



IMMIGRATION UPDATE - JUNE 01, 2021

Posted on June 1, 2021 by Cyrus Mehta

Headlines:

[ICE Announces Extension, New Employee Guidance on I-9 Compliance Flexibility](#) – U.S. Immigration and Customs Enforcement announced an extension until August 31, 2021, of the flexibilities in rules related to Form I-9 compliance that were initially granted last year due to precautions related to COVID-19.

[USCIS Eases Visitor Restrictions for Fully Vaccinated Individuals](#) – Fully vaccinated individuals no longer have to wear a face covering. USCIS also eased other requirements for fully vaccinated individuals who do not have COVID-19 symptoms.

[DHS Designates Haiti for Temporary Protected Status](#) – The Department of Homeland Security has designated Haiti for TPS for 18 months.

[DHS Designates Burma \(Myanmar\) for Temporary Protected Status](#) – The Department of Homeland Security has designated Burma (Myanmar) for TPS through November 25, 2022.

[DHS Suspends Certain Regulatory Requirements for F-1 Nonimmigrant Students From Burma \(Myanmar\)](#) – The Department of Homeland Security announced the suspension until November 25, 2022, of certain regulatory requirements for F-1 nonimmigrant students from Burma (Myanmar) who are experiencing severe economic hardship as a result of the current crisis in Burma.

[Higher Education Associations Urge Biden Administration to Take Action to Allow International Students to Return to Campus In Time for Fall Semester](#) – The associations ask for timely and efficient processing of visa applications and work authorizations.

[CBP Continues Temporary Travel Restrictions From Canada, Mexico Into United States Via Land POEs and Ferries](#) – Temporary limits on nonessential travel of individuals from Canada or Mexico into the United States at land ports of entry along the border, including ferry service, will continue through June 21, 2021.

[Round Table of Former Immigration Judges Asks Attorney General to Review, Rescind Trump Administration Decisions](#) – The group asked Attorney General Merrick Garland to "review and rescind many, if not all, of the decisions that former Attorneys General Sessions, Whitaker, Barr, and Rosen certified to themselves."

[DHS, DOJ Announce New Dedicated Docket Process for Immigration Hearings](#) – The new process is intended to "significantly decrease the amount of time it takes for migrants to have their cases adjudicated while still providing fair hearings for families seeking asylum at the border."

Firm in the News

Details:

[Back to Top](#)

ICE Announces Extension, New Employee Guidance on I-9 Compliance Flexibility

U.S. Immigration and Customs Enforcement (ICE) announced an extension until August 31, 2021, of the flexibilities in rules related to Form I-9 compliance that were initially granted last year due to precautions related to COVID-19.

The latest extension includes guidance for employees hired on or after June 1, 2021, who work exclusively in a remote setting due to COVID-19-related precautions. Those employees are temporarily exempt from the physical inspection requirements associated with the Employment Eligibility Verification (Form I-9) process until they undertake non-remote employment on a "regular, consistent, or predictable basis," or the extension of the flexibilities related to such requirements is terminated, whichever is earlier. If there are employees physically present at a work location, *no exceptions* are being implemented for in-person verification of identity and employment eligibility documentation.

Details:

- ICE announcement, May 26, 2021, <https://www.ice.gov/news/releases/ice-announces-extension-new-employ>

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[Back to Top](#)

USCIS Eases Visitor Restrictions for Fully Vaccinated Individuals

Due to updated guidance from the Centers for Disease Control and Prevention, U.S. Citizenship and Immigration Services (USCIS) has updated its visitor policy. Fully vaccinated individuals no longer have to wear a face covering. Individuals two years old and older who are not fully vaccinated must still wear a face covering.

"Fully vaccinated" is defined as at least two weeks having passed after receiving a second dose in a two-dose series or at least two weeks having passed after receiving a dose of a single-dose vaccine.

