



## IMMIGRATION UPDATE - OCTOBER 11, 2021

*Posted on October 11, 2021 by Cyrus Mehta*

### Headlines:

[State Dept. Announces Changes in Vaccination Requirements for Immigrants and Certain Nonimmigrants](#) – All immigrant visa applicants, all K fiancé(e) visa applicants, and nonimmigrant visa applicants who are referred to panel physicians must receive a full COVID-19 vaccine series as part of their medical exam before being issued a visa. The vaccine must be approved through either the WHO or the FDA.

[Registration Period Begins for Diversity Visa 2023 Program](#) – Registration for the DV-2023 program began October 6, 2021, and ends Tuesday, November 9, 2021, at noon ET. Applicants must submit entries for the DV-2023 program electronically.

[State Dept. Posts Update on Plans for Complying With Diversity Visa Court Orders](#) – The agency is aware of various court orders regarding the reservation of DV-2020 and DV-2021 diversity visas, and will publish guidance on its plans for complying with the orders as the guidance becomes available.

[SAVE Publishes Info on Afghan Special Immigrant Conditional Permanent Resident Status and Non-Special Immigrant Parolees](#) – Although some Afghans will continue to be admitted as SI LPRs or provided SI parole, DHS recently started admitting a third category: SI conditional permanent residents.

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## State Dept. Announces Changes in Vaccination Requirements for Immigrants and Certain Nonimmigrants

The Department of State (DOS) announced that effective October 1, 2021, the Centers for Disease Control and Prevention (CDC) Technical Instructions for panel physicians is requiring all immigrant visa applicants, all K fiancé(e) visa applicants, and nonimmigrant visa applicants who are referred to the panel physicians to receive a full COVID-19 vaccine series as part of their medical exam before being issued a visa. The vaccine must be approved through either the World Health Organization or the U.S. Food and Drug Administration.

Blanket waivers for the COVID-19 vaccination will be applied in countries where the vaccine is not routinely available or when the vaccine is not age-appropriate, DOS said. DOS "encourages all immigrant visa applicants and others subject to a medical exam to get vaccinated against COVID-19 as soon as possible to not experience delays in their visa processing."

### Details:

- Changes in Vaccination Requirements for Immigrant Visa Applicants, K Fiancé(e) Visa Applicants and Some Nonimmigrant Visa Applicants," Dept. of State, Oct. 1, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/changes-to-vaccination-requirements-for-immigrant-visa-applicants.html>

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## Registration Period Begins for Diversity Visa 2023 Program

The Department of State (DOS) announced that registration for the diversity visa (DV)-2023 program began October 6, 2021, and ends Tuesday, November 9, 2021, at noon ET. Applicants must submit entries for the DV-2023 program electronically at <https://dvprogram.state.gov/>. DOS warned applicants not to wait until the last week because "heavy demand may result in website delays."

For DV-2023, natives of the following countries are *not* eligible to apply because more than 50,000 natives of these countries immigrated to the United States in the previous five years: Bangladesh, Brazil, Canada, China (including Hong Kong SAR), Colombia, Dominican Republic, El Salvador, Haiti, Honduras, India, Jamaica, Mexico, