



## IMMIGRATION UPDATE - SEPTEMBER 14, 2020

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### Headlines:

[U.S. Revokes More Than 1,000 Visas for Chinese Students, Researchers](#) – The revocations appear to result from President Trump's proclamation in May 2020 suspending the entry of certain students and researchers from China.

[When Is a Furlough Not a Furlough?](#) – Despite USCIS backing off from plans to furlough thousands of employees nationwide, the agency is going ahead with furloughs of at least 800 private contractors who work for a contractor that provides services at the National Benefit Center in Missouri.

[Second Circuit Stays Preliminary Injunction in Public Charge Rule Challenge, Allowing USCIS to Move Forward](#) – The U.S. Court of Appeals for the Second Circuit stayed a preliminary injunction, effectively allowing USCIS to move forward, if it wishes, with requiring use of the new USCIS public charge Form I-944, Declaration of Self-Sufficiency.

[Consulates Cannot Refuse to Process DV-2020 Applicant Visas, Court Says](#) – DV-2020 selectees may now pursue their diversity visas at their local consulates immediately.

[DHS Terminates Arrival Restrictions for Certain Air Travelers](#) – DHS plans to terminate arrival restrictions applicable to certain flights carrying persons who had recently traveled from, or were otherwise present within, certain countries, effective September 14.

[USCIS Extends Flexibility for Responding to Agency Requests](#) – USCIS has extended the flexibilities it announced in March 2020 due to the COVID-19 pandemic to assist applicants, petitioners, and requestors responding to certain notices and requests.

### [USCIS Launches Effort to Enforce Sponsor Accountability for Reimbursements of Public Benefits](#)

– USCIS plans to use shared information with public benefit-granting agencies to enable them to seek reimbursement from sponsors for means-tested public benefits, including seeking a court order for repayment if a sponsor does not reimburse the agency when a sponsored person receives such a benefit.

### [CW-1 Employers Must Verify Continued Employment and Payment of CW-1 Workers Every Six Months](#)

– USCIS said it may revoke an employer's approved petition or deny its future petitions if it does not comply with the six-month reporting requirement

#### **Details:**

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### **U.S. Revokes More Than 1,000 Visas for Chinese Students, Researchers**

According to reports, the Department of State has revoked visas for more than 1,000 Chinese students and researchers. Some report receiving an email stating that their visas were revoked, they cannot travel on their current visas, and they may be required to reappear before a U.S. consular officer to establish eligibility before being permitted to apply for entry to the United States.

The revocations appear to result from President Trump's proclamation in May 2020 suspending the entry of certain students and researchers from China. The Department of State reportedly said that "high-risk graduate students and research scholars" had been expelled. The Department of Homeland Security's Chad Wolf was quoted as saying that visas were revoked "for certain Chinese graduate students and researchers with ties to China's military fusion strategy, to prevent them from stealing and otherwise appropriating sensitive research."

#### Details:

- "U.S. Reveals It Has Revoked More Than 1,000 Visas to Chinese Nationals Deemed Security Risks," CNN, <https://www.cnn.com/2020/09/09/politics/china-us-visas-intl-hnk/index.html>
- S. Revokes More Than 1,000 Visas of Chinese Nationals, Citing Military Links," Reuters, <https://www.reuters.com/article/us-usa-china-visas-students/us-revokes->

[more-than-1000-visas-of-chinese-nationals-citing-military-links-idUSKBN26039D](#)

- S. Cancels Over 1,000 Visas for Chinese Nationals Citing Security," Al Jazeera, <https://bit.ly/33iCmWc>
- "Proclamation on the Suspension of Entry as Nonimmigrants of Certain Students and Researchers from the People's Republic of China," <https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-nonimmigrants-certain-students-researchers-peoples-republic-china/>

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### **When Is a Furlough Not a Furlough?**

According to reports, despite U.S. Citizenship and Immigration Services (USCIS) backing off at the last minute from plans to furlough thousands of employees nationwide, the agency is going ahead with furloughs of at least 800 private contractors in the Kansas City area, specifically those who work for a contractor that provides services at the National Benefit Center (NBC) in Missouri. USCIS once again blamed a drop in revenue that began in March, although separately the agency had previously said it had enough to cover its expenses in the short term.

