reported this week that the House of Representatives passed (242-163) the Roybal-Allard amendment to H.R. 4567. This amendment, the Department of Homeland Security Appropriations Act, would stop the contracting out of IIO and other positions inherently governmental at the Bureau of Citizenship and Immigrations Services of the Department of Homeland Security.

Also reported this that the House defeated (262-145) the Tancredo amendment would have withheld Homeland Security funds from local communities if agencies did not report the immigration status of individuals in their districts.

The *CongressDaily* reported last week that the House has voted to extend for one year the deadline requiring that the 27 visa waiver countries provide their citizens with biometric passports before entering the U.S. The vote responds to complaints by many European nations that the October 26 deadline is unrealistic. The Bush administration has called for a two-year extension because it claims that U.S. consular offices will be flooded with visas requests in the countries that are unable to meet the deadline. Congress passed the biometric passport program in 2002 in response to the threat that terrorists could use counterfeited passports from visa waiver countries to enter the U.S. The biometric passport ensures validity by enabling officials to match each individual's unique characteristics with a digital image in the passport.

The *Los Angeles Times* last week reported that a California Senate panel has approved a bill that would grant drivers' licenses to undocumented immigrants who were fingerprinted and passed a background check. Applicants would also have to be photographed and pay \$146 for the license.

Opponents to the bill say that it would allow terrorists to create new identities. Because proof of identity from the applicant's native country would be necessary, opponents further state that identity documents such as Mexico's *matricula consular* are unreliable and therefore would not provide a dependable background check. Proponents argue that the license requirements would help authorities identify who is in the country illegally and track those who are sought for law enforcement infractions. Others feel that the bill's provisions will dissuade individuals from applying for licenses unless there is a guarantee that the required information will not lead to deportation. The bill must pass both the California senate and the house, both of which are Democratically controlled, before it arrives at Gov. Schwarzenegger's desk. Schwarzenegger has previously stated that he is against giving drivers' licenses to undocumented immigrants.

[H.CON.RES.460](#): Regarding the security of Israel and the principles of peace in the Middle East.

Sponsor: Rep DeLay, Tom [TX-22] (introduced 6/22/2004)

Committees: House International Relations; Senate Foreign Relations

Latest Major Action: 6/24/2004 Referred to Senate committee.

Status: Received in the Senate and referred to the Committee on Foreign Relations.

[H.RES.685](#): Revising the concurrent resolution on the budget for fiscal year 2005 as it applies in the House of Representatives.

Sponsor: Rep Obey, David R. [WI-7] (introduced 6/22/2004)
Committees: House Rules; House Budget
Latest Major Action: 6/24/2004 Failed of passage/not agreed to in House.
Status: On agreeing to the resolution Failed by recorded vote: 184 - 230 (Roll no. 301).

[H.R.4613](#) : Making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

Sponsor: Rep Lewis, Jerry [CA-41] (introduced 6/18/2004)
Committees: House Appropriations
Latest Major Action: 6/24/2004 Resolving differences / Conference -- Senate actions.
Status: Senate insists on its amendment, asks for a conference, appoints conferees Stevens; Cochran; Specter; Domenici; Bond; McConnell; Shelby; Gregg; Hutchison; Burns; Inouye; Hollings; Byrd; Leahy; Harkin; Dorgan; Durbin; Reid; Feinstein.

[H.R.4619](#) : To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine.

Sponsor: Rep Gerlach, Jim [PA-6] (introduced 6/18/2004)
Committees: House Ways and Means
Latest Major Action: 6/18/2004 Referred to House committee.
Status: Referred to the House Committee on Ways and Means.

[S.RES.384](#) : A resolution expressing the sense of the Senate on the development of self-government in Kosovo.

Sponsor: Sen Lugar, Richard G. [IN] (introduced 6/18/2004)
Committees: Senate Foreign Relations
Latest Major Action: 6/18/2004 Referred to Senate committee.
Status: Referred to the Committee on Foreign Relations.

[S.2548](#) : -- Private Bill; A bill for the relief of Shigeru Yamada.

Sponsor: Sen Feinstein, Dianne [CA] (introduced 6/18/2004)
Committees: Senate Judiciary
Latest Major Action: 6/18/2004 Referred to Senate committee.
Status: Read twice and referred to the Committee on the Judiciary.

[S.2549](#) : -- Private Bill; A bill for the relief of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia.

Sponsor: Sen Feinstein, Dianne [CA] (introduced 6/18/2004)
Committees: Senate Judiciary
Latest Major Action: 6/18/2004 Referred to Senate committee.
Status: Read twice and referred to the Committee on the Judiciary.

For a review of all the immigration bills that have been recently introduced, visit our legislative chart at www.visalaw.com/advocacy.html.

10. Campaign 2004

The Salt Lake Tribune reported this week that the U.S. Justice Department sent attorneys to observe Tuesday's primary election in Utah's 3rd Congressional District. The attorneys will be on hand to certify compliance with the Voting Rights Act.

This action was in response to Project USA Director Craig Nelson's announcement that his organization might challenge the right to vote of some foreign-born residents.

Utah Attorney General Mark Shurtleff said that this tactic is "intimidation – plain and simple." Agreeing with him are State Elections Director Any Naccaraton and Salt Lake County Clerk Sherrie Swensen. In her 13 years of service, Swensen says she has never seen a case of undocumented aliens registering to vote. She added that she is pleased the Justice Department is taking this matter seriously and hopes this will deter any future actions of this sort.

Pro-immigration Republican Chris Cannon won the heated primary against an anti-immigration opponent.

11. USCIS Unveils Updated Version of Backlog Elimination Plan

On June 16, the Director of USCIS, Eduardo Aguirre, submitted to Congress a revised version of the INS' original 2002 Backlog Elimination Plan.

The 2002 plan challenged INS to reach a national average cycle time of six months or less for all applications by the end of 2003 and included the following commitments:

- Achieve a high-level of performance by establishing clear, concrete milestones and actively monitoring progress towards these milestones;
- Transform business practices by implementing significant information technology improvements and identifying processing improvements to transform the current way of doing business; and
- Ensure integrity by instituting comprehensive quality assurance measures.

Due to the tragic events of September 11, 2001 new security responsibilities increased the duties of USCIS and affected production of adjudicating applications. The two main programs that effected production were the National Security Entry Exit Registration System (NSEERS) which required the registration and fingerprinting of nationals already living in the United States; and the Student and Exchange Visitor Information System (SEVIS) which was the replacement of the student immigrant tracking system including re-certification of schools and increased oversight of the program. Both of these programs have been transferred to the Immigration and Customs Enforcement (ICE) bureau within the DHS.

This updated Backlog Elimination Plan includes a strategy for elimination of all USCIS backlogs, including those in the Asylum Division. This plan also meets the requirements of §459(a) of the Homeland Security Act of 2002, which calls for the submission of a plan to Congress detailing how USCIS will complete efficiently, fairly, within a reasonable time the adjudication of non-immigrant, immigrant, naturalization, and Asylum/Refugee applications and petitions. This updated plan is intended to

- Report on the current size of the application backlog;

- Identify the next steps to eliminate the backlog and achieve a six-month or less cycle time target for all forms by the end of 2006;
- Establish annual production goals; and
- Provide a plan to measure progress through quarterly reports and on-line information available on each district office and service center.

Defining Cases: Pending versus Backlog

Pending cases are cases that have been received, but not adjudicated. Backlog cases are cases that are pending but older than their target cycle time. The original Backlog Elimination Plan computed applications as: (backlog = current month pending/average last 12 months' completions) – processing time targets). This computation did not accurately quantify the number of applications that were part of the backlog.

