



IMMIGRATION UPDATE - MARCH 29, 2021

Posted on March 29, 2021 by Cyrus Mehta

Headlines:

[Class Action Filed Against DHS for L-2 and H-4 Processing Delays](#) – The American Immigration Lawyers Association and Wasden Baniyas, LLP, filed a class action lawsuit challenging processing delays on extensions of status and employment authorization documents for H-4 and L-2 nonimmigrant spouses.

[USCIS Extends Flexibilities for Responding to Agency Requests](#) – USCIS will consider a response to certain requests and notices received within 60 calendar days after the response due date set in the request or notice before taking any action.

[SEVP Reports 2020 Drop in International Student Enrollment](#) – SEVP reported a drop of 72 percent in international student enrollment in 2020, attributed to the COVID-19 pandemic and Trump-era immigration policies.

[EOIR Releases New Interactive Policy Manual](#) – The manual includes the Immigration Court and Board of Immigration Appeals Practice Manuals, the Office of the Chief Administrative Hearing Officer Practice Manual, and all current agency policy memoranda.

[State Dept. Proposes Increase in Passport Security Surcharge](#) – The Department of State proposes to raise the passport security surcharge from \$60 to \$80.

[USCIS Issues Guidance on P-1A Internationally Recognized Athletes](#) – The update in the *USCIS Policy Manual* provides more detailed guidance on the required prospective level of performance and provides USCIS's interpretation of, and examples related to, the undefined regulatory phrase, "major United States sports league or team" as it relates to internationally recognized P-1A athletes.

Firm in the News

Details:[Back to Top](#)**Class Action Filed Against DHS for L-2 and H-4 Processing Delays**

On March 22, 2021, the American Immigration Lawyers Association (AILA) and Wasden Baniyas, LLP, filed a class action lawsuit against the Department of Homeland Security (DHS), challenging processing delays on extensions of status and employment authorization documents (EADs) for H-4 and L-2 nonimmigrant spouses.

AILA President Jennifer Minear said, "DHS can and must revoke the unnecessary biometrics requirements for H-4 and L-2 nonimmigrants, provide automatic work authorization while DHS processes EAD renewal requests, and allow EAD applicants to file their renewal applications sooner than 180 days prior to EAD expiration to prevent gaps in work authorization."

Details:

- AILA press release, <https://www.aila.org/advo-media/press-releases/2021/lawsuit-l2-h4-processing-delays>

[Back to Top](#)**USCIS Extends Flexibilities for Responding to Agency Requests**

U.S. Citizenship and Immigration Services (USCIS) has extended flexibilities in response to the ongoing COVID-19 pandemic. USCIS will consider a response to certain 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 Form I-290B received up to 60 calendar days from the date of the decision before taking any action. This flexibility applies to the documents if the issuance date listed on the request, notice, or decision is between March 1, 2020, and June 30, 2021, inclusive.

Affected documents include requests for evidence; continuations to request evidence (N-14); notices of intent to deny, revoke, rescind, or terminate regional centers; and motions to reopen an N-400 pursuant to 8 CFR 335.5.

Details:

- USCIS notice, <https://www.uscis.gov/news/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-4>

[Back to Top](#)

SEVP Reports 2020 Drop in International Student Enrollment

U.S. Immigration and Customs Enforcement's Student and Exchange Visitor Program (SEVP) reported a drop of 72 percent in new international student enrollment in U.S. schools in 2020 as compared to calendar year 2019. Decreases were attributed to the COVID-19 pandemic and Trump-era immigration policies. The annual report, which presents data from the Student and Exchange Visitor Information System, also noted that international students chose business administration as a major most often in 2020, followed by second-language learning and computer science.

Also, according to the report:

- The total number of SEVIS records for active F-1 and M-1 students was 1,251,569 in calendar year 2020, a decrease of 17.86 percent from calendar year 2019.
- There were 122,699 pre- and post-completion optional practical training (OPT) students with an employment authorization document who reported working for an employer in calendar year 2020, compared to 138,898 in calendar year 2019—a nearly 12 percent decrease.
- Chinese student enrollment declined in 2020 compared with 2019 (down by 91,936). Indian student enrollment also decreased (down by 41,761 in 2020 versus 2019).

Details:

- SEVIS by the Numbers, Mar. 22, 2021, <https://www.ice.gov/doclib/sevis/pdf/sevisBTN2020.pdf>
- SEVIS report announcement, <https://studyinthestates.dhs.gov/2021/03/read-the-2020-sevis-by-the-numbers-report>

[Back to Top](#)

EOIR Releases New Interactive Policy Manual

The Executive Office for Immigration Review (EOIR) announced the release of its first interactive policy manual. EOIR said the manual is the "culmination of a multi-year project that represents the agency's first comprehensive review of its policies. This effort involved cross-component collaboration and the dedication of many employees to identify redundancies, clarify ambiguities, eliminate surplusage, and update policies to reflect current law and practice."

EOIR said the manual includes the Immigration Court and Board of Immigration Appeals Practice Manuals, the Office of the Chief Administrative Hearing Officer Practice Manual, and all current agency policy memoranda.

Details:

- EOIR press release, <https://www.justice.gov/eoir/pr/eoir-announces-release-comprehensive-policy-manual>
- EOIR Policy Manual, <https://www.justice.gov/eoir/eoir-policy-manual>

[Back to Top](#)

State Dept. Proposes Increase in Passport Security Surcharge

The Department of State issued a proposed rule on March 26, 2021, to raise the passport security surcharge from \$60 to \$80.

Comments are due by May 25, 2021.

Details:

- Schedule of Fees for Consular Services—Passport Security Surcharge, Proposed Rule, Dept. of State, <https://www.govinfo.gov/content/pkg/FR-2021-03-26/pdf/2021-06263.pdf>

[Back to Top](#)

USCIS Issues Guidance on P-1A Internationally Recognized Athletes

U.S. Citizenship and Immigration Services (USCIS) issued updated policy guidance on internationally recognized athletes (P-1A nonimmigrants). The update in the *USCIS Policy Manual* provides more detailed guidance on the required prospective level of performance and provides USCIS's interpretation

of, and examples related to, the undefined regulatory phrase, "major United States sports league or team" as it relates to internationally recognized P-1A athletes.

The guidance clarifies that "major United States sports league" is interpreted as "one that has a distinguished reputation commensurate with an internationally recognized level of performance, and "major United States sports team" means "a team that participates in such a league."

Details:

- USCIS Policy Alert, PA-2021-04, Mar. 26, 2021, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210326-Athletes.pdf>
- USCIS Policy Manual, <https://www.uscis.gov/policy-manual>

[Back to Top](#)

Firm in the News

Cyrus Mehta was quoted in India West on the delay of the DOL's high wage rule in India West,

https://www.indiawest.com/news/business/labor-department-proposes-delaying-a-boost-in-minimum-wages-for-h-1b-workers-until-2023/article_11f18a80-8cbe-11eb-aafd-c3cb79148e7c.html

"Attorney Cyrus Mehta told India-West in January that the Trump Administration had skewed prevailing wages and artificially inflated them so that employers would have to pay higher than market wages."

[Back to Top](#)