



IMMIGRATION UPDATE - MAY 26, 2020

Posted on May 26, 2020 by Cyrus Mehta

Headlines:

[Federal Court Rules Against USCIS in H-1B 'Itinerary' Case](#) – The court found no basis in the law or regulations "for requiring a petitioner to submit evidence of specific, qualifying work requirements and micro-location information for every single day of the visa period."

[U.S. Embassy in India Advises on Repatriations of U.S. Citizens, Other Matters](#) – The U.S. Embassy in India advised that Air India has announced a new series of commercially operated evacuation flights departing from India to international destinations, including the United States.

[USCIS Introduces New Interactive Voice Response Telephone System](#) – The new system allows a caller to the USCIS Contact Center to speak to the system rather than select keypad options; receive links for forms and information by email or text; and provide real-time feedback through an optional survey.

[Sen. Grassley Asks DHS for Information on Fraud in F-1 OPT Program](#) – Sen. Charles Grassley sent a letter to DHS Acting Secretary Chad Wolf expressing concerns about companies that provide fake employment offers to foreign students so they can meet Optional Practical Training employment requirements, extend their F-1 visas, and remain in the United States after graduation.

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Federal Court Rules Against USCIS in H-1B 'Itinerary' Case

On May 20, 2020, a U.S. district judge in Atlanta, Georgia, found that no statute or regulation requires a petitioner to submit a detailed itinerary in the way required by a U.S. Citizenship and Immigration Services (USCIS) new interpretive memorandum. The court found no basis in the law or regulations "for requiring a petitioner to submit evidence of specific, qualifying work requirements and micro-location information for every single day of the visa period." Accordingly, the court said, the agency's interpretation of the statute and regulations as applied in this case "is owed no deference." A petitioner may meet its burden of showing non-speculative employment, service in a specialty occupation, and the regulatory requirement of an itinerary, if applicable, "without providing evidence with that level of micro-granularity.

The court noted that if USCIS finds that "there is a policy justification for requesting all of this information, it possesses the authority to promulgate new regulations by notice and comment." Because the court found nothing in the statute or regulations requiring a "detailed itinerary" setting forth everything the prospective visa beneficiary would be doing day by day for three years, there was no interpretive basis for the agency to suggest that such information is necessary or advisable in most cases to include in connection with an H-1B petition. The court determined that the agency had "misconceived the law" and remanded the case to the agency for reconsideration.

Details: *Serenity Info Tech, Inc., et al. v. Cuccinelli*, is at <https://bit.ly/2ywx9ic>.

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U.S. Embassy in India Advises on Repatriations of U.S. Citizens, Other Matters

On May 18, 2020, the U.S. Embassy in India advised U.S. persons interested in returning to the United States that Air India has announced a new series of commercially operated evacuation flights departing from India to international destinations, including the United States, to evacuate stranded Indian citizens. U.S. persons are eligible to travel on these flights, the U.S. Embassy said. Interested travelers should contact Air India directly regarding these flights, not the U.S. embassy or consulates. No curfew passes from the embassy or consulates are required for these flights.

Details: U.S. Embassy in India notice, which contains additional country-specific

details, <https://in.usembassy.gov/u-s-citizen-services/covid-19-information/>

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USCIS Introduces New Interactive Voice Response Telephone System

On May 18, 2020, U.S. Citizenship and Immigration Services (USCIS) introduced a new interactive voice response telephone system for English and Spanish callers to the USCIS Contact Center. The new system allows a caller to speak to the system rather than select keypad options; receive links for forms and information by email or text; and provide real-time feedback through an optional survey.

The new system will be implemented in phases, so not all callers will interact with it immediately, USCIS said.

Details: USCIS notice,

<https://www.uscis.gov/news/alerts/uscis-begins-implementing-new-interactive-voice-response-telephone-system>

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Sen. Grassley Asks DHS for Information on Fraud in F-1 OPT Program

On May 21, 2020, Sen. Charles Grassley (R-IA) sent a letter to Department of Homeland Security (DHS) Acting Secretary Chad Wolf expressing concerns about companies that provide fake employment offers to foreign students so they can meet Optional Practical Training (OPT) employment requirements, extend their F-1 visas, and remain in the United States after graduation. Mr. Grassley cited recent news reports, among them a January 2020 article by NBC News, "Thousands of Foreign Students in U.S. on Student Visas May Have 'Worked' for Fake Companies."

Among other things, Sen. Grassley said that "it is important to establish how many fraudulent companies are still actively facilitating visa fraud and what, if any, relationships exist between visa mills posing as educational institutions and phony companies providing fabricated employment verification for F-1 visa extensions." He sent a list of questions to be answered by June 5, 2020.

Details:

- Grassley's letter to DHS,

<https://www.grassley.senate.gov/sites/default/files/2020-05-21%20%20CEG%20to%20DHS%20%28F-1%20Visa%20Oversight%29.pdf>

- Related NBC News reports cited by Sen. Grassley
- <https://www.nbcnews.com/politics/immigration/thousands-foreign-students-u-s-student-visas-may-have-worked-n1109286>
- <https://www.nbcbayarea.com/news/local/thousands-of-foreign-students-may-have-overstayed-visas-through-employment-at-shell-companies/2178507/>.

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Firm in the News

Mr. Mehta was quoted by the Times of India in "Medical Insurance a Burden for Laid-Off H-1B Workers." Among other things, Mr. Mehta said, "Employer plans are generally of a higher quality, and employers are able to purchase these higher quality plans at a discounted group rate from the insurance company. In most cases, the employer pays most of the premium and the employee pays a smaller percentage. When the employee is terminated, the employee pays the whole cost of the insurance and the employer generally does not pay." The article is at

<https://timesofindia.indiatimes.com/business/india-business/medical-insurance-a-burden-for-laid-off-h-1b-workers/articleshow/75839400.cms>

Mr. Mehta spoke on "Ethics and Immigration: Spotlight on Select Rules and Client Representation During COVID-19" on May 18, 2020. He presented a briefing on fundamental ethical rules, how they pertain to immigration practice, and considerations when ethical issues arise in the context of the COVID-19 pandemic. Mr. Mehta addressed the four C's of professional conduct rules: competence, communications, confidentiality, and conflicts, as well as other key rules requiring attention by lawyers during the pandemic. For more information or to order, see

<https://www.pli.edu/programs/ethics-and-immigration-spotlight-on-select-rules-and-client-representation-during-covid-19>.

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