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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - AUGUST 09, 2021

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Headlines:

Biden Administration Develops Plan to Require Full Vaccination for Most Travelers to United States – The Biden administration is developing a "phased" plan to require most travelers to the United States to be fully vaccinated, with exceptions. The idea is to make it possible to safely re-open travel to the United States and lift pandemic-related restrictions on foreign travelers.

125 Indians and Chinese Sue USCIS Over Risk of Green Card Loss – Plaintiffs argue that delayed processing is risking the potential loss of up to 100,000 "rollover" green cards. They ask the court to compel USCIS to adjudicate their adjustment applications by the end of this fiscal year, September 30, 2021, or reserve the visa numbers through the next fiscal year.

USCIS Is Sending RFEs for I-693s; Medicals Should Be Filed Soon After Receiving RFE – USCIS) informed the American Immigration Lawyers Association (AILA) that it is sending communications to adjustment applicants or their representatives with notice that a Request for Evidence (RFE) will be sent for Form I-693, Report of Medical Examination and Vaccination Record.

USCIS Extends Initial Registration Period for New TPS Applicants From Venezuela, Syria, and Burma, and Corrects Venezuelan TPS Notice – USCIS extended the initial registration periods from 180 days to 18 months for initial (new) applicants under the TPS designations for Venezuela, Syria, and Burma. The notice also corrected the Federal Register notice regarding Venezuela.

DHS Suspends Requirements for F-1 Nonimmigrant Students Who Are Haitian Citizens – Eligible 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 nonimmigrant student status. The notice

is effective through February 1, 2023.

U.S. to Defer Removal of Certain Hong Kong Residents in United States – President Biden directed the Department of Homeland Security to "take appropriate measures to defer for 18 months the removal for Hong Kong residents presently in the United States." Such residents may also seek work authorization.

New Refugee Resettlement Program Announced for Certain Afghans Not Eligible for Special Immigrant Visas – Secretary of State Antony Blinken announced a new resettlement program for Afghans who assisted the United States but who do not qualify for special immigrant visas. The "Priority-2" (P-2) designation will grant access to the U.S. refugee admissions program for eligible Afghans and their family members.

New USCIS Director Appointed: Ur M. Jaddou – Ur M. Jaddou was appointed on August 3, 2021, as the new director of USCIS. Ms. Jaddou previously served as chief counsel at USCIS from June 2014 to January 2017.

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Biden Administration Develops Plan to Require Full Vaccination for Most Travelers to United States

According to reports, the Biden administration is developing a "phased" plan to require most travelers to the United States to be fully vaccinated, with exceptions. The idea is to make it possible to safely re-open travel to the United States and lift pandemic-related restrictions on foreign travelers.

A White House official told CBS News that federal interagency working groups "are working to develop a plan for a consistent and safe international travel policy, in order to have a new system ready for when we can reopen travel. This includes a phased approach that over time will mean, with limited exceptions, that foreign nationals traveling to the United States (from all countries) need to be fully vaccinated. Currently, the interagency working groups are developing a policy and planning process to be prepared for when the time is right to transition to this new system."

Under discussion are the details of how to implement such a policy, what proof of vaccination will be accepted, and which vaccines will be accepted. It is

unclear whether only air travel will be affected or whether vaccines will also be required before crossing land borders.

Details:

- "Biden Administration Prepares Plan Requiring Foreign Travelers to be Vaccinated," CBS News, Aug. 5, 2021, https://www.cbsnews.com/news/covid-vaccine-travelers-united-states-biden-administration-plan/
- "Exclusive: U.S. Developing Plan to Require Foreign Visitors to be Vaccinated, Official Says," Reuters, Aug. 4, 2021, https://www.reuters.com/world/us/exclusive-us-developing-plan-require-foreign-visitors-be-vaccinated-official-2021-08-04/

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125 Indians and Chinese Sue USCIS Over Risk of Green Card Loss

A group of 125 Indian and Chinese immigrants approved for employment-based green cards sued U.S. Citizenship and Immigration Services in federal court in Maryland on August 3, 2021. In *Chakrabarti v. USCIS*, they argue that delayed processing is risking the potential loss of up to 100,000 "rollover" green cards from the unused family preferences to the employment preferences. Family-based green cards went unused due to closures at U.S. consulates as a result of the Covid-19 pandemic and former President Trump's ban on the issuance of immigrant visas in April 2020. Any green cards that are not given by September 30, 2021, will be wasted. Plaintiffs ask the court to compel USCIS to adjudicate their adjustment applications by the end of this fiscal year, September 30, 2021, or reserve the visa numbers through the next fiscal year.

Jeff Joseph of Joseph & Hall PC, Charles Kuck of Kuck Baxter Immigration LLC, and Greg Siskind of Siskind Susser PC are representing the immigrants.

Details:

- "Would-Be U.S. Residents Sue USCIS Over 'Wasted' Green Cards," Law360, Aug. 3, 2021, https://www.law360.com/immigration/articles/1409263/would-be-us-residents-sue-uscis-over-wasted-green-cards (registration required)

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USCIS Is Sending RFEs for I-693s; Medicals Should Be Filed Soon After Receiving RFE

U.S. Citizenship and Immigration Services (USCIS) informed the American Immigration Lawyers Association (AILA) that it is sending communications to adjustment applicants or their representatives with notice that a Request for Evidence (RFE) will be sent for Form I-693, Report of Medical Examination and Vaccination Record. USCIS said it is attempting to adjudicate as many adjustment of status applications as possible before the end of the fiscal year. Applicants may respond to the RFE with completed medicals. The RFE will provide instructions for filing. The I-693 should be filed as soon as possible after receiving the RFE so the case can be adjudicated before September 30, 2021.

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USCIS Extends Initial Registration Period for New TPS Applicants From Venezuela, Syria, and Burma, and Corrects Venezuelan Notice

U.S. Citizenship and Immigration Services (USCIS) extended the initial registration periods from 180 days to 18 months for initial (new) applicants under the Temporary Protected Status (TPS) designations for Venezuela, Syria, and Burma. The notice also corrected the Federal Register notice regarding Venezuela.

USCIS said this extension allows an individual to apply as an initial applicant any time during the 18-month designation periods for the three countries. However, USCIS noted that "applicants should be aware that the ability to file a late initial TPS application may not be available during any potential subsequent extensions of these designations, so individuals desiring TPS should take action to apply during this 18-month initial registration period in order to ensure that they do not miss the opportunity to obtain TPS."

The notice also makes several corrections to the Venezuela notice, including changing September 7, 2021, to September 9, 2021, and making other adjustments in the sentence, "Although not required to do so, if you want to obtain an EAD valid through September 9, 2022, you must file an Application for Employment Authorization (Form I–765) and pay the Form I–765 fee or request a fee waiver."

Details:

- Federal Register notice, Aug. 4, 2021, https://www.govinfo.gov/content/pkg/FR-2021-08-04/pdf/2021-16611.pdf

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DHS Suspends Requirements for F-1 Nonimmigrant Students Who Are Haitian Citizens

The Department of Homeland Security suspended certain regulatory requirements for F–1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth) and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. Eligible students may request work authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain F-1 nonimmigrant student status. The notice is effective through February 1, 2023.

DHS said it will deem an F-1 nonimmigrant student who receives work 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 notice.

Details:

- Federal Register notice, Aug. 3, 2021, https://www.govinfo.gov/content/pkg/FR-2021-08-03/pdf/2021-16480.pdf

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U.S. to Defer Removal of Certain Hong Kong Residents in United States

On August 5, 2021, Secretary of Homeland Security Alejandro Mayorkas announced Deferred Enforced Departure would be provided to eligible Hong Kong residents in the United States. President Biden issued a memorandum directing the Department of Homeland Security to "take appropriate measures to defer for 18 months the removal for Hong Kong residents presently in the United States." Such residents "may also seek employment authorization through U.S. Citizenship and Immigration Services," he said.

Secretary Mayorkas said the decision was made "based on the ongoing assault on democracy, and rights and freedoms in Hong Kong by the People's Republic

of China."

Details:

- White House Memorandum, Aug. 5, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/05/memorandum-on-the-deferred-enforced-departure-for-certain-hong-kong-residents/
- Statement from Secretary Mayorkas, Aug. 5, 2021, https://www.dhs.gov/news/2021/08/05/statement-secretary-mayorkas-deferred-enforcement-departure-certain-residents-hong

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New Refugee Resettlement Program Announced for Certain Afghans Not Eligible for Special Immigrant Visas

At a press conference on August 2, 2021, Secretary of State Antony Blinken announced a new resettlement program for Afghans who assisted the United States but who do not qualify for special immigrant visas. The Department of State has created a "Priority-2" (P-2) designation "granting access to the U.S. refugee admissions program for many of these Afghans and their family members," he said.

Secretary Blinken gave a few examples of Afghans who might be eligible for the P-2 designation, including some who worked for a project funded by the U.S. government but not for the government itself; who began working for the United States more recently and may not have met the minimum time and service requirements for a special immigrant visa; or who were employed by American media or nongovernmental organizations (NGOs) "doing vital work to support democratic progress in Afghanistan."

The Department's Bureau of Population, Refugees, and Migration (PRM) created a U.S. Refugee Admissions Program (USRAP) Afghan Referrals Workgroup comprising federal agencies to refer individuals directly to the USRAP. Once cases receive access to the USRAP, they will undergo the same processing steps as other refugees, including extensive security vetting. A fact sheet released on August 2, 2021, by the Department says that Afghans who do not qualify for the P-2 program may be referred to the P-1 program by the United Nations High Commissioner for Refugees, a U.S. Embassy, or a

designated NGO.

Details:

- "U.S. Refugee Admissions Program Priority 2 Designation for Afghan Nationals," Fact Sheet, Dept. of State, Aug. 2, 2021, https://www.state.gov/u-s-refugee-admissions-program-priority-2-designation-for-afghan-nationals/
- "Secretary Antony J. Blinken Remarks to the Press on the Announcement of a U.S. Refugee Admissions Program Priority 2 (P-2) Designation for Afghan Nationals," Aug. 2, 2021, https://www.state.gov/secretary-antony-j-blinken-remarks-to-the-press-on-the-announcement-of-a-u-s-refugee-admissions-program-priority-2-designation-for-afghan-nationals/
- Press Briefing, Dept. of State, Aug. 2, 2021, https://www.state.gov/briefings/department-press-briefing-august-2-2021/
- Refugee Processing Center, https://www.wrapsnet.org/siv-iraqi-syrian-afghan-p2/

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New USCIS Director Appointed: Ur M. Jaddou

Ur M. Jaddou was appointed on August 3, 2021, as the new director of U.S. Citizenship and Immigration Services (USCIS). Ms. Jaddou previously served as chief counsel at USCIS from June 2014 to January 2017.

More recently, Ms. Jaddou directed DHS Watch, an America's Voice-led project focused on good governance and accountability in the Immigration system. She also served as an adjunct professor of law at American University's Washington College of Law, and counsel at Potomac Law Group, PLLC.

From 2012 to 2014, Ms. Jaddou was responsible for developing and implementing congressional strategy for the Department of State as deputy assistant secretary for the Bureau of Legislative Affairs. Ms. Jaddou also served as chief counsel for the Subcommittee on Immigration and Citizenship in the U.S. House of Representatives, and as senior counsel to Rep. Zoe Lofgren.

Ms. Jaddou, a daughter of immigrants from Mexico (mother) and Iraq (father), received her bachelor's and master's degrees from Stanford University and her

law degree from UCLA School of Law.

Details:

- Statement from Ur M. Jaddou, USCIS, Aug. 4, 2021, https://www.uscis.gov/news/news-releases/statement-from-ur-m-jaddou-as-new-director-of-us-citizenship-and-immigration-services
- Ur M. Jaddou, Director, USCIS, Aug. 3, 2021, https://www.uscis.gov/about-us/organization/leadership/ur-m-jaddou-director-us-citizenship-and-immigration-services

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