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SISKIND'S IMMIGRATION BULLETIN

25 YEARS

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1. Openers

Dear Readers:

Most of you will be reading this around Thanksgiving and we at Siskind Susser wish you the best for this very American holiday. Thanksgiving is a good time for reflection. Thanksgiving is, in many respects, a holiday about immigration. The Pilgrims were refugees who were fleeing religious persecution in England and found a haven in Massachusetts. The holiday also celebrates the welcoming they got from the Native American population. We can certainly draw parallels to today. The holiday is also about being grateful and even though these are depressing times for those who believe a smart, generous immigration system is good for America, there are reasons to give thanks.

Despite relentless efforts on the part of the Trump Administration to dramatically curtail immigration in nearly every category and to strip immigrants of most of their rights, advocacy groups and individual lawyers have challenged nearly every one of these moves. Congress hasn't passed legislation authorizing any of these changes and the Constitution still has meaning so judges have been largely sympathetic to the plaintiffs in most of these lawsuits. Even the eventual Supreme Court loss in the travel ban case followed two major revisions scaling back the Administration's efforts after previous losses in the courts.

We can also be thankful that despite the President's appointment of a number of virulently anti-immigrant officials to senior immigration agency positions, there are so many of the thousands of non-political employees of US Citizenship and Immigration Services, Customs and Border Protection, Immigration and Customs Enforcement, the State Department and the Department of Labor who are trying their best to keep their heads down and do their jobs fairly. On the legal immigration side of the ledger, cases are still getting approved.

Certainly, denial and RFE rates are up. But I don't believe that we've seen the dramatic drop in immigration that the Stephen Millers in the Administration were hoping.

When it comes to the border, certainly the news has been depressing and relentless. But despite this, we can be thankful that some agency officials are acting as whistleblowers like the asylum officers who made news last week for going public with complaints of illegality in asylum processing. https://www.latimes.com/politics/story/2019-11-15/asylum-officers-revolt-against-trump-policies-they-say-are-immoral-illegal.

We can also give thanks to the many Americans who are volunteering to help immigrants. This includes people in communities across the country who are donating to immigrant assistance organizations and volunteering their time to help immigrant families, who are showing up to protests and rallies, who are going down to the border and helping out with providing humanitarian relief and who are working to elect pro-immigration candidates.

As always, we remind you that if you would like to schedule a call to discuss a potential matter, please feel welcome to go to www.visalaw.com/consultation.

Regards,

Greg Siskind

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2. ABCs of Immigration: J-1 Visas for Graduate Medical Training

[This month's ABCs of Immigration issue is adapted from Greg Siskind's book, co-authored by Elissa Taub, The Physician Immigration Handbook.]

In 2014, more than 80 percent of physicians using visas to enter the United States in order to participate in graduate medical training programs did so via the J-1 visa. The J-1 visa is utilized by participants in the United States Department of State's (DOS') Exchange Visitor Program. The Exchange Visitor Program is available to individuals entering the U.S. for a litany of purposes, ranging from camp counselors to foreign dignitaries, from au pairs to international scholars, and, of course, physicians participating in residency and fellowship programs. While hundreds of J-1 programs exist in the United States, only the Educational Commission on Foreign Medical Graduates (ECFMG) is capable of sponsoring physicians.

What are the required qualifications for a physician in order to pursue graduate medical training on an ECFMG-sponsored J-1 visa?

1. The physician must pass the U.S. Medical Licensing Examination (USMLE) Step 1 and Step 2 Clinical Knowledge. Additionally, ECFMG will accept the former Visa Qualifying Examination, the National Board of Medical Examination in Medical Sciences, or an acceptable combination thereof. While older Examinations such as the ECFMG Examination or the Federation Licensing Examination fail to meet the J-1 requirements, they may still suffice for licensing and H-1B petitions.
2. The physician must have an ECFMG certificate without expired examination dates. Exceptions are made for graduates of Liaison Committee on Medical Education (LCME)-accredited U.S. and Canadian medical schools.
3. There must be a contract or official letter of offer for a position in an approved graduate medical education or training program.
4. The physician must provide a Statement of Need from the Ministry of Health of the nationality country or country of last permanent residence.

What is the Statement of Need?

The Statement of Need provides written assurance that the home country or country of last residence has a need for physicians in the specialty in which the physician is going to train, and the physician will return to the home country or country of last residence upon the completion of the program in the United States. ECFMG expects the Statement of Need to originate from the country of permanent residence in the event the physician lives permanently in a country other than the country of nationality. Statements of Need must adhere to the following requirements:

- Specifically designate the exact specialty or subspecialty that the physician will pursue, and a need exists for qualified physicians in that specialty;
- Be issued by the central office of the appropriate Ministry of Health; and
- Have a certified English translation if the original is in a different language.

If the physician seeks to change specialty, the letter on file with the ECFMG is expiring, or the physician seeks a change of host institutions, a new Statement of Need is required.

How does a physician apply for ECFMG J-1 sponsorship?

After a physician is accepted into a host institution's graduate medical training program, the physician will coordinate with the institution's training program liaison (TPL) to submit the J-1 application to the ECFMG. Communication regarding the status of the application will take place between the TPL and ECFMG.

The institution's TPL will submit the initial online application for the J-1 through the ECFMG's Exchange Visitor Network (EVNet). The TPL is responsible for providing details on the appointment of the physician, and ECFMG is will send information confirming the institution's initiation of the J-1 application on behalf of the physician. The physician will then complete the, "J-1 Visa Sponsorship" section of ECFMG's Online Applicant Status and Information System (OASIS). Once the forms have been completed by the physician and

the TPL, and they have submitted all the required supporting documentation, ECFMG will begin reviewing the application.

ECFMG will then generate an electronic record in the Student and Exchange Visitor Information System (SEVIS) for the J-1 and each J-2 dependent. SEVIS is a database jointly administered by the U.S. Department of State and Homeland Security. Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) status is created through SEVIS, confirming the approval of the J-1 sponsorship. ECFMG must use SEVIS throughout the J-1 and J-2's time in the United States to document that they are maintaining their status for the duration of their stay.

Once ECFMG approves sponsorship of a J-1, it will mail the original Form DS-2019 to the TPL through regular first-class mail, except if the TPL specifically requests courier service and provides ECFMG with a pre-paid/pre-addressed airbill along with the supporting documents for the J-1 application.

What documentation does ECFMG expect from a physician applying for J-1 sponsorship?

ECFMG lists the following items for the physician to upload in OASIS.

- Contract or letter of offer;
- Statement of Need;
- Training Program Description, visit https://www.ecfmg.org/evsp/evspgfpd.pdf if entering sub-specialty training;
- Current curriculum vitae; and
- Copy of passport name page(s).

Additional documents required if applicable:

- Copies of prior Form(s) IAP-66 and/or DS-2019 if physician previously held J-1 status;
- Proof of country of most recent legal permanent residence if different from country of citizenship;
- Copy of I-94 card if applicant is in the United States at the time of application to ECFMG;
- Official documentation of funding source if funds are coming from any place other than, or in addition to, the teaching hospital;
- Return airbill for expedited delivery to the TPL;
- For graduates of LCME-accredited U.S. or Canadian medical schools, a copy of the diploma (with a certified English translation, if applicable_ and a full0face passport-sized photograph; and
- For change of category and program transfer requests, follow the instructions in the ECFMG memo, "Request for a Change of J-1 Visa Category" (Dec. 2014), found at https://www.ecfmg.org/evsp/evspcocmemo.pdf. Detailed about the change of category request process also can be found in this document.

How does a J-1 physician include a spouse and minor children?

When submitting his or her initial information through OASIS, the J-1 physician can place a request to sponsor J-2 visas for a spouse and any minor children. Minor children are considered to be those under the age of 21. Parents, siblings, other family members, or domestic employees are not permitted to seek J-2 visas, though in certain cases they can seek a visitor visa to accompany the K-1. If the J-2 request is not made at this time, then a paper application must be submitted to ECFMG. If approved, ECFMG will issue separate DS-2019 forms for each J-2 family member, a requirement for applying for consular processing of the J-1 visa or a change in nonimmigrant status in the United States.

What is a DS-2019?

Form DS-2019, Certificate of Eligibility of Exchange Visitor (J-1) Status, is an integral document in the administration of the J-1 exchange visitor visa program.

The DS-2019 contains the following information:

- The exchange visitor's name;
- The designated sponsor (ECFMG);
- A brief description of the exchange visitor's program, including the beginning and end date, category of exchange (graduate medical training), and in an estimated cost of the exchange program in addition to the source of the financial support; and
- Whether the J-1 is subject to a home-residency requirement.

After the J-1 has demonstrated that he or she has met all the ECFMG requirements for the J-1 visa program, ECFMG will issue the DS-2019 to the physician.

What does the physician need to do with the DS-2019 form after it is issued?

Upon receiving the form, it is a good idea for the physician to thoroughly review it to verify its accuracy. For example, the country listed on the form should be the country in which the physician is required to satisfy the home-residency requirement. Therefore, if the physician does not actually have the right to return to that country upon conclusion of the J-1 training, the physician's country of nationality should be listed on the form.

The DS-2019 will be an extremely important document for the physician for many years, so it is imperative the physician retain, at the very least, a copy of the document. Given the document's importance, it is best to retain multiple copies of the documents, with at least one copy existing in a cloud-based storage service, such as Dropbox or Google Drive.

How long might a physician pursuing graduate medical training stay in J-1 status?

ECFMG sponsorship is limited to the time typically required to complete specialty/subspecialty training as determined by the American Board of Medical Specialties (ABMS) but does not exceed seven years.

Can spouses or children enter with the J-1 exchange visitor?

Yes. Spouses and unmarried children under the age of 21 are eligible to accompany a J-1 applicant to the United States under a dependent visa called a J-2.

Do J-1 and J-2 applicants need to show they intend to return home in order to get a J-1 or J-2 visa?

Yes. J-1 and J-2 applicants are subject to §214(b) of the Immigration and Nationality Act, which requires an applicant to prove strong ties to the home country and a clear intent to return home upon either the physician completes the J-1 program or withdraws from the training early.

Can a physician coming to the United States for a research position obtain a J-1?

Yes. Physicians may come to the U.S. as J-1 "research scholars" to participate in programs of observation, consultation, teaching or research. ECFMG has a separate J-1 for these types of positions. Additionally, many academic medical centers can sponsor physicians for research positions under their own J-1 programs.

Far fewer requirements exist for sponsoring J-1 "research scholar" positions. A physician only needs to demonstrate he or she is a graduate of a U.S., Canadian, or foreign medical school, have a contract or offer letter for a position, and provide a certification statement form the employer that the physician will have no patient contact, even if that contact is incidental.

For how long can a J-1 researcher physician remain in J-1 status?

The maximum duration for research scholars is five years.

Can a physician in a J-1 research scholar position change to a graduate medical training J-1?

No. The Department of State prohibits such changes. According to DOS regulations, professors and researchers may not have participated in a J visa program for the entirety or part of the 12-month period immediately preceding the start date of a professor or research scholar program.

Can a physician change specialties after arriving as a J-1?

Yes. Physicians are permitted to change their designated program of graduate medical training once and may do so no later than two years after the date the physician enters the United States as a J-1. This is not the same as physicians who are advancing through progressive levels of training that are required by a physician's chosen specialty/subspecialty Boards.

Can a physician repeat graduate medical training?

Yes, but ECFMG strongly discourages this and would only be considered based on the J-1's graduate medical education program director's strong recommendation.

What insurance requirements are imposed on J-1 physicians?

It is required that J-1s and J-2s have health, accident, medical, and evacuation and repatriation of remains insurance during their J-1 and J-2 stays in the United States. As of the writing of this, the specific requirements are as follows:

1. Medical benefits of at least $100,000 per accident or illness;
2. Repatriation of remains in the amount of $25,000;
3. Expenses associated with the medical evacuation of the exchange visitor to his or her home country in the amount of $50,000' and
4. A deductible not to exceed $500 per accident or illness.

ECFMG provides evacuation and repatriation of remains insurance and will match the coverage amounts with federal regulations and ensure that the coverage is effective on the state date of the J-1 program. Physicians will generally be capable of obtaining the other required insurance coverage as a benefit offered by the training program at the teaching hospital where the physician will be receiving graduate medical education.

Is "moonlighting" permitted for J-1 physicians?

No. Moonlighting, a term which refers to physicians engaging in employment outside of their graduate medical training, is prohibited for J-1 visa holders and employment outside of approved residency or fellowship training is therefore barred. ECFMG is explicit that no compensation may be provided to physicians training on J-1 visas from any source other than their residency/fellowship program.

How does a physician obtain J-1 status?