The Updated Plan will use new computations as: (backlog = pending – last six months' receipts). This new computation better reflects the idea that the USCIS is processing applications within the target cycle time. This new understanding of the differences between backlog and pending will allow USCIS to estimate the size of the backlog. Currently, the backlog is 3.7 million cases out of 6.1 million cases, including cases in the Asylum Division. And over the last eight years, due to new reforms, the Asylum Division has reduced its pending caseload 44%.

The productivity of USCIS must improve 19.6%, and the Asylum Division's output must increase 3.4% in order to achieve cycle time goals and fully eliminate the backlog. To reach these goals the USCIS will maintain:

- Reengineering processes and automated manual workflow processes wherever possible to achieve greater efficiencies;
- Updated policies and procedures to streamline adjudications and increase the percentage of cases completed at initial review by an adjudicator;
- Managed production against milestones — beginning with collaboratively setting goals, reporting progress, and identifying additional improvement opportunities; and
- Work with the Office of the Ombudsman on pilot projects to test alternative processing approaches and new applications of proven off-the-shelf technology.

In February, USCIS began planning for the following pilot initiatives intended to eliminate backlogs, improve customer service, and enhance national security:

1. Streamlining existing procedures

- Risk assessment
- Form I-90
- Request for evidence
- Form I-130

- Pre-certification
- Asylum

2. Quality initiatives

- National Standard Operating Procedures
- The Naturalization Quality Procedures program
- Continually updating field manuals and expanding access to electronic libraries
- An end product review process at Service Centers to determine decision quality
- Assuring adherence to national standards in the Quality Assurance (QA) program
- Redesigned internal communications to provide employees with key information quickly and efficiently

3. Fraud assessment and deterrence initiatives

4. Refugee corps

5. Information technology

- E-filing
- InfoPass
- Case Status Online

The other components to this updated plan are for USCIS to use backlog elimination milestones to work with service centers and offices to setup current and future production plans. USCIS will also provide Congress with quarterly progress reports to monitor its Backlog Elimination accomplishments. This plan, along with the staff and leadership, will ensure that the USCIS will meet the President's goals no later than the end of 2006.

A press release last week from the U.S. Chamber of Congress commended the release of this updated plan. Randel K. Johnson, Vice President of Labor, Immigration and Employee Benefits says the Chamber is looking forward to working with Director Aguirre and his staff to ensure that these ambitious goals can be met.

While some agree with the current updated Backlog Elimination Plan, the Federation for American Immigration Reform (FAIR) reports this week that this objective will be ineffective as long as the current failed immigration policy remains in place. The problem, according to Dan Stein, executive director of FAIR, is the policy of extended family chain migration that is overpowering the system and must be stopped. According to Stein, a large percentage of the 3.7 million people waiting to have applications processed have applied as extended family members of other immigrants. He suggested that Congress freeze new extended family applications as a solution to the elimination of the current backlog of petitions.

Immigration advocates, on the other hand, praised the measure and noted that the number of fraudulent applications will likely decline when interim benefits are no longer needed due to faster processing. The main note of concern from these groups is the intention to reduce the number of Requests for Evidence. RFEs are issued routinely when an examiner is not sure that an applicant is eligible. A recent USCIS indicated that examiners should more willingly deny a case rather than issuing an RFE when they believe there is no eligibility for the benefit offered. Immigration lawyers have indicated that many examiners are not informed on every aspect of immigration law and the RFE process allows lawyers to explain their case.

12. Immigration: Foreign Physicians and the J-1 Visa Waiver Program

Last week, the Congressional Research Service (CRS) of the Library of Congress submitted a report to Congress providing current information on the J-1 Visa Waiver Program as it relates to foreign physicians. The report was provided as background to members of Congress who are currently considering extending the Conrad 30 J-1 waiver program.