USCIS also eased other requirements for fully vaccinated individuals who do not have COVID-19 symptoms. Those who have returned from domestic air, international air, or cruise ship travel in the past 10 days may enter USCIS facilities if they are fully vaccinated. Individuals who have been in close contact (within six feet for a total of 15 minutes or more) with anyone known to have COVID-19 in the previous 14 days may also enter USCIS facilities if they are fully vaccinated. Healthcare workers who consistently wear an N95 respirator and proper personal protective equipment or equivalent when in contact with COVID-19-positive individuals continue to be exempt from reporting close contact, USCIS said.

In Department of Homeland Security-controlled spaces, "this guidance supersedes state, local, tribal, or territorial rules and regulations regarding face coverings," USCIS said.

Details:

- USCIS notice, May 27, 2021, <https://www.uscis.gov/news/alerts/uscis-eases-visitor-restrictions-for-fully-vaccinated-individuals>

[Back to Top](#)

DHS Designates Haiti for Temporary Protected Status

The Department of Homeland Security (DHS) has designated Haiti for

temporary protected status (TPS) for 18 months.

TPS will apply only to those individuals who are already residing in the United States as of May 21, 2021, and meet all other requirements. Those who attempt to travel to the United States after this announcement will not be eligible for TPS and may be repatriated, DHS warned. Haiti's 18-month designation will take effect on the publication date of the Federal Register notice, to come shortly. The notice will provide instructions for applying for TPS and employment authorization documentation.

Details:

- DHS announcement, May 22, 2021, <https://www.dhs.gov/news/2021/05/22/secretary-mayorkas-designates-haiti-temporary-protected-status-18-months>

[Back to Top](#)

DHS Designates Burma (Myanmar) for Temporary Protected Status

The Department of Homeland Security (DHS) has designated Burma (Myanmar) for temporary protected status (TPS) through November 25, 2022. The designation allows an estimated 1,600 Burmese nationals (or individuals having no nationality who last habitually resided in Burma) who have been continuously residing in the United States since March 11, 2021, and continuously physically present in the United States since May 25, 2021, to file initial applications for TPS.

The 180-day initial registration period began on May 25, 2021, and runs through November 22, 2021. Applicants may also be eligible to apply for TPS-related employment authorization documents and for travel authorization.

Details:

- DHS announcement, <https://www.uscis.gov/news/news-releases/dhs-announces-open-registration-for-temporary-protected-status-for-burma>
- Designation of Burma (Myanmar) for Temporary Protected Status, 86 Fed. Reg. 28132 (May 25, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-05-25/pdf/2021-11075.pdf>

[Back to Top](#)

DHS Suspends Certain Regulatory Requirements for F-1 Nonimmigrant Students From Burma (Myanmar)

On May 24, 2021, the Department of Homeland Security (DHS) announced the suspension until November 25, 2022, of certain regulatory requirements for F-1 nonimmigrant students from Burma (Myanmar) who are experiencing severe economic hardship as a result of the current crisis in Burma. The notice temporarily suspends applicable on-campus and off-campus employment regulations for eligible Burmese students who meet certain conditions.

Details:

- DHS notice, <https://www.ice.gov/doclib/sevis/pdf/bcm2105-03.pdf>
- Federal Register notice, <https://bit.ly/3wBJkCC>

[Back to Top](#)

Higher Education Associations Urge Biden Administration to Take Action to Allow International Students to Return to Campus In Time for Fall Semester

The American Council on Education (ACE) and a group of higher education associations sent a letter to Secretary of State Antony Blinken and Secretary of Homeland Security Alejandro Mayorkas urging them to take immediate action to allow international students to return to their campuses and institutions in the fall semester. "Given the processing time for visas, we believe there are actions that need to be taken now to allow enough time for processing and for international students to make plans to travel to the United States safely." The associations ask for timely and efficient processing of visa applications and work authorizations, including optional practical training, among other measures.

NAFSA: Association of International Educators, sent a separate letter to Secretary Blinken, noting among other things that over the past four years, the United States "lost international students to competitors like Canada, Australia, and even China."

The ACE letter notes a 43 percent decline in new international student enrollment at U.S. institutions during the COVID-19 pandemic, and a decline in the overall economic impact generated by international students of \$1.8 billion during the 2019-2020 academic year from \$40.5 billion in the prior year. There were approximately 1.1 million international students in the United States in

the 2019-2020 academic year.

Details:

- ACE letter,
<https://www.acenet.edu/Documents/Letter-State-DHS-Fall-2021-031821.pdf>
- NAFSA letter,
<https://www.nafsa.org/sites/default/files/media/document/NAFSAToSecretaryBlinken.pdf>
- "Colleges Beg Biden to Save International Student Enrollment," Politico, May 29, 2021,
<https://www.politico.com/news/2021/05/29/colleges-biden-visas-international-students-491346>

[Back to Top](#)

CBP Continues Temporary Travel Restrictions From Canada, Mexico Into United States Via Land POEs and Ferries

The Department of Homeland Security (DHS) announced that temporary limits on nonessential travel of individuals from Canada or Mexico into the United States at land ports of entry along the border, including ferry service, will continue through June 21, 2021. The restrictions only allow processing for entry into the United States of those travelers engaged in "essential travel," as defined in the notice.

Details:

- Federal Register notice (Canada),
<https://www.govinfo.gov/content/pkg/FR-2021-05-24/pdf/2021-10991.pdf>
- Federal Register notice (Mexico),
<https://www.govinfo.gov/content/pkg/FR-2021-05-24/pdf/2021-10992.pdf>

[Back to Top](#)

Round Table of Former Immigration Judges Asks Attorney General to Review, Rescind Trump Administration Decisions

The Round Table of Former Immigration Judges (RTFIJ), a group of 40 former immigration judges and appellate-level judges of the Board of Immigration

Appeals, sent a letter on May 25, 2021, asking Attorney General Merrick Garland to "review and rescind many, if not all, of the decisions that former Attorneys General Sessions, Whitaker, Barr, and Rosen certified to themselves." RTFIJ said that the "vast majority of those decisions overturned decades of substantive and procedural immigration law and policy and are antithetical to an unbiased and independent immigration court system."

RTFIJ singled out 17 cases divided into three general categories: (1) decisions regarding the authority of Immigration Judges to control and manage their own dockets; (2) decisions involving the intersection of criminal and immigration laws; and (3) decisions that significantly contract substantive asylum laws. RTFIJ said it is especially concerned about the first and third categories, which "have turned the Immigration Courts into nothing more than cogs in the deportation machine, and Immigration Judges into prosecutors instead of fair and impartial adjudicators." RTFIJ noted that instead of ensuring the issuance of more orders of removal, the Department of Homeland Security "succeeded only in increasing the case backlog exponentially while reducing the overall case completion rate."

Details:

- RTFIJ letter, May 25, 2021, <https://immigrationcourtside.com/wp-content/uploads/2021/05/AG-Garland-letter-Precedents-Final.pdf>

[Back to Top](#)

DHS, DOJ Announce New Dedicated Docket Process for Immigration Hearings

The Departments of Homeland Security (DHS) and Justice (DOJ) announced on May 28, 2021, a new "Dedicated Docket" process intended to "significantly decrease the amount of time it takes for migrants to have their cases adjudicated while still providing fair hearings for families seeking asylum at the border."

The effort is focused on families arriving between ports of entry at the southwest border and aims to have an immigration judge issue a decision within 300 days of the initial master calendar hearing, subject to the unique circumstances of each case.

Details:

- DOJ announcement, May 28, 2021, <https://www.justice.gov/opa/pr/dhs-and-doj-announce-dedicated-docket-process-more-efficient-immigration-hearings>

[Back to Top](#)

Firm in the News

Cyrus Mehta was quoted extensively by the Times of India in "U.S. Immigration Reforms: Stop Counting Family Members to Mitigate Green Card Backlogs" This article reported on Mr. Mehta's proposals to overcome barriers to legal immigration. <https://bit.ly/3fAGjNd>

[Back to Top](#)