Physicians in the United States in a valid nonimmigrant status, with the exception of physicians in visitor status under the Visa Waiver Program, are able to seek to adjust their status to J-1 for graduate medical training by applying with USCIS. However, these applications have unpredictable timing, so most physicians avoid exercising this option.

The most commonly pursued option is the filing of an application for a J-1 visa at a U.S. consulate in the home country or the country of residence. In order to apply for J-1 status, J-1 and J-2s should first file a nonimmigrant visa application.

In addition to supporting documentation, J-1 and J-2 applicants should bring the following items with them to their interview:

- The DS-2019 form (one for the J-1 and separate ones for the J-2 applicants);
- Documentation of nonimmigrant intent;
- The contract or offer letter from the graduate medical training program;
- While not technically a requirement, it is a good idea to have available documentation previously submitted to ECFMG to obtain the DS-2019, including the ECFMG certificate, USMLE test results, transcripts, etc.; and
- For J-2s, evidence of the relationship, including a copy of the marriage certificate and/or birth certificate (including a certified translation).

Once the U.S. consulate is satisfied the applicant meets the J-1 visa requirements, the applicant's passport and the passports of his or her dependents will be stamped with machine-readable visas.

For further reading, including what J-1s and J-2s need for travel in and out of the United States, view Chapter 4 in *The Physician Immigration Handbook*.

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3. AskVisalaw.com

In our AskVisalaw.com section of the SIB, attorney Ari Sauer answers immigration law questions sent in by our readers. If you enjoy reading this section, we encourage you to visit Ari's blog, The Immigration Answer Man, where he provides more answers to your immigration questions. You can also follow The Immigration Answer Man on Facebook and Twitter.

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.

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QUESTION: I filed an I-130 petition for my wife, who is in India. When I filed the I-130, I was a permanent resident. Now I am a citizen. What is the process for having USCIS process my I-130 as the wife of a US citizen?

THE IMMIGRATION ANSWER MAN – ARI SAUER: When an I-130 is filed under the F-2A preference category, as the spouse of US permanent resident, and the petitioner later is naturalized and becomes a US citizen, the I-130 petition automatically moves to the Immediate Relative category. However, the USCIS office that approved the application for naturalization will not notify the USCIS office that is processing (or that approved) the I-130 petition, so the petitioner must notify USCIS that they are now a US citizen. You do this by sending a copy of the Naturalization Certificate, along with a copy of the I-130 Receipt Notice (or the I-130 Approval Notice, if it has already been approved) to the USCIS Service Center that is processing the I-130, along with a letter asking them to update the I-130 petition now that the petitioner is a US citizen. The address to use to send the notice is the address listed at the bottom of the I-130 Receipt Notice or the I-130 Approval Notice, although if you have received a Notice of Transfer informing you that the I-130 has been transferred to another USCIS office, then you would use the address listed at the bottom of the Notice of Transfer. However, if you are working with an immigration attorney for the I-130 petition, you should let your attorney know of your new US citizen status and follow their instructions.

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QUESTION: I have just been scheduled for my green card interview. How do I know if my medical examination report has expired and I need to bring a new one to the interview?

THE IMMIGRATION ANSWER MAN – ARI SAUER: Almost all applicants for Adjustment of Status (Form I-485) must submit a Report of Medical Examination (Form I-693) at some point in the process. We are no longer required to submit the I-693 together with the I-485 application, although we still have the option to do so.

On November 1, 2018, USCIS changed the rules regarding how long the I-693 remains valid. The rules are now different depending on whether the I-693 was submitted before or after November 1, 2018.

Where the I-693 is submitted to USCIS after November 1, 2018, if a) the I-693 was signed by the doctor after the I-485 was filed or b) the I-693 was signed by the doctor 60 days or less prior to the I-485 being filed, then the I-693 will remain valid for 2 years from the date that the doctor signed the I-693.

So if the I-485 was filed before the I-693 was signed by the doctor or the I-485 was filed no more than 60 days after the doctor signed the I-693, you will only need to obtain a new I-693 if it has been more than 2 years since the doctor signed the I-693 and USCIS still has not approved your I-485 application.

If the I-485 was filed more than 60 days after the doctor signed the I-693, then the I-693 is no longer valid and you will have to obtain a new one.

Form I-693 was submitted to USCIS <u>on or after November 1, 2018</u>

When did civil surgeon (doctor) sign the I-693?	**The I-693 is valid for:**
I-693 signed by the doctor after the I-485 application was filed with USCIS	2 years from when the doctor signed the I-693
I-693 was signed by the doctor 60 days or less prior to the I-485 application being filed with USCIS	2 years from when the doctor signed the I-693
I-693 was signed by the doctor more than 60 days prior to the I-485 application being filed with USCIS	I-693 is not valid.

Where the I-693 was submitted to USCIS before November 1, 2018, the same rules above apply where a) the I-693 was signed by the doctor after the I-485 was filed or b) the I-693 was signed by the doctor 60 days or less prior to the I-485 being filed. In those cases, the I-693 will remain valid for 2 years from the date that the doctor signed the I-693.

However, where the I-693 was submitted to USCIS before November 1, 2018, if the I-485 was filed more than 60 days after the I-693 was signed by the doctor, the I-693 will remain valid for up to 1 year from when the I-693 was submitted as long as the I-693 was submitted to USCIS no more than 1 year from when the doctor signed the I-693.

Form I-693 was submitted to USCIS before November 1, 2018

When did civil surgeon (doctor) sign the I-693?	**When was the I-693 submitted to USCIS?**	**The I-693 is valid for:**
I-693 was signed by the doctor after the I-485 application was filed with USCIS	Does not matter.	2 years from when the doctor signed the I-693
I-693 was signed by the doctor 60 days or less prior to the I-485 being filed with USCIS	Does not matter	2 years from when the doctor signed the I-693
I-693 was signed by the doctor more than 60 days prior to the I-485 application being filed with USCIS	I-693 was submitted to USCIS one year or less from when the doctor signed the I-693	1 year from date applicant submitted the I-693 to USCIS
I-693 was signed by the doctor more than 60 days prior to the I-485 application being filed with USCIS	I-693 was submitted to USCIS more than one year after the doctor signed the I-693	The I-693 was not valid at the time it was submitted to USCIS.