Most foreign medical graduates (FMGs) enter the United States under the J-1 visa program for the purpose of graduate medical training and education. This program requires that the FMGs must return to their home country for at least two years after completion of his or her training before applying for another nonimmigrant visa or legal permanent resident (LPR) status, except for those granted a waiver of the requirement. Waivers can be requested from any interested government agency (IGA) or state health department that wishes to sponsor an FMG. In return for sponsorship, the FMG agrees to practice as a primary care physician in a selected medical shortage area for a certain period of time. In 2002, FMGs accounted for 24.7% of the total practicing physicians and 27.4% of physicians in residency and fellowship programs. This report focuses on FMGs entering through the J-1 program.

Under current law, a J-1 physician can get a waiver of two-year home residency in the following ways:

- The waiver is requested by an IGA
- The FMGs return would cause extreme hardship to a U.S. citizen or LPR spouse or child
- The FMG fears persecution in the home country based on race, religion, or political opinion.

A J-1 waiver is processed by an IGA sending a letter of support to the Department of State. If the DOS concurs, it will forward its recommendation to U.S. Citizenship and Immigration Services (USCIS) for final approval. The physician would then be able to obtain status as H-1B professional specialty worker (assuming a visa is available).

The J-1 visa waiver program has gone through considerable change in recent years. The largest sponsor of J-1 visa waivers, the United States Department of Agriculture (USDA), decided to end its involvement as an IGA, effective February 2002. In addition, the Department of Health and Human Services (HHS) announced it would assume the USDA's role as an IGA. And bills introduced in the 107th Congress expanded the "Conrad 20" program and renamed it the "Conrad 30" which now increases the number of waivers for participating states from 20 to 30.

Any federal government agency or state department can act as an IGA. The main agencies involved in this program are the Department of Veterans Affairs (VA), the Department of

Health and Human Services (HHS), the Appalachian Regional Commission (ARC), the Delta Regional Authority (DRA), and the "Conrad 20" (now known as the "Conrad 30") Program for States.

The specific requirements for each of the main participating IGAs are:

- The VA allows facility directors to request waivers in cases where efforts to recruit a qualified U.S. citizen or LPR have failed.
- The HHS in the past has been very restrictive in its sponsorship of J-1 waivers because the department saw this program as a way to pass advanced medical knowledge to foreign countries. As an alternative, the HHS position viewed programs such as the National Health Service Corps be used to fill the lack of medical service. In June 2003, HHS began sponsoring J-1 waivers, but in September 2003 suspended the program. After reevaluation, HHS released its new program guidelines, which are more restrictive and have limited the states' access to physicians. Analyses of the new HHS program show a reduction in the number of eligible facilities by at least 80%. The agency has adjudicated only 42 cases in the last year (compared to nearly 4,000 cases adjudicated by the USDA's single administrator during the program's eight year run).
- The ARC was established by Congress in 1965 and is a joint federal and state entity set up to ensure that all residents of Appalachia have access to quality, affordable health care. The governor of the sponsoring state must recommend the J-1 waiver sponsored by the ARC. The FMG must provide primary care for at least 40 hours a week for three years at a medical shortage Medicare or Medicaid-certified hospital or clinic that also accepts medically indigent patients. The facility must show good faith effort to recruit an U.S. physician for at least six months prior to applying for a J-1 waiver applicant. If the physician does not comply with the terms of the waiver and complete three years of practice at the selected facility, he or she must pay the employer \$250,000.
- The USDA became a sponsor in 1994 and ceased its involvement in 2002 citing security matters and the inability to perform acceptable background and site checks.
- The "Conrad 20" program was set up by Congress in 1994, and was named after its sponsor Senator Kent Conrad. In 2001, 45 states and the District of Columbia participated in "Conrad 20" programs. As stated earlier, the "Conrad 20" program was extended until June 1, 2004 and renamed the "Conrad 30" program. Current Congressional bills are pending which will extend the current program until June 1, 2009; allow state public health departments to identify shortage areas; and make waiver recipients except from the H-1B cap of 65,000. Administration of the programs varies by state, and the participants have to meet the state-specified licensing criteria before beginning work.

The report can be found online at <http://fpc.state.gov/fpc/c12498.htm> .

13. GAO Reports That Although SEVIS is Improving, Issues Remain

The General Accounting Office (GAO) issued a report last week that evaluated the Student and Exchange Visitor Information System (SEVIS), an effort by DHS to collect and record key data on foreign students, exchange visitors and their dependents prior to their entering the United States, upon their entry and during their stay. The GAO reviewed system

performance, actions to improve performance and plans for collecting the fee to be paid by foreign students and exchange visitors to cover SEVIS costs.

According to the GAO's report, SEVIS performance is improving. Program office reports for some key system performance requirements show that these requirements are being met, although it was found that not all key performance requirements are being monitored or reported. Without formally monitoring all key performance requirements, DHS cannot adequately assure itself that potential problems will be identified and addressed early. It was also found that other, less formal indicators of performance, such as daily system use by program officials and unsolicited user feedback, indicate that the system is meeting requirements. The GAO's analysis of new requests for system changes, including changes to address reported performance problems, shows these requests are declining. Additionally, officials representing educational organizations generally see performance as having improved.

The DHS has taken specific actions to improve SEVIS performance, according to the GAO's report. In particular, it has installed a series of new software releases and increased Help Desk staffing and training. In addition, program officials are holding regularly scheduled meetings and are asking user groups to test new releases. Despite DHS's efforts, educational organizations continue to report problems. The GAO outlined SEVIS's most common complaints and methods in which DHS attempted to accommodate.

When educational organizations complained about the inability of users to download data to create custom reports, DHS evaluated the software options to provide custom report capabilities. In response to reports of slow Help Desk responses in the form of inconsistent answers to technical questions and incorrect answers to policy questions, SEVIS increased Help Desk staffing as of March 2003 and training is given to Help Desk on a continuing basis. DHS changed the SEVIS software in January 2004 after complaints of incomplete transmission of data to the State Department database.

In order to strengthen SEVIS, the GAO in its report made recommendations designed to improve DHS's monitoring of key system performance requirements, address educational association performance concerns and expedite collection of the fee. While DHS agreed with most findings, conclusions and recommendations of the GAO, it did not fully agree with two findings and their associated recommendations.

14. USCIS Sets Goals on its One-Year Anniversary

U.S. Citizenship and Immigration Services (USCIS) is celebrating its one-year anniversary and has put out a release outlining its accomplishments and goals for the future.

The e-filing feature started by the agency in May 2003 has helped USCIS process more than 127,000 applications of the 6 million processed last year. The agency naturalized more than 8,000 military service members and posthumously naturalized 16 service members who died in service during the war in Iraq. In the past year, USCIS has also initiated a national line reduction program, including an internet-based appointment system called InfoPass.

In an effort to reduce backlogs, USCIS this year implemented new goals that will enable more than a dozen of the 33 district offices to achieve six-month processing targets by the end of FY 2004. Additionally, the asylum backlog has been reduced by nearly 47,500 cases

and the Child Citizenship Act has been implemented to provide for the automatic citizenship for certain children upon entry to the U.S. or upon adjustment of status.

According to the release, during the next year USCIS intends to initiate a Backlog Reduction Plan as well as a Genealogical Research Program for immigrants who arrived after 1906. The agency intends to expand e-filing opportunities to corporate customers by making E-filing available for both nonimmigrant and immigrant employment-based petitions. There are plans for four additional pilot projects to streamline processing of four different application processes. USCIS also plans to create a new identity check system that will allow USCIS to check the information stored in IBIS, FBI and CIA systems simultaneously.

15. Immigrants Fill 3/10 of New Jobs

According to the *Los Angeles Times*, the nonpartisan Pew Hispanic Center reports that immigrants have accepted three out of every ten new jobs created in the past year, or 378,496 out of a net increase of 1.3 million. It is particularly striking that noncitizens filled 28.5% of the new positions, but comprise only 9% of all workers nationwide. These numbers could reflect changing demographics with immigrant Latino and Asian populations growing rapidly within the U.S. while native birthrates decline. The Pew study found that although Latino immigrants were gaining jobs, Latinos as a whole were experiencing a decline in wages, compared to whites and African Americans.

These numbers may have political ramifications in this election year, as non-voters have obtained a significant proportion of the new jobs. The statistics may fuel the debate about immigrant workers in the U.S., the quality of the new jobs, and the affects of globalization. Both President Bush and Democrats support more liberal immigration policies. The President's proposed guest-worker program would allow current and future undocumented workers to live in the U.S. for up to six years. Democrats propose providing legal status to those workers already present while denying entry to future guest workers.

Although the Pew study does not specify how many of the newly employed immigrants are undocumented, advocates for restricting immigration believe it supports their position that American employers prefer undocumented workers. But some economists maintain that the seemingly disproportionate share of immigrants in the workforce creates only a minimal impact in the national economy. They explain that this economic turnaround tends to contain low-skilled and low wage jobs, unlike the growth of industrial jobs paying above-average wages that ushered in past economic recoveries. Furthermore, workers have experienced less wage growth in this stage of the recovery than in the past.

16. Interior Border Patrol Checks Create Fear

At public locations as far as 100 miles north of the Southern California border, reports of arrests of 150 suspected illegal aliens, mostly Mexican nationals, were cited in *The Washington Times* and the *Los Angeles Times*.

These sweeps are scheduled to continue indefinitely and show a change in the Border Patrol's immigration enforcement strategy. Before this apparent change in policy, agents were not stationed in these newly created interior checkpoints, but were posted along the U.S.-Mexico border and at nearby highway checkpoints.

U.S. Customs and Border Protection (CBP) Commissioner Robert C. Bonner oversees the Border Patrol. According to Bonner, he has directed the CBP to preserve the integrity of our nation's border - including interior checkpoints - as a critical enforcement tool in this mission. To implement this change in operation standards, Bonner named Tucson sector Chief David Aguilar, who is a leading proponent of aggressive enforcement.

Officials at the Hermandad Mexicana Nacional in Ontario, Calif., have accused the Border Patrol of racial profiling and said the arrests concern Southern California's Hispanic community. Rumors that officials were arresting people outside supermarkets and restaurants have sent the residents into hiding and created a virtual standstill in the business communities.

Even though specific citizens have reported such activities, according to Virginia Kice, a spokeswoman with Immigration and Customs Enforcement, these fears are unfounded. She said that department officials would not go into commercial places and ask people to see their papers. Kice added that residents should not show documents or give personal information to an officer unless proper identification is shown. She also asked that people report any suspicious activity.

17. Department of State Will Cease Revalidation in the U.S. of Certain Non-immigrant Visas

According to the American Immigration Lawyers Association, the Department of State (DOS) will end domestic revalidation of certain non-immigrant visas. Beginning at 5 PM July 16, the DOS will not accept revalidation applications for C, E, H, I, L, O or P visas that are not physically placed in the drop box of the St. Louis acceptance facility. Applications that are received after the deadline will not be accepted even if they are postmarked before the deadline.

The domestic revalidation of non-immigrant visas was originally developed to help foreign government officials and international organization employees. Over time, the privilege was extended to some business-related visas. Due to the increased interview requirements and the requirement of biometric identifiers in visas that were imposed by the Enhanced Border Security and Visa Entry Reform Act, the international business community will no longer benefit from domestic visa revalidation.

To lessen the inconvenience to the affected applicants, the DOS is directing visa adjudicating posts to give priority to those who would have benefited from the prior visa reissuance policy. While the DOS instructs applicants to apply in their home countries, some visa adjudicating posts in Mexico and Canada have the ability to process non-immigrant visa applications from applicants who are in the U.S.