



IMMIGRATION UPDATE - MAY 28, 2019

Posted on May 28, 2019 by Cyrus Mehta

Headlines:

Regulatory Agenda Includes Stripping Employment Eligibility From H-4 Spouses of H-1B Visa Holders, Other Actions – The agenda also includes a proposal to revise the definition of "specialty occupation" to "increase focus on obtaining the best and the brightest" foreign nationals via the H-1B program, revise the definition of "employment" and "employer-employee relationship" to "better protect U.S. workers and wages," and add requirements to "ensure employers pay appropriate wages to H-1B visa holders."

USCIS Accelerates Transition to Digital Immigration Processing, Announces I-539 Online Filing – As a first step, certain visitors for business, visitors for pleasure, and vocational students can now file Form I-539, Application to Extend/Change Nonimmigrant Status, online. Additional visa classifications are coming soon.

Texas Service Center to Begin Accepting Certain H-1B Petitions – The Texas Service Center has begun processing certain H-1B cap-exempt petitions requesting a change in previously approved employment or employer, concurrent employment, change of status to H-1B, and others.

USCIS Director Cissna Out Effective June 1 – According to reports, Ken Cuccinelli, former Virginia Attorney General, is at the top of the list of possible replacements.

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Regulatory Agenda Includes Stripping Employment Eligibility From H-4 Spouses of H-1B Visa Holders, Other Actions

The Trump administration recently announced its spring 2019 regulatory agenda.

On the list for the Department of Homeland Security are proposals (not final yet), among others, to:

- Revise the definition of "specialty occupation" to "increase focus on obtaining the best and the brightest" foreign nationals via the H-1B program, revise the definition of "employment" and "employer-employee relationship" to "better protect U.S. workers and wages," and add requirements to "ensure employers pay appropriate wages to H-1B visa holders"
- Increase monitoring and oversight of the EB-5 program and encourage investment in rural areas, including soliciting feedback on proposals for redefining components of the job creation requirement and defining conditions for regional center designations and operations
- Remove employment eligibility for H-4 spouses of H-1B workers
- Withdraw a regulatory provision stating that U.S. Citizenship and Immigration Services must grant or deny an asylum applicant's application for employment authorization within 30 days
- "Promote greater accountability in the application process for requesting employment authorization and...deter the fraudulent filing of asylum applications for the purpose of obtaining Employment Authorization Documents"
- Raise fees for the Student and Exchange Visitor Program

Details: Announcement, <https://www.reginfo.gov/public/do/eAgendaMain>; Department of Homeland Security list, <https://bit.ly/2C3E1nU>; Department of State list, <https://bit.ly/2YOBwfS>

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USCIS Accelerates Transition to Digital Immigration Processing, Announces I-539 Online Filing

On May 22, 2019, U.S. Citizenship and Immigration Services (USCIS) announced a new strategy, eProcessing, to accelerate USCIS's transition to a "digital

business model." USCIS said eProcessing "will be a complete digital experience, from applying for a benefit, to communicating with USCIS, through receiving a decision on a case."

- As a first step, certain visitors for business, visitors for pleasure, and vocational students can now file Form I-539, Application to Extend/Change Nonimmigrant Status, online. Additional visa classifications are coming soon, USCIS said.
- Included are single applicants (without co-applicants or legal/accredited representation) wishing to extend their stay who hold status as B-1 temporary visitors for business, B-2 temporary visitors for pleasure, F-1 academic students with a specific status expiration date, F-2 spouses or children of academic students with a specific expiration date, M-1 vocational students, and M-2 spouses or children of M-1 students.

Details: USCIS announcement re eProcessing,

<https://www.uscis.gov/news/news-releases/uscis-accelerates-transition-digital-immigration-processing-0>; online I-539 filing, <https://www.uscis.gov/i539online>;

USCIS announcement re I-539 online filing,

<https://www.uscis.gov/news/alerts/certain-nonimmigrants-can-now-file-form-i-539-online>

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Texas Service Center Is Accepting Certain H-1B Petitions

As of May 20, 2019, the Texas Service Center has begun processing certain H-1B cap-exempt petitions requesting a change in employer or previously approved employment, concurrent employment, change of status to H-1B, and others.

USCIS said this does not include H-1B petitions for cap-exempt entities.

The Texas Service Center will share this workload with the California Service Center, Vermont Service Center, and Nebraska Service Center. Starting July 19, 2019, USCIS may reject any of these petitions that are filed at the wrong service center.

Details: USCIS announcement,

<https://www.uscis.gov/news/alerts/texas-service-center-begin-accepting-form-i-129-certain-h-1b-petitions>; direct filing addresses for the I-129,

<https://www.uscis.gov/i-129-addresses>

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USCIS Director Cissna Out Effective June 1

On May 26, 2019, L. Francis Cissna, Director of U.S. Citizenship and Immigration Services (USCIS) since October 2017, submitted his resignation "at the request of the President," effective June 1, 2019. In an email, Mr. Cissna thanked USCIS staff and said, "As an immigration law and policy professional dedicated to the rule of law like so many of you, I appreciate that this opportunity to serve was a unique experience."

The move follows the ouster of other Department of Homeland Security (DHS) officials last month, including DHS Secretary Kirstjen Nielsen and Secret Service Director Randolph "Tex" Alles. A replacement for Mr. Cissna has not yet been announced. According to reports, Ken Cuccinelli, former Virginia Attorney General, is at the top of the list, and the move is part of a White House effort to go in a "tougher direction."

Details: News reports, <https://wapo.st/2VUj5Vv>;
<https://www.cnn.com/2019/05/24/politics/l-francis-cissna-citizenship-and-immigration-services/index.html>;
<https://www.vox.com/2019/4/10/18302221/trump-immigration-miller-asylum-dhs-fire-separate>

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Firm in the News

Mr. Mehta spoke on a panel entitled "Ineffective Assistance and Protecting Your Firm and Clients in the Age of Social Media" at the 2019 Immigration Law Conference, Federal Bar Association, in Austin, TX, on March 17-18, 2019.

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