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4. Border and Enforcement News

CBP Agents Falsify Documents to Send Migrants Back to Mexico

Records indicate that asylum seekers who have completed their court cases were sent back to Mexico with documents containing incorrect future court dates, indefinitely confining them in Mexico. Under the Migrant Protection Protocols policy, asylum seekers who have cases in the United States are required to remain in Mexico until the resolution of their cases. The Mexican government agreed to accept these migrants, as long as they have future court dates scheduled. Generally, upon the conclusion of their immigration court cases, migrants are either kept in federal custody or paroled into the United States, depending upon their cases' outcome. Customs and Border Protection (CBP) agents in California and Texas, however, reportedly provided migrants whose court cases had concluded with documents which contained fraudulent future court dates, sending the migrants back to Mexico. There are reportedly 14 different cases in which migrants received those documents, commonly referred to as tear sheets, which contained falsified future court dates allowing them to be sent back to Mexico.

For more information, view the full article from The San Diego Tribune.

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Trump Plans to Provide $300 million to "Quality Assurance" Teams After Border Wall Breaches

The Trump administration has announced an allocation of up to $300 million in contracts to form quality assurance teams to oversee the next phase of border wall construction. The announcement comes less than a week after reports came out which claimed multiple sections of the southern border wall have been breached by smugglers by using inexpensive power tools.

According to reports, a $100 cordless saw with special blades affixed to it is capable of cutting through the wall's concrete-filled steel bollards in mere minutes. Furthermore, Trump specifically demanded the beams reach a height of 30 feet against the advice of his immigration officials, who requested the beams to reach only 15 to 18 feet. Because of this increased height, the beams are much easier to push aside and create an "adult-size gap," allowing circumvention of the wall altogether. If smugglers do not have the tools available to go through the wall's beams, they have also reportedly used ladders to climb over them.

During a visit to the border in September, Trump asserted that his "Rolls-Royce version," of the border wall was, "virtually impenetrable," stating, "If you think you're going to cut it with a blowtorch, that doesn't work because you hit concrete. And then if you think you're going to go through the concrete, that doesn't work because we have very powerful rebar inside."

Though Trump repeatedly claimed that Mexico would fund its construction, Trump's border wall has cost American taxpayers around $10 billion, with $3.6 billion of that total coming from U.S. military budgets.

For more information, view the full article from Quartz.

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5. News from the Courts

Federal Court Blocks Trump's Asylum Limits for Migrants Who Arrived at Border Before July 16th

On November 19th, Judge Cynthia Bashant of the Southern District of California ruled that Trump's asylum limits are not applicable to migrants who arrived at the United States' border with Mexico before July 16th.

In July, the Department of Justice (DOJ) and Department of Homeland Security (DHS) announced the controversial asylum limits, prohibiting migrants from seeking asylum who either resided or "transited en route" in a third country. This was in response to the migrant caravans, which were large groups fleeing from Central American countries, primarily Guatemala, Honduras, and El Salvador, to travel through Mexico and seek asylum in the United States. While some of the migrants who arrived before this July ruling turned themselves into U.S. Border Patrol and claimed asylum, many continued to wait in Mexico for processing in Mexico, due to the administration's "metering" policy which limited the number of individuals capable of being processed in a given day.

In her ruling, Bashant asserted that these migrants were not subject to the July rule, since they arrived in Mexico before its implementation. Additionally, Bashant addressed the metering policy, stating if it were not for the policy, "these asylum-seekers would have entered the United States and started the asylum process without delay." Since these migrants adhered to the initial requirements the government instructed, the government argues that they failed to enter, attempt to enter, or arrive in the United States before the mid-July asylum-limit ruling, they are subject to that rule. "That situation, at its core, is quintessentially inequitable," argued Bashant.

For more information, view Judge Cynthia Bashant's ruling, or CNN's full article.

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Refugee Resettlement Agencies Sue Trump Over Executive Order Granting Authority to State and Local Officials

The Hebrew Immigrant Aid Society (HIAS) has teamed with two other refugee resettlement agencies to file a lawsuit against Donald Trump regarding his recent executive order which

empowered state and local officials with the authority to block refugee resettlement in their jurisdictions. Along with Church World Service (CWS), and Lutheran Immigration and Refugee Service (LIRS) HIAS is suing the administration because of its attempt to enforce its discriminatory refugee ban on a local level.

The lawsuit alleges the order to be just the latest attempt by the Trump administration to undermine the nearly 40-year-old federal resettlement infrastructure and prevent refugees, some of whom have been waiting for years after adhering to every requirement with the hope reuniting with their families, from entering the United States.

The executive order would mandate that resettlement agencies such as HIAS, CWS, and LIRS obtain written consent from all localities and states in which they are seeking to resettle refugees. If those agencies are unable to acquire that written consent, that could prevent resettlement agencies from maintaining their local affiliate offices, which are responsible for providing essential services to refugees already present in those communities.

The lawsuit claims the executive order violates federal law, which holds that federal agencies are responsible for making decisions pertaining to the placement of refugees within the country according to an extensive list of factors. There is no provision for state and/or local governments to veto these decisions.

For more information, view the lawsuit.

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Lawsuit Filed Against DHS Requests Information Regarding Department's Rapid DNA Technology

The Electronic Frontier Foundation (EFF) filed a lawsuit against the Department of Homeland Security (DHS) to get answers to questions pertaining to the new technology DHS uses at the border to collect DNA from migrant families. The lawsuit questions the manner in which DHS implemented its Rapid DNA technology, including the total number of individuals who have had their DNA collected, the accuracy of DNA matches, and the precise gene processing used to identify the relationship between parents and children. Rapid DNA can allegedly process DNA samples in 90 minutes or less, prompting law enforcement agencies to adopt the technology.

DHS and Immigration and Customs Enforcement (ICE) implemented a pilot program in May of this year, with the purpose of verifying the parent-child relationships of migrant families at the U.S./Mexico border. One month later, that pilot program became an official part of DHS policy, being instituted at seven different locations. The rapid widespread implementation of the program coupled with many of Trump's prominent immigration advocates having been identified as or associated with white nationalists have intensified concerns of misuse of this DNA technology. Furthermore, the accuracy of this technology has come under scrutiny. In addition to outside questions, even internally, DHS has expressed trepidation regarding the accuracy of its technology, stating internally that, "prototype equipment may not provide totally reliable results," and therefore would be

unable to predict the accuracy of non-match findings, “since the error rate for the machines remains unknown.”

In addition to questions surrounding the accuracy of the data collection, there are also questions surrounding the legality of the manner in which the tests are administered. Though DHS claims all DNA tests are administered only after a consent form has been singed, making them, “voluntary.” The EEF claims, however, that these consent forms include language which states that opting out of the DNA testing could result in negative consequences for the immigrant families the government detains and threatens to separate. “This practice is coercive and does not take into account families with children not biologically connected to parents, like adopted children and stepchildren,” as stated by the EEF.

Moving forward, the Department of Justice aims to collect DNA samples from close to 750,000 immigrant detainees on an annual basis.

For more information, view the full article from Vice.

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Researchers’ Findings Confirm Immigration Judges’ Assertion that Millions of Records Have Gone Missing

Researchers at Syracuse University have discovered, “gross irregularities” in millions of records of immigration court proceedings released by the Trump administration. The findings corroborate the experiences of immigration judges, as purported by the union representing Justice Department judges who handle immigration cases. According to the union, these records were either misrepresented, have gone missing, or were intentionally deleted. Ashley Tabbador, the president of the union, released a statement which identified the incongruities faced by the judges, “who find time and time again that DOJ’s recent data does not match the reality we see in our courtrooms.”

For more information, view the full article from Bloomberg.

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6.Washington Watch

House Passes Bill Avoiding Government Shutdown Through December 20

On November 19th, the House of Representatives passed a spending bill avoiding a government shutdown through December 20 of this year. The legislation, which was

approved 231-192, includes $7.2 billion in funding to finance the 2020 Census, a 3.1% increase in pay for all military members, and an extension for expiring healthcare programs.

The spending bill is intended to provide adequate time for the negotiation and enactment of a long-term funding bill and represents the second such bill since October 1, the beginning of the fiscal year. Trump previously signed a temporary spending bill at the end of October, extending funding for federal programs until November 21st.

Though Congress was able to pass a budget in July establishing the current fiscal year's pending levels, bipartisan agreement surrounding individual appropriation bills and government operation funding has yet to occur.

For more information, view the full article from CBS News.

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7. News Bytes

USCIS Announces H-2B Cap Reached for First Half of 2020

United States Citizenship and Immigration Services announced that it has reached the cap of 33,000 H-2B visas for temporary nonagricultural workers for the first half of fiscal year 2020, which spans from October 1st to March 31st. November 15th was the final receipt date for new cap-subject H-1B worker petitions which request an employment date beginning before April 1, 2020. Therefore, USCIS will reject all new cap-subject petitions received after November 15th which request an employment date beginning before April 1, 2020.

USCIS will continue to accept cap-exempt H-2B petitions, including:

- Current H-2B workers who are in the United States and want to petition for an extension of stay and, if applicable, either make augmentations to the terms of their employment or change employers;
- Fish roe processors, fish roe technicians, and/or supervisors of fish roe processing;
- Workers performing labor or services in the Commonwealth of Northern Mariana Islands, or Guam from November 28, 2019, until December 31, 2029.

For more information, view the USCIS H-2B cap count page.

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USCIS Issues Three AAO Adopted Decisions to Clarify Special Immigrant Juvenile Classification

On October 11, United States Citizenship and Immigration Services (USCIS) clarified its requirements for the Special Immigrant Juvenile (SIJ) classification. For clarification

purposes, USCIS issued three Administrative Appeals Office (AAO) adopted decisions. USCIS made the following clarifications based upon the three adopted decisions:

- The petitioner is required to have been a juvenile under relevant state law at the time of issuance of the juvenile court order;
- USCIS requires evidence of a court's intention to provide relief from abuse, neglect, or abandonment outside of solely a statement of the juvenile's dependence upon the court; and
- USCIS will not require evidence of the state court's authority to place a petitioner in the custody of an unfit parent in order to make a qualifying determination regarding parental reunification for purposes of SIJ classification.

USICS reopened the 30-day comment period for the proposed rule, Special Immigrant Juvenile Petitions, accepting comments through November 15th, 2019. These adopted decisions went into effect on October 15th and is applicable to pending and future petitions.

For more information, view the USCIS announcement.

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USCIS Implements Price Increase on H-1B Visa Registration

United States Citizenship and Immigration Services (USCIS) announced a final rule requiring a non-refundable $10 fee for each H-1B registration form submitted by petitioning employers once the electronic registration system is put in place. Once the system is implemented, petitioners who seek to file H-1B cap-subject petitions, including those who are eligible for the advanced degree exception, will be required to electronically register with USCIS during a designated registration period.

Beginning December 9, 2019, the final rule, entitled "Registration Fee Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Cap-Subject Aliens," will go into effect, and the fee will be required when registrations are submitted. Pending the completion of testing of the system, USCIS plans on implementing the registration process for the Fiscal year 2021 H-1B cap selection process.

For more information, view the USCIS announcement.

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USCIS Increases Premium Processing Fee

United States Citizenship and Immigration Services (USCIS) announced an adjustment it is making to its premium processing fee for certain employment-based petitions. Beginning on November 29, the premium processing fee will increase from $1,410 to $1,440 or Form I-129, Petition for a Nonimmigrant Worker, and Form I-140, Immigrant Petition for Alien. USCIS based this fee increase on the amount of inflation which has occurred since the implementation of the premium processing fee in June 2001 through August 2019 based on the Consumer Price Index for all Urban Consumers (CPI-U).

For more information, view the USCIS announcement.

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8. In the News at ABIL

Siskind Susser is excited to announce that Lynn Susser was recently elected to ABIL, the Alliance of Business Immigration Lawyers. ABIL is comprised of over 20 lawyers from top tier immigration practices with years of expertise and a comprehensive understanding of immigration law. For more information on ABIL, including a map of ABIL attorneys worldwide, visit their website.

The following articles are excerpts from ABIL's monthly Immigration Insider, available here on their website.

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Supreme Court Hears DACA Arguments

November 12, 2019 was a day of reckoning for one of the signature achievements of the Obama Administration as the U.S. Supreme Court heard almost 90 minutes of oral argument on the fate of the Deferred Action for Childhood Arrivals (DACA) Program. With hundreds of demonstrators outside the Courthouse, news outlets reported that Justices Gorsuch, Alito, Thomas and Kavanaugh seem favorably disposed toward the Trump administration's desire to end the program, but that it was not clear that Chief Justice Roberts was equally convinced. An interesting wrinkle in the arguments was that the Administration's position on DACA appears to be framed by the conservative Justices as a decision to "stop enforcing" DACA akin to other exercises of prosecutorial discretion which is different from the initial position that the program was "illegal." The liberal Justices saw it more as an inadequately explained and therefore unjustified termination of an existing government program based on the program's alleged illegality and did not appear to find the Administration's current reasoning persuasive. It will be interesting to see whether Justice Roberts does indeed vote with the liberal block or follow the conservatives. The DACA program is supported by major employers including Microsoft, prestigious universities and State governments, but Congress has failed to enact a statutory solution for Dreamers. A decision on the case is not expected until sometime in 2020 leaving hundreds of thousands of DACA beneficiaries in limbo with no Congressional action in sight.

Details: https://www.washingtonpost.com/politics/courts_law/trump-administration-tells-supreme-court-it-owns-termination-of-daca-program/2019/11/12/2ac4f4ea-0545-11ea-b17d-8b867891d39d_story.html.

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Federal Judge Places Temporary Restraining Order Against Trump Public Charge Order Requiring Proof of Health Insurance for Immigrants

On November 2, Judge Michael Simon in the U.S. District Court in Portland, Oregon issued a temporary restraining order on the Trump Administration's proclamation requiring immigrant-visa applicants demonstrate that they are capable of either covering their own healthcare costs or obtaining healthcare within 30 days of entering the country. The "Public Charge" rule sought to make it difficult for immigrants to gain legal status if they were deemed to pose a potential financial burden to the United States through reliance upon public programs such as Medicaid or subsidies through the Affordable Care Act. The ruling is likely to be appealed, potentially to the Supreme Court, but Judge Simon's decision halts the new rule from taking effect for the duration of the 28-day temporary restraining order.

Details: http://www.visalaw.com/wp-content/uploads/Order-on-TRO-Doe-v-Trump.pdf.

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H-1B Denial Rates Remain at High Levels Through First Three Quarters of FY 2019

A study conducted by the National Foundation for American Policy (NFAP) found that denial rates for H-1B petitions have significantly risen, increasing from the 6% rate for initial employment petitions in FY 2015 to the 24% rate through the third quarter of FY 2019. NFAP found that the increasingly restrictive policies put forth by the Trump Administration have fueled this increase. In addition to the high denial rates for initial employment petitions, the denial rate for continuing employment H-1B petitions has reached an historic high through 3 quarters of FY 2019, reaching 12%, an alarming 4 times higher than the same denial rate in FY 2015 of just 3%.

Details: http://www.visalaw.com/wp-content/uploads/H-1B-Denial-Rates-Analysis-of-FY-2019-Numbers.NFAP-Policy-Brief.October-2019.pdf.

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This newsletter was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers (www.abil.com), of which Lynn Susser is an active member.

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9. Updates from the Visalaw.com Blogs

Greg Siskind's Blog on ILW.com

- Immigrants of the Week: Lieutenant Colonel Alexander Vindman and Fiona Hill
- Immigrant of the Week: Kumail Nanjiani
- Immigrant of the Week: French Montana
- Immigrant of the Week: Lual Mayen
- Immigrant of the Week: Camila Cabello

- Department of Homeland Security v. Thuraissigiam
- Immigrant of the Day: Carolina Herrera
- Immigrant of the Day: Mohammad Salman Hamdani – First Responder
- Siskind Summary – The Public Charge Rule
- Siskind Summary – HR 1044 – The Fairness for High-Skilled Immigrants Act
- Siskind Summary – HR 6 – The American Dream and Promise Act of 2019
- Carmen Puerto Diaz
- Siskind Summary: The H-1B Pre-Registration Proposed Rule
- Siskind Summary: East Bay Sanctuary Covenant v Trump (The Asylum Ban Case)
- Siskind Summary: The Suspension of Asylum Eligibility and Presidential Proclamation
- Siskind Summary – The Texas DACA Preliminary Injunction Ruling

Bruce Buchanan's Blog on ILW.com

- OCAHO Rules Complaint Does Not Need to have Attached 2,020 Forms I-9 in Issue
- Owner of Liberty Immigration & Visas Pleads Guilty to H-2A Visa Fraud
- IER Settles Immigration-Related Discrimination Claim Against Tech Staffing Firm
- Owners Charged with Using Staffing Company to Employ Undocumented Workers
- South Florida Business Owner Sentenced for Immigration Fraud
- New Pennsylvania Law Requires Construction Employers to Use E-Verify
- ME Global owes $190,000 in Back Wages for H-1B Violations
- IER Settles Immigration-Related Discrimination Claim Against Taco Bell Restaurant Franchises
- DOJ Settles Immigration-Related Discrimination Claim Against USAA
- Vizcaino Pays Back Wages to H-2B Workers
- Stillwater Mexican Restaurants Raided by ICE
- Ex CEO Gets 7+ Years in Prison for H-1B Visa Fraud
- OCAHO Approves Fines of $1.16 Million to Cleaning Company
- E-Verify Improves in Identifying Social Security Cards
- Watch Out for Worksite Inspections by ICE related to STEM OPT
- Don't Forget About IER in Immigration Compliance
- ICE Official Spoke at 2019 AILA Worksite Enforcement Conference

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10. State Department Visa Bulletin: December 2019

Number 36
Volume X
Washington, D.C

A. STATUTORY NUMBERS

This bulletin summarizes the availability of immigrant numbers during December for: "Final Action Dates" and "Dates for Filing Applications," indicating when immigrant visa applicants should be notified to assemble and submit required documentation to the National Visa Center.

Unless otherwise indicated on the U.S. Citizenship and Immigration Services (USCIS) website at www.uscis.gov/visabulletininfo, individuals seeking to file applications for adjustment of status with USCIS in the Department of Homeland Security must use the "Final Action Dates" charts below for determining when they can file such applications. When USCIS determines that there are more immigrant visas available for the fiscal year than there are known applicants for such visas, USCIS will state on its website that applicants may instead use the "Dates for Filing Visa Applications" charts in this Bulletin.

1. Procedures for determining dates. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; USCIS reports applicants for adjustment of status. Allocations in the charts below were made, to the extent possible, in chronological order of reported priority dates, for demand received by November 8th. If not all demand could be satisfied, the category or foreign state in which demand was excessive was deemed oversubscribed. The final action date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. If it becomes necessary during the monthly allocation process to retrogress a final action date, supplemental requests for numbers will be honored only if the priority date falls within the new final action date announced in this bulletin. If at any time an annual limit were reached, it would be necessary to immediately make the preference category "unavailable", and no further requests for numbers would be honored.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, EL SALVADOR, GUATEMALA, HONDURAS, INDIA, MEXICO, PHILIPPINES, and VIETNAM.

