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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - APRIL 26, 2021

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Headlines:

SSA Ends "No-Match" Letters – The Social Security Administration has ended the practice of sending employers "no-match" letters, called Employer Correction Request Notices.

DHS to Make Additional 22,000 Temporary Non-Agricultural Worker Visas Available – In light of increased labor demands, the Department of Homeland Security announced a supplemental increase of 22,000 visas this fiscal year for the H-2B Temporary Non-Agricultural Worker program. DHS said the additional visas will be made available in the "coming months" via a temporary final rule.

President Biden Orders CBP, ICE to Change Terminology – According to reports, under orders of the Biden administration, U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement issued memoranda to their employees to stop using certain terms (e.g., "illegal alien") and replace them with others.

DHS Provides Relief for Venezuelan and Syrian F-1 Students – The Department of Homeland Security has suspended certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Venezuela or Syria.

DHS Rescinds Civil Penalties for Failure to Depart – A DHS statement said the fines "were not effective and had not meaningfully advanced the interests of the agency."

State Dept. Issues Final Rule Changing Certifying Authority for Graduate Medical Education – Effective May 19, 2021, the Department of State is changing the certification authority for noncitizen physicians from the American Board of Medical Specialties (ABMS) to the Accreditation Council for Graduate Medical Education (ACGME).

State Dept. Updates Travel Advisories Due to Ongoing Pandemic – The Department is warning travelers against going to "approximately 80% of countries worldwide."

DHS Corrects Deadline for Comments on How USCIS Can Reduce Barriers/Burdens in Regulations and Policies – The correction notice says comments are due May 19, 2021.

Details:

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SSA Ends "No-Match" Letters

According to reports, the Social Security Administration (SSA) has ended the practice of sending employers "no-match" letters, called Employer Correction Request Notices. SSA said it will instead work to make it "better, easier and more convenient" for employers to report and correct wages electronically. The letters, which inform employers when W-2 information doesn't match SSA's records, were discontinued in 2012 but resurrected in March 2019.

Advocates had asked the agency to eliminate the letters, which they said caused problems such as workers losing their jobs due to mistakes in the database.

Details:

- "Immigration Advocates Say End of 'No-Match Letters' a Victory for Workers," Chicago Sun-Times, Apr. 22, 2021, https://chicago.suntimes.com/2021/4/22/22397663/chicago-immigration-no-match-letters-social-security-administration-victory-workers
- " 'No-Match' Letters Are Back: What Employers Need to Know, Watchdog, CalChamber, Apr. 25, 2019, https://hrwatchdog.calchamber.com/2019/04/no-match-letters-are-back-what-employers-need-to-know/

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DHS to Make Additional 22,000 Temporary Non-Agricultural Worker Visas Available

In light of increased labor demands, the Department of Homeland Security

(DHS) announced a supplemental increase of 22,000 visas this fiscal year for the H-2B Temporary Non-Agricultural Worker program. DHS said the additional visas will be made available in the "coming months" via a temporary final rule. Six thousand of these visas will be reserved for nationals of the Northern Triangle countries of Honduras, El Salvador, and Guatemala, DHS said.

The additional visas will only be made available to employers that attest that, if they do not receive workers under the cap increase, they are likely to suffer irreparable harm, DHS said. Additionally, the temporary final rule "will allow employers to immediately hire H-2B workers who are already present in the United States without waiting for approval of the new petition. This portability provision is a critical safeguard that protects both U.S. and H-2B workers, while also providing flexibilities to employers during a time when travel remains challenging," the agency said. The supplemental increase "is based on a time-limited statutory authority and does not affect the H-2B program in future fiscal years."

Details:

- DHS announcement, https://www.dhs.gov/news/2021/04/20/dhs-make-additional-22000-temporary-non-agricultural-worker-visas-available

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President Biden Orders CBP, ICE to Change Terminology

According to reports, under orders of the Biden administration, U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement issued memoranda to their employees to stop using certain terms and replace them with others.

Examples include:

- "alien"—use "noncitizen" or "migrant"
- "alienage—use "noncitizenship"
- "illegal alien"—use "undocumented noncitizen," "undocumented individual," or "migrant"
- "unaccompanied alien children"—use "noncitizen unaccompanied children"
- "assimilation"— use "integration" or "civic integration"

- "immigrant assimilation"— use "immigrant integration"

Details:

- "U.S. Under Biden Will No Longer Call Migrants 'Illegal Aliens'," U.S. News, Apr. 19, 2021, https://www.usnews.com/news/us/articles/2021-04-19/us-under-biden-will-no-longer-call-migrants-illegal-aliens
- "Under Joe Biden, United States Will No Longer Use the Term 'Illegal Aliens' to Describe Migrants," South China Morning Post, Apr. 20, 2021, https://www.scmp.com/news/world/united-states-canada/article/3130203/under-joe-biden-united-states-will-no-longer-use
- "ICE to Stop Using the Term 'Illegal Alien' Referring to Immigrants," ABC News, Apr. 19, 2021, https://abcnews.go.com/Politics/ice-stop-term-illegal-alien-referring-immigrants/story?id=77165043&cid=clicksource_4380645_5_three_posts_card_hed

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DHS Provides Relief for Venezuelan and Syrian F-1 Students

The Department of Homeland Security (DHS) has suspended certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Venezuela or Syria.

