



IMMIGRATION UPDATE AUGUST 12, 2019

Posted on August 13, 2019 by Cyrus Mehta

Headlines

[State Dept. Establishes, Retrogresses August Employment-Based Final Action Dates](#) – The Visa Bulletin for August 2019 notes a steadily increasing level of employment-based applicant demand since late May for adjustment-of-status cases filed with USCIS, although the State Department is hoping to return priority dates to what they've been before July 2019 after the new fiscal year begins in October.

[USCIS Is Rejecting Nonimmigrant Worker Petitions That Lack Required Name and Address](#) – USCIS is subjecting all requests for nonimmigrant classifications filed on Form I-129 to this rejection criteria, including the time-sensitive H-2A visa classification for temporary agricultural workers.

[Court Grants Summary Judgment for Plaintiffs in LexisNexis H-1B Denial Case](#) – The plaintiffs, RELX, Inc., d/b/a LexisNexis USA, and a data analyst for Lexis Nexis in F-1 student status, alleged that the California Service Center, USCIS; the Department of Homeland Security; and others violated the Administrative Procedure Act when they denied LexisNexis' H-1B petition on behalf of the data analyst.

[ICE Conducts Secretive Workplace Raids in Mississippi](#) – Six hundred agents took part in raids of chicken processing plants that netted nearly 700 detainees and left some children stranded after school or day care because their parents were taken into custody.

[USCIS Plans to Close 13 International Field Offices and Three District Offices](#) – The first planned closures are the field offices in Monterrey, Mexico, and Seoul, South Korea, at the end of September 2019.

[State Dept. Releases DV-2020 Results](#) – Approximately 83,884 applicants have been registered and notified and may now make an application for an immigrant visa. Since it is likely that some of the persons registered will not pursue their cases to visa issuance, DOS said this larger figure should ensure that all DV-2020 numbers will be used during fiscal year 2020.

[USCIS Extends Comment Period for Tip Form](#) – USCIS has extended the comment period until September 9, 2019, for a new USCIS Tip Form to facilitate the collection of information from the public regarding "credible and relevant claims of immigration benefit fraud impacting both open adjudications as well as previously approved benefit requests where the benefit remains valid."

State Dept. Establishes, Retrogresses August Employment-Based Final Action Dates

The Department of State's Visa Bulletin for August 2019 notes a steadily increasing level of employment-based applicant demand since late May for adjustment-of-status cases filed with U.S. Citizenship and Immigration Services, with no indication that this increase will end in the near future. Therefore, the bulletin states, "it has been necessary to establish or retrogress many of the August Final Action Dates in an effort to hold worldwide number use within the maximum allowed under the respective FY-2019 annual limits."

The implementation of these dates is expected to be temporary. For October, the first month of fiscal year 2020, the agency said "every effort will be made to return these final action dates to those which applied for July."

Details: Visa Bulletin for August 2019,

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html>

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USCIS Is Rejecting Nonimmigrant Worker Petitions That Lack Required Name and Address

U.S. Citizenship and Immigration Services (USCIS) recently issued a reminder that as of August 5, 2019, it is rejecting Form I-129 nonimmigrant worker petitions that do not include the petitioner's or applicant's name and primary U.S. office address in Part 1 of the form.

USCIS is subjecting all requests for nonimmigrant classifications filed on Form I-129 to this rejection criteria, including the time-sensitive H-2A visa classification for temporary agricultural workers. USCIS said it recognizes that in certain circumstances, the person signing Part 8 of Form I-129 may be an employee of the petitioning entity and have the same address as that of the petitioner named in Part 1 of the form. In such a case, USCIS would not reject the I-129 because of the duplicate addresses.

Details: USCIS notice,

<https://www.uscis.gov/news/alerts/reminder-uscis-rejecting-form-i-129-petitions-lack-required-name-and-address>

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Court Grants Summary Judgment for Plaintiffs in LexisNexis H-1B Denial Case

The U.S. District Court for the District of Columbia recently granted summary judgment for plaintiffs and denied defendants' motion to dismiss in an H-1B case, *RELX, Inc. v. Baran*. The plaintiffs, RELX, Inc., d/b/a LexisNexis USA, and a data analyst for Lexis Nexis in F-1 student status, alleged that the California Service Center, U.S. Citizenship and Immigration Services (USCIS); the Department of Homeland Security; and others violated the Administrative Procedure Act when they denied LexisNexis' H-1B petition on behalf of the data analyst.

The government responded to the H-1B petition with a request for evidence (RFE) related to whether the data analyst position was a specialty occupation, finally denying the petition after LexisNexis sent documentation. Plaintiffs filed suit, but shortly before they filed their opening motion, the government reopened the petition without notifying defendants or providing a reason. Plaintiffs then moved for summary judgment, seeking an order from the court directing USCIS to grant the H-1B petition, but the government filed a motion to dismiss in light of the fact that it had reopened the case.