4. Section 203(a) of the INA prescribes preference classes for allotment of Family-sponsored immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

***First**: (**F1**) Unmarried Sons and Daughters of U.S. Citizens: 23,400 plus any numbers not required for fourth preference.*

***Second**: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, plus any unused first preference numbers:*

*A. (**F2A**) Spouses and Children of Permanent Residents: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;*

*B. (**F2B**) Unmarried Sons and Daughters (21 years of age or older) of Permanent Residents: 23% of the overall second preference limitation.*

***Third**: (**F3**) Married Sons and Daughters of U.S. Citizens: 23,400, plus any numbers not required by first and second preferences.*

***Fourth**: (**F4**) Brothers and Sisters of Adult U.S. Citizens: 65,000, plus any numbers not required by first three preferences.*

A. FINAL ACTION DATES FOR FAMILY-SPONSORED PREFERENCE CASES

*On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are authorized for issuance to all qualified applicants; and "U" means unauthorized, i.e., numbers are not authorized for issuance. (NOTE: Numbers are authorized for issuance only for applicants whose priority date is **earlier** than the final action date listed below.)*

Family-Sponsored	***All Chargeability Areas Except Those Listed***	***CHINA-mainland born***	***INDIA***	***MEXICO***	***PHILIPPINES***
F1	*15MAY13*	*15MAY13*	*15MAY13*	*08AUG97*	*01NOV08*
F2A	*C*	*C*	*C*	*C*	*C*
F2B	*08AUG14*	*08AUG14*	*08AUG14*	*22AUG98*	*01DEC08*
F3	*08NOV07*	*08NOV07*	*08NOV07*	*22FEB96*	*01SEP98*
F4	*01FEB07*	*01FEB07*	*01NOV04*	*15DEC97*	*15DEC98*

B. DATES FOR FILING FAMILY-SPONSORED VISA APPLICATIONS

The chart below reflects dates for filing visa applications within a timeframe justifying immediate action in the application process. Applicants for immigrant visas who have a priority date earlier than the application date in the chart below may assemble and submit required documents to the Department of State's National Visa Center, following receipt of

notification from the National Visa Center containing detailed instructions. The application date for an oversubscribed category is the priority date of the first applicant who cannot submit documentation to the National Visa Center for an immigrant visa. If a category is designated "current," all applicants in the relevant category may file applications, regardless of priority date.

The "C" listing indicates that the category is current, and that applications may be filed regardless of the applicant's priority date. The listing of a date for any category indicates that only applicants with a priority date which is ***earlier*** *than the listed date may file their application.*

Visit www.uscis.gov/visabulletininfo for information on whether USCIS has determined that this chart can be used (in lieu of the chart in paragraph 4.A.) this month for filing applications for adjustment of status with USCIS.

Family-Sponsored	***All Chargeability Areas Except Those Listed***	***CHINA-mainland born***	***INDIA***	***MEXICO***	***PHILIPPINES***
F1	*15NOV13*	*15NOV13*	*15NOV13*	*15NOV99*	*01MAY09*
F2A	*01OCT19*	*01OCT19*	*01OCT19*	*01OCT19*	*01OCT19*
F2B	*08FEB15*	*08FEB15*	*08FEB15*	*22APR99*	*01JUN09*
F3	*15MAY08*	*15MAY08*	*15MAY08*	*15JUL00*	*01MAR99*
F4	*22JUL07*	*22JUL07*	*01JUL05*	*01JAN99*	*15JUN99*

5. Section 203(b) of the INA prescribes preference classes for allotment of Employment-based immigrant visas as follows:

EMPLOYMENT-BASED PREFERENCES

First*: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.*

Second*: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.*

Third*: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "*Other Workers".*

Fourth*: Certain Special Immigrants: 7.1% of the worldwide level.*

***Fifth**: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of Pub. L. 102-395.*

A. FINAL ACTION DATES FOR EMPLOYMENT-BASED PREFERENCE CASES

*On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are authorized for issuance to all qualified applicants; and "U" means unauthorized, i.e., numbers are not authorized for issuance. (NOTE: Numbers are authorized for issuance only for applicants whose priority date is **earlier** than the final action date listed below.)*

Employment-based	***All Chargeability Areas Except Those Listed***	***CHINA-mainland born***	***EL SALVADOR GUATEMALA HONDURAS***	***INDIA***	***MEXICO***	***PHILIPPINES***	***VIETNAM***
1st	*15JUL18*	*15MAY17*	*15JUL18*	*01JAN15*	*15JUL18*	*15JUL18*	*15JUL18*
2nd	*C*	*22JUN15*	*C*	*15MAY09*	*C*	*C*	*C*
3rd	*C*	*01NOV15*	*C*	*01JAN09*	*C*	*01MAR18*	*C*
Other Workers	*C*	*01MAR08*	*C*	*01JAN09*	*C*	*01MAR18*	*C*
4th	*C*	*C*	*01JUL16*	*C*	*22JUL17*	*C*	*C*
Certain Religious Workers	*U*	*U*	*U*	*U*	*U*	*U*	*U*
5th Non-Regional Center (C5 and T5)	*C*	*15NOV14*	*C*	*01JAN18*	*C*	*C*	*01DEC16*
5th Regional Center (I5 and R5)	*U*	*U*	*U*	*U*	*U*	*U*	*U*

**Employment Third Preference Other Workers Category: Section 203(e) of the Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997, as amended by Section 1(e) of Pub. L. 105-139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW*

petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW final action date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002. For Fiscal Year 2020 this reduction will be limited to approximately 350.

B. DATES FOR FILING OF EMPLOYMENT-BASED VISA APPLICATIONS

The chart below reflects dates for filing visa applications within a timeframe justifying immediate action in the application process. Applicants for immigrant visas who have a priority date earlier than the application date in the chart may assemble and submit required documents to the Department of State's National Visa Center, following receipt of notification from the National Visa Center containing detailed instructions. The application date for an oversubscribed category is the priority date of the first applicant who cannot submit documentation to the National Visa Center for an immigrant visa. If a category is designated "current," all applicants in the relevant category may file, regardless of priority date.

The "C" listing indicates that the category is current, and that applications may be filed regardless of the applicant's priority date. The listing of a date for any category indicates that only applicants with a priority date which is ***earlier*** *than the listed date may file their application.*

Visit www.uscis.gov/visabulletininfo for information on whether USCIS has determined that this chart can be used (in lieu of the chart in paragraph 5.A.) this month for filing applications for adjustment of status with USCIS.

Employment-based	***All Chargeability Areas Except Those Listed***	***CHINA-mainland born***	***EL SALVADOR GUATEMALA HONDURAS***	***INDIA***	***MEXICO***	***PHILIPPINES***
1st	*C*	*01SEP17*	*C*	*15MAR17*	*C*	*C*
2nd	*C*	*01AUG16*	*C*	*01JUL09*	*C*	*C*
3rd	*C*	*01MAR17*	*C*	*01FEB10*	*C*	*C*
Other Workers	*C*	*01AUG08*	*C*	*01FEB10*	*C*	*C*
4th	*C*	*C*	*15AUG16*	*C*	*C*	*C*
Certain Religious Workers	*C*	*C*	*15AUG16*	*C*	*C*	*C*

5th Non-Regional Center (C5 and T5)	*C*	*15MAY15*	*C*	*C*	*C*	*C*
5th Regional Center (I5 and R5)	*C*	*15MAY15*	*C*	*C*	*C*	*C*

6. The Department of State has a recorded message with the Final Action date information which can be heard at: (202) 485-7699. This recording is updated on or about the tenth of each month with information on final action dates for the following month.

B. DIVERSITY IMMIGRANT (DV) CATEGORY FOR THE MONTH OF DECEMBER

Section 203(c) of the INA provides up to 55,000 immigrant visas each fiscal year to permit additional immigration opportunities for persons from countries with low admissions during the previous five years. The NACARA stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. This will result in reduction of the DV-2020 annual limit to approximately 54,650. DV visas are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For December, immigrant numbers in the DV category are available to qualified DV-2020 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers BELOW the specified allocation cut-off number:

Region	***All DV Chargeability Areas Except Those Listed Separately***	
AFRICA	*12,000*	*Except: Egypt 6,000*
ASIA	*6,000*	*Except: Iran 3,000* *Nepal 5,000*
EUROPE	*8,600*	
NORTH AMERICA (BAHAMAS)	*7*	
OCEANIA	*800*	
SOUTH AMERICA, and the CARIBBEAN	*850*	

Entitlement to immigrant status in the DV category lasts only through the end of the fiscal (visa) year for which the applicant is selected in the lottery. The year of entitlement for all applicants registered for the DV-2020 program ends as of September 30, 2020. DV visas

may not be issued to DV-2020 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2020 principals are only entitled to derivative DV status until September 30, 2020. DV visa availability through the very end of FY-2020 cannot be taken for granted. Numbers could be exhausted prior to September 30.

C. THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN JANUARY

For January, immigrant numbers in the DV category are available to qualified DV-2020 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers BELOW the specified allocation cut-off number:

Region	***All DV Chargeability Areas Except Those Listed Separately***	
AFRICA	*19,000*	*Except: Egypt 10,000*
ASIA	*8,200*	*Except: Iran 5,100* *Nepal 6,500*
EUROPE	*10,300*	
NORTH AMERICA (BAHAMAS)	*8*	
OCEANIA	*1,200*	
SOUTH AMERICA, and the CARIBBEAN	*1,075*	

D. SCHEDULED EXPIRATION OF TWO EMPLOYMENT VISA CATEGORIES

Employment Fourth Preference Certain Religious Workers (SR):

Pursuant to the continuing resolution (H.R. 4378 - Continuing Appropriations Act, 2020, and Health Extenders Act of 2019), signed on September 27, 2019, the non-minister special immigrant program expires on November 21, 2019. No SR visas may be issued overseas or final action taken on adjustment of status cases after midnight, November 20, 2019. Visas issued prior to this date will only be issued with a validity date of November 20, 2019 and all individuals seeking admission as a non-minister special immigrant must be admitted (repeat, admitted) into the U.S. no later than midnight, November 20, 2019.

The final action date for this category has been listed as "Unavailable" for December for all countries.

If there is legislative action extending this category for FY 2020, the final action date would immediately become "Current" for December for all countries except El Salvador,

Guatemala, and Honduras, which would be subject to a July 1, 2016 final action date, and Mexico, which would be subject to a July 22, 2017 final action date.

Employment Fifth Preference Categories (I5 and R5):

Pursuant to the continuing resolution (H.R. 4378 - Continuing Appropriations Act, 2020, and Health Extenders Act of 2019), signed on September 27, 2019, the immigrant investor pilot program is extended until November 21, 2019. The I5 and R5 visas may be issued until close of business on November 21, 2019, and may be issued for the full validity period. No I5 or R5 visas may be issued overseas or final action taken on adjustment of status cases after November 21, 2019.

The final action dates for the I5 and R5 categories have been listed as "Unavailable" for December.

If there is legislative action extending the categories for FY 2020, the final action dates would immediately become "Current" for December for all countries except China-mainland born I5 and R5, which would be subject to a November 15, 2014 final action date; India I5 and R5, which would be subject to a January 1, 2018 final action date; and Vietnam I5 and R5, which would be subject to a December 1, 2016 final action date.

E. EMPLOYMENT-BASED VISA AVAILABILTY IN THE COMING MONTHS

In recent weeks there has been a steadily increasing level of Employment-based demand for adjustment of status cases filed with U.S. Citizenship and Immigration Services. Continuation of the current demand pattern would require the establishment of final action dates in the Employment Second, Third, and Third Other Worker preference categories as early as January. Such action would be required in an effort to hold number use within those FY 2020 annual limits.

F. OBTAINING THE MONTHLY VISA BULLETIN

To be placed on the Department of State's E-mail subscription list for the "Visa Bulletin", please send an E-mail to the following E-mail address:

listserv@calist.state.gov

and in the message body type:
Subscribe Visa-Bulletin
(example: Subscribe Visa-Bulletin)

To be removed from the Department of State's E-mail subscription list for the "Visa Bulletin", send an e-mail message to the following E-mail address:

listserv@calist.state.gov

and in the message body type: ***Signoff Visa-Bulletin***

The Department of State also has available a recorded message with visa final action dates which can be heard at: ***(202) 485-7699****. The recording is normally updated on/about the 10th of each month with information on final action dates for the following month.*

Readers may submit questions regarding Visa Bulletin related items by E-mail at the following address:

VISABULLETIN@STATE.GOV

(This address cannot be used to subscribe to the Visa Bulletin.)

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