DHS said it took this action for Venezuelan students who are experiencing severe economic hardship as a direct result of the current humanitarian crisis in Venezuela, and for Syrian students who are experiencing severe economic hardship as a direct result of the civil unrest in Syria since March 2011

DHS said that affected Venezuelan and Syrian lawful F-1 nonimmigrant students may request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain F-1 status.

DHS will deem an F-1 nonimmigrant student who receives employment authorization by means of the notice to be engaged in a "full course of study" for the duration of the employment authorization if the student satisfies the minimum course load requirement as described in the notices, which will remain effective for Venezuelan students until September 9, 2022, and for

Syrian students until September 30, 2022.

Details:

- Venezuela notice, Apr. 22, 2021, https://www.justice.gov/eoir/page/file/1388716/download
- Syria notice, Apr. 22, 2021, https://www.govinfo.gov/content/pkg/FR-2021-04-22/pdf/2021-08302.pdf

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DHS Rescinds Civil Penalties for Failure to Depart

The Department of Homeland Security (DHS) announced on April 23, 2021, that U.S. Immigration and Customs Enforcement (ICE) has rescinded two orders related to the collection of civil financial penalties for noncitizens who fail to depart the United States.

A DHS statement said the fines "were not effective and had not meaningfully advanced the interests of the agency." ICE intends to work with the Department of the Treasury to cancel the existing debts of those who had been fined, DHS said. "There is no indication that these penalties promoted compliance with noncitizens' departure obligations. We can enforce our immigration laws without resorting to ineffective and unnecessary punitive measures," said DHS Secretary Alejandro Mayorkas.

The DHS statement said that this rescission "marks ICE's latest move toward focusing its limited resources on those posing the greatest risk to national security and public safety."

Details:

- DHS statement, April 23, 2021, https://www.dhs.gov/news/2021/04/23/dhs-announces-rescission-civil-penalties-failure-depart

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State Dept. Issues Final Rule Changing Certifying Authority for Graduate Medical Education

Effective May 19, 2021, the Department of State is changing the certification

authority for noncitizen physicians from the American Board of Medical Specialties (ABMS) to the Accreditation Council for Graduate Medical Education (ACGME).

The Department explained that ABMS no longer produces the publication, *Marquis Who's Who*, referenced in 22 CFR Part 62. Furthermore, ABMS has confirmed that it is also no longer the appropriate organization to comment on programs of graduate medical education. The Department said it has confirmed that the Accreditation Council for Graduate Medical Education (ACGME) has responsibility to accredit and recognize institutions offering programs of graduate medical education, and the agency therefore is replacing the reference to the ABMS with the ACGME in 22 CFR § 62.27.

Details:

- State Dept. notice, Apr. 19, 2021, https://www.govinfo.gov/content/pkg/FR-2021-04-19/pdf/2021-07537.pdf

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State Dept. Updates Travel Advisories Due to Ongoing Pandemic

The Department of State expanded its travel advisories to warn U.S. citizens not to travel to many areas due to ongoing "unprecedented risks" posed by the COVID-19 pandemic. The Department is warning travelers against going to "approximately 80% of countries worldwide."

Details:

- State Dept. tweet on updated travel advisories, https://bit.ly/2S02m6O
- State Dept. Travel Advisories, https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/
- Color-coded map showing travel advisory levels worldwide, State Dept., https://travelmaps.state.gov/TSGMap/
- State Dept. to Issue Travel Warnings Amid 'Unprecedented' COVID-19 Risks," National Public Radio, Apr. 19, 2021, https://www.npr.org/sections/coronavirus-live-updates/2021/04/19/988940638/state-department-to-issue-travel-warnings-amid-unprecedented-covid-19-risks

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DHS Corrects Deadline for Comments on How USCIS Can Reduce Barriers/Burdens in Regulations and Policies

The Department of Homeland Security (DHS) issued a correction to its notice seeking comments from the public on how U.S. Citizenship and Immigration Services (USCIS) can reduce administrative and other barriers and burdens within its regulations and policies, including those that prevent foreign citizens from easily obtaining access to immigration services and benefits. The notice had said comments were due April 19, 2021, but the correction says comments are due May 19, 2021.

DHS said the effort "will help DHS identify process improvements for USCIS, with benefits for state, local, and tribal governments, for businesses (including small businesses and startups), for educational institutions of all kinds, for nonprofits, and for individuals."

The correction was scheduled to be published in the Federal Register on April 26, 2021. The original notice was published on April 19, 2021.

Details:

- Original Federal Register notice, https://www.govinfo.gov/content/pkg/FR-2021-04-19/pdf/2021-07987.pdf
- Advance copy of correction, https://www.govinfo.gov/content/pkg/FR-2021-04-26/pdf/C1-2021-07987.pdf

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