Furloughs of these agency contractors are expected to have a similar effect as furloughs of agency staff, precipitating backlogs and delays along with exacerbating potential economic effects on the local area of the lost jobs and if processing for foreign workers employed by technology and health care companies slows more than it already has.

Sen. Roy Blunt (R-Mo.) and Rep. Emanuel Cleaver (D-Mo.), along with several other lawmakers, sent a letter to USCIS Deputy Director Joseph Edlow, noting that NBC has approximately 1,300 contract employees between its Missouri and Kansas facilities, and that overall USCIS has 3,100 contract and federal employees in the region. "Employees at the NBC conduct pre-processing steps, run background checks, and prepare applications for interviews at field offices around the country," the letter noted. Rep. Cleaver said that as he understands it, "there is plenty of work to be done to eliminate the backlogs at field offices and Congress has shown willingness to work with the agency to ensure its fiscal stability, so we want to know exactly how they came to this conclusion, what

other options were on the table, and what can be done to immediately remedy the situation."

Although USCIS dropped plans to furlough employees in the short term, it did warn in August that spending cuts would "drastically impact agency contracts," affect "all agency operations, including naturalizations," and "increase backlogs and wait times across the board."

#### Details:

- "Immigration Agency Cuts of 800 Kansas City Jobs Expected to Trigger Backlogs, Delays Nationwide," Kansas Reflector, <https://kansasreflector.com/2020/09/10/immigration-agency-cuts-of-800-kansas-city-jobs-expected-to-trigger-backlogs-delays-nationwide/>
- "Blunt, Cleaver Seek Answers on USCIS Contractor Furloughs in Kansas City," press release, <https://www.blunt.senate.gov/news/press-releases/blunt-cleaver-seeks-answers-on-uscis-contractor-furloughs-in-kansas-city>
- Letter to Deputy Director Edlow from Sen. Blunt, Rep. Cleaver, and other lawmakers, <https://www.blunt.senate.gov/imo/media/doc/USCIS%20Contract%20Letter%20Final.pdf>
- USCIS Calls Off Furloughs While Warning of 'Aggressive' Hit to Agency Contracts," Homeland Security Today, <https://www.hstoday.us/subject-matter-areas/customs-immigration/uscis-calls-off-furloughs-while-warning-of-aggressive-hit-to-agency-contracts/>

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### **Second Circuit Stays Preliminary Injunction in Public Charge Rule Challenge, Allowing USCIS to Move Forward**

The U.S. Court of Appeals for the Second Circuit issued a decision on September 11, 2020, staying a preliminary injunction granted by a district court and effectively allowing U.S. Citizenship and Immigration Services to move forward, if it wishes, with requiring use of the new USCIS public charge Form I-944, Declaration of Self-Sufficiency.

The Second Circuit explained that the case involves a challenge to the implementation of the Department of Homeland Security (DHS) public charge

rule, which introduced a new framework for determining the admissibility of noncitizens to the United States, expanding the meaning of the "public charge" ground of inadmissibility to include significantly more people than would have been found inadmissible previously.

The Second Circuit said it doubted that the district court had jurisdiction to issue the preliminary injunction while the Second Circuit was considering an appeal from a prior, virtually identical preliminary injunction. Accordingly, the Second Circuit stayed the preliminary injunction pending further order by the panel charged with deciding its merits.

The I-944 was issued in conjunction with the Department of Homeland Security's public charge rule that took effect in February 2020 and was temporarily blocked in July by a federal district court. The Second Circuit had limited the injunction to New York, Connecticut, and Vermont in August. There remains a separate injunction against the Department of State's implementation of the public charge rule.

#### Details:

- "Guide to Filling Out the New USCIS Public Charge Form I-944," Immigrant Legal Resource Center,  
<https://www.ilrc.org/guide-filling-out-new-uscis-public-charge-form-i-944>
- *New York v. DHS*,  
<https://law.justia.com/cases/federal/appellate-courts/ca2/20-2537/20-2537-2020-09-11.html>

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### **Consulates Cannot Refuse to Process DV-2020 Applicant Visas, Court Says**

A federal judge reportedly has blocked the Department of State from refusing to process DV-2020 visa applications because of presidential proclamations issued in April and June 2020. The U.S. consulates are enjoined from continuing a "no visa" policy pursuant to those proclamations.

DV-2020 selectees may now pursue their diversity visas at their local consulates immediately. Due to the September 30, 2020, deadline, advocates recommend that selectees request an emergency visa appointment and ask to be treated as "mission critical."

### Details:

- Information and form from the litigation team for anyone denied an appointment or not receiving a timely response from the agency, <https://bit.ly/32rjBAN>

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## **DHS Terminates Arrival Restrictions for Certain Air Travelers**

The Department of Homeland Security (DHS) plans to publish a notice terminating arrival restrictions applicable to certain flights carrying persons who had recently traveled from, or were otherwise present within, certain countries, effective September 14. The countries include China (excluding Hong Kong and Macau); Iran; Schengen-Area countries; the United Kingdom (excluding overseas territories outside of Europe); the Republic of Ireland; and Brazil.

DHS said the arrival restrictions directed such flights to land only at a limited set of designated U.S. airports where the government had focused enhanced public health screening. According to anecdotal reports, however, in recent months COVID-19 screenings at the designated airports were being administered inconsistently, if at all.

### Details:

- Advance copy of DHS notice, <https://bit.ly/3kdh17u>

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## **USCIS Extends Flexibility for Responding to Agency Requests**

U.S. Citizenship and Immigration Services (USCIS) has extended the flexibilities it announced in March 2020 due to the COVID-19 pandemic to assist applicants, petitioners, and requestors responding to certain notices and requests, specifically:

- Requests for Evidence
- Continuations to Request Evidence (N-14)
- Notices of Intent to Deny
- Notices of Intent to Revoke
- Notices of Intent to Rescind and Notices of Intent to Terminate regional

investment centers

- Motions to Reopen an N-400 Pursuant to 8 CFR 335.5, Receipt of Derogatory Information After Grant
- Filing date requirements for Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA)
- Filing date requirements for Form I-290B, Notice of Appeal or Motion

The flexibility applies to the above documents if the issuance date listed on the request, notice, or decision is between March 1, 2020, and January 1, 2021.

USCIS said it will consider a response to the above requests and notices received within 60 calendar days after the response due date set in the request or notice before taking any action. Additionally, the agency will consider a Form N-336 or I-290B received up to 60 calendar days from the date of the decision before it takes any action.

#### Details:

- USCIS alert, <https://www.uscis.gov/news/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-1>

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## **USCIS Launches Effort to Enforce Sponsor Accountability for Reimbursements of Public Benefits**

U.S. Citizenship and Immigration Services (USCIS) is launching a new Systematic Alien Verification for Entitlements (SAVE) initiative to hold sponsors "legally accountable for the financial responsibilities they willingly accept."

USCIS plans to use shared information with public benefit-granting agencies to enable them to seek reimbursement from sponsors for means-tested public benefits, including seeking a court order for repayment if a sponsor does not reimburse the agency when a sponsored person receives such a benefit.

#### Details:

- USCIS news release, <https://bit.ly/3itdOjB>
- SAVE webpage, <https://www.uscis.gov/save>

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## **CW-1 Employers Must Verify Continued Employment and Payment of CW-1 Workers Every Six Months**

U.S. Citizenship and Immigration Services (USCIS) is reminding employers of the Commonwealth of the Northern Mariana Islands (CNMI) Transitional Workers (CW-1) that they must confirm the continued employment of CW-1 workers every six months.

USCIS created a standalone Form I-129CWR, Semiannual Report for CW-1 Employers, which must be completed to fulfill this requirement. The semiannual report is required for all CW-1 petitions approved by USCIS with employment start dates in fiscal year 2020 for a validity period of six months or more. USCIS said it may revoke an employer's approved petition or deny its future petitions if it does not comply with the six-month reporting requirement.

### Details:

- USCIS alert,  
<https://www.uscis.gov/news/alerts/cw-1-employers-must-verify-continued-employment-and-payment-of-cw-1-workers-by-submitting-form-i>

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