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US IMMIGRATION & NATIONALITY LAW

MID-APRIL 2019 IMMIGRATION UPDATE

Posted on April 16, 2019 by Cyrus Mehta

Headlines:

USCIS Reaches FY 2020 H-1B Regular Cap – USCIS has received a sufficient number of petitions to reach the 65,000 H-1B visa regular cap for fiscal year 2020.

New Study Shows Companies Pay Billions in Job Training, Scholarships for U.S. Students Through H-1B Fees – The study by the National Foundation for American Policy also details how expensive it has become to petition for an H-1B professional.

USCIS Launches Data Hub on H-1B Employers – The data hub allows the public to search for H-1B petitioners by fiscal year, NAICS code, employer name, city, state, or zip code.

Justice Department Settles Immigration-Related Discrimination Claim Against Housing Authority in Texas – The Housing Authority improperly demanded that the worker present more documents than necessary and rejected the documentation he presented, then terminated him based on his lack of U.S. citizenship.

Brazil to Allow Visa-Exempt Travel for Australian, Canadian, Japanese, and U.S. Citizens – Effective June 17, 2019, nationals of Australia, Canada, Japan, and the United States will be able to travel to Brazil without a visa for stays of up to 90 days as a visitor.

USCIS Proposes to Revise Fee Waiver Requirements – USCIS is allowing an additional 30 days for public comments on a proposed revision that would no longer require proof of whether an individual receives a means-tested benefit.

USCIS Publishes Notices on Extension of Liberian DED 'Wind-Down' Period, EADs – USCIS has published related notices in the Federal Register.

USCIS Outlines Changes in InfoPass Appointment Process, Reducing In-Person Support – A goal is to limit in-person support to those who truly need assistance that can be provided only in person, the agency said.

Foreign Nationals Serving in U.S. Military Challenge Trump Administration – Several foreign-national soldiers have sued the government, challenging the lawfulness of Trump administration policies adversely affecting their naturalization based on military service.

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USCIS Reaches FY 2020 H-1B Regular Cap

U.S. Citizenship and Immigration Services (USCIS) has received a sufficient number of petitions projected as needed to reach the 65,000 H-1B visa regular cap for fiscal year 2020. USCIS said it will next determine if the agency has received a sufficient number of petitions to meet the 20,000 H-1B visa U.S. advanced degree exemption, known as the master's cap.

The agency will reject and return filing fees for all unselected cap-subject petitions that are not prohibited multiple filings. USCIS will continue to accept and process petitions that are otherwise exempt from the cap.

Details: USCIS news alert, https://www.uscis.gov/news/alerts/uscis-reaches-fy-2020-h-1b-regular-cap

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New Study Shows Companies Pay Billions in Job Training, Scholarships for U.S. Students Through H-1B Fees

New research shows H-1B fees paid by companies have funded approximately $5 billion since 1999 in training and scholarships for U.S. students and teachers to enter science fields and have funded nearly 90,000 college scholarships in tech fields for U.S. students, as well as about $2.5 billion in job training through the Department of Labor. The study by the National Foundation for American Policy also details how expensive it has become to petition for an H-1B professional.

Although critics have argued H-1B visa holders represent "cheap labor," employers pay government-imposed fees and attorney costs of up to $16,560 for an initial H-1B petition and $28,620 for the combined cost of an initial H-1B petition and an extension.

Details: Study, https://nfap.com/wp-content/uploads/2019/04/Employer-Paid-H-1B-Visa-Fees.NFAP-Policy-Brief.April-2019-2.pdf

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USCIS Launches Data Hub on H-1B Employers

U.S. Citizenship and Immigration Services (USCIS) has launched an H-1B Employer Data Hub to provide information on employers petitioning for H-1B workers. The data hub will allow the public to search for H-1B petitioners by fiscal year (back to FY 2009), NAICS code, employer name, city, state, or zip code.

The new hub gives the public the ability to calculate approval and denial rates and to review which employers are using the H-1B program.

Details: USCIS news alert, https://www.uscis.gov/news/alerts/uscis-launches-h-1b-employer-data-hub; H-1B Employer Data Hub, https://www.uscis.gov/h-1b-data-hub; data broken down by fiscal year, https://www.uscis.gov/tools/reports-studies/h-1b-employer-data-hub-files; summary and description, https://www.uscis.gov/tools/reports-studies/understanding-our-h-1b-employer-data-hub.

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Justice Department Settles Immigration-Related Discrimination Claim Against Housing Authority in Texas

The Department of Justice reached a settlement agreement with the Housing Authority of Victoria, Texas, resolving a complaint that the latter discriminated against a lawful permanent resident when it rejected his valid employment documents and fired him. The Housing Authority improperly demanded that the worker present more documents than necessary and rejected the

documentation he presented, then terminated him based on his lack of U.S. citizenship.

"Employers should not reject valid employment documents because of a lawful permanent resident's citizenship status," said Assistant Attorney General Eric Dreiband of the Civil Rights Division.

Details: Settlement agreement, https://www.justice.gov/opa/press-release/file/1149396/download; DOJ media release, https://www.justice.gov/opa/pr/justice-department-settles-immigration-related-discrimination-claim-against-housing-authority

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Brazil to Allow Visa-Exempt Travel for Australian, Canadian, Japanese, and U.S. Citizens

Effective June 17, 2019, nationals of Australia, Canada, Japan, and the United States will be able to travel to Brazil without a visa for stays of up to 90 days as a visitor.

Such visitors to Brazil with valid passports may engage in certain business activities, transit through Brazil, vacation, and participate in artistic or sports activities, among other things. They can apply to extend their stay for an additional 90 days but may not stay in Brazil for longer than 180 days in any 12-month period.

Details: Statement from Consulate General of Brazil: http://cgwashington.itamaraty.gov.br/en-us/News.xml; related alert: https://www.fosterglobal.com/brazil-visa-exempt-travel-for-australian-canadian-u-s-and-japanese-citizens/

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USCIS Proposes to Revise Fee Waiver Requirements

U.S. Citizenship and Immigration Services is allowing an additional 30 days for public comments on a proposed revision that would reduce the evidence required for a fee waiver to only a person's household income and no longer require proof of whether an individual receives a means-tested benefit. The waiver requirements will retain the poverty-guideline threshold and financial

hardship criteria.

Details: Federal Register notice, https://www.govinfo.gov/content/pkg/FR-2019-04-05/html/2019-06657.htm

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USCIS Publishes Notices on Extension of Liberian DED 'Wind-Down' Period, EADs

Following announcements that Deferred Enforced Departure (DED) is extended for certain eligible Liberians through March 30, 2020, and that those Liberians' employment authorization documents (EADs) are extended through September 27, 2019, with an option to obtain EADs for the remainder of the DED wind-down period, U.S. Citizenship and Immigration Services has published related notices in the Federal Register.

Details: Notice on continuation of employment authorization and automatic extension of existing EADs for eligible Liberians before DED ends, https://www.govinfo.gov/content/pkg/FR-2019-04-03/html/2019-06577.htm; notice reproducing text of memorandum on the extension of DED for Liberians, https://www.govinfo.gov/content/pkg/FR-2019-04-03/html/2019-06576.htm.

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USCIS Outlines Changes in InfoPass Appointment Process, Reducing In-Person Support

U.S. Citizenship and Immigration Services (USCIS) recently explained changes in the way it provides support services to applicants under an initiative called the "Information Services Modernization Program" (InfoMod). A goal is to limit in-person support to those who truly need assistance that can be provided only in person, such as issuing emergency documents, providing ADIT stamps, and conducting in-person interviews, the agency said.

InfoMod will enable USCIS to shift applicant support services from self-scheduled InfoPass appointments toward support services provided online or through USCIS Contact Centers. The agency encouraged users to visit myUSCIS, an online public portal.

Details: USCIS teleconference summary, https://www.dhs.gov/blog/2019/04/02/teleconference-summary-updates-uscis-applicant-support-services

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Foreign Nationals Serving in U.S. Military Challenge Trump Administration

Service members who enlisted through the Military Accessions Vital to the National Interest (MAVNI) program and who have not yet become naturalized U.S. citizens may be affected by litigation in the United States District Court for the District of Columbia and elsewhere. Several MAVNI soldiers brought two lawsuits (*Kirwa* and *Nio*) against the Department of Defense, the Department of Homeland Security, U.S. Citizenship and Immigration Services, and certain government officials challenging the lawfulness of Trump administration policies affecting their naturalization based on military service.

The MAVNI program, authorized in 2008, brought individuals considered assets to the U.S. military, including those with needed medical and language skills, into the U.S. Armed Forces in exchange for expedited U.S. citizenship. The Trump administration froze the program in 2016, and in 2018, the U.S. Army began discharging MAVNI soldiers. Lawsuits have followed. The Army also reportedly accidentally leaked sensitive information on 4,200 immigrant recruits between 2017 and 2018, many from China and Russia, risking interception by their autocratic governments.

Separately, the Pentagon has ordered the armed services to send green card-holding troops to recruit training, following a preliminary injunction in California.

Details: Federal class action litigation updates, http://dcfederalcourtmavniclasslitigation.org/; summary, https://www.thebalancecareers.com/military-accessions-mavni-program-3354096; Army Times article on data leaks, https://www.armytimes.com/news/your-army/2019/03/08/army-reportedly-leaked-sensitive-info-about-thousands-of-immigrant-recruits-and-now-some-may-be-at-risk/; Stars and Stripes article on training resuming for green card holders, https://www.stripes.com/news/us/after-losing-court-battle-pentagon-to-send-green-card-holders-to-recruit-training-1.559132.

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Firm in the News

Cyrus Mehta was quoted by *IndiaWest* in an article entitled "H-4 Work Authorization Does Not Unfairly Impact American Workers, Says DHS in Court Filing: Possible 'Contradiction'?" The article is at https://www.indiawest.com/news/global_indian/h--work-authorization-does-not-unfairly-impact-american-workers/article_b68713f8-57c8-11e9-96f9-47ece69df6bf.html

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