Among other things, the court noted that an agency's failure to set forth its reasons for a decision constitutes arbitrary and capricious action, and the court must undo the agency action. The court also noted that the government issued an RFE requesting nearly identical information as it did when it last reviewed the petition. Also, upon imminent expiration of the data analyst's F-1 visa, she

would have lost her job and been required to leave the United States for an extended period of time, thus causing "significant hardship," the court observed. Because the agency failed to request any new information when it attempted to reopen the petition, the court found the circumstances of the reopening "highly suspect and contrary to the regulations." Finding that the LexisNexis position was "a distinct occupation which required a specialized course of study," as supported by a "mountain of evidence" that "more than meets the preponderance of the evidence standard," the court concluded that the agency's decision to deny the H-1B petition was not based on a consideration of the relevant factors, was a clear error of judgment, and that USCIS "acted arbitrarily, capriciously, and abused its discretion in denying employer's petition for H-1B visa status" on behalf of the data analyst.

Details: Case text, <https://casetext.com/case/relx-inc-v-baran>

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ICE Conducts Secretive Workplace Raids in Mississippi

U.S. Immigration and Customs Enforcement (ICE) conducted mass raids on workplaces in the first week of school in Mississippi. According to reports, the operation was conducted without much advance notice, even to the White House. Six hundred agents took part in raids of chicken processing plants that netted nearly 700 detainees and left some children stranded after school or day care because their parents were taken into custody. About half of those detained were released the next day, as they were determined not to be a public threat, and some were taken back to their workplaces with a summons to appear later in immigration court. The action drew criticism because of the timing—just days after a mass shooting in El Paso, Texas, targeting Hispanic immigrants.

Details: News articles,

https://www.washingtonpost.com/national/us-defends-secretive-miss-ice-raids-as-local-state-officials-decry-effect-on-children/2019/08/08/485d6240-ba21-11e9-b3b4-2bb69e8c4e39_story.html;

<https://www.npr.org/2019/08/09/749932968/chicken-plants-see-little-fallout-from-immigration-raids>

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USCIS Plans to Close 13 International Field Offices and Three District

Offices

U.S. Citizenship and Immigration Services (USCIS) has announced plans to close 13 international field offices and three district offices between now and August 2020. The first planned closures are the field offices in Monterrey, Mexico, and Seoul, South Korea, at the end of September 2019.

USCIS said that many functions currently performed at international offices "will be handled domestically or by USCIS domestic staff on temporary assignments abroad." As part of this shift, the Department of State (DOS) will assume responsibility for certain in-person services that USCIS currently provides at international field offices. USCIS said it is working closely with DOS "to minimize interruptions in immigration services to affected applicants and petitioners."

USCIS said it plans to maintain operations at its international field offices in Beijing and Guangzhou, China; Nairobi, Kenya; New Delhi, India; Guatemala City, Guatemala; Mexico City, Mexico; and San Salvador, El Salvador.

Details: USCIS notice,

<https://www.uscis.gov/news/news-releases/uscis-will-adjust-international-footprint-seven-locations>

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State Dept. Releases DV-2020 Results

The Department of State's (DOS) Kentucky Consular Center in Williamsburg, Kentucky, has registered and notified the winners of the DV-2020 diversity lottery. Approximately 83,884 applicants have been registered and notified and may now make an application for an immigrant visa. Since it is likely that some of the persons registered will not pursue their cases to visa issuance, DOS said this larger figure should ensure that all DV-2020 numbers will be used during fiscal year 2020 (October 1, 2019, to September 30, 2020).

Applicants registered for the DV-2020 program were selected at random from 14,722,798 qualified entries (23,182,554 with derivatives) received during the 34-day application period that ran in late 2018. The visas were apportioned among six geographic regions with a maximum of seven percent available to persons born in any single country.

During the visa interview, principal applicants must provide proof of a high

school education or its equivalent, or show two years of work experience in an occupation that requires at least two years of training or experience within the past five years. Those selected will need to act on their immigrant visa applications quickly, DOS said. Applicants should follow the instructions in their notification letters.

Details: Visa Bulletin for August 2019, including the country-by-country breakdown,

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html>

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USCIS Extends Comment Period for Tip Form

U.S. Citizenship and Immigration Services (USCIS) has extended the comment period until September 9, 2019, for a new USCIS Tip Form to facilitate the collection of information from the public regarding "credible and relevant claims of immigration benefit fraud impacting both open adjudications as well as previously approved benefit requests where the benefit remains valid." The estimated total number of respondents is 55,000.

Details: Federal Register notice,

<https://www.govinfo.gov/content/pkg/FR-2019-08-08/html/2019-17022.htm>

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Firm in the News:

Cyrus Mehta was quoted in a recent Times of India article on site visits of companies that hire STEM OPTs. The link is available at

<https://timesofindia.indiatimes.com/business/international-business/us-officials-site-visiting-cos-hiring-stem-opt-trainees/articleshow/70474183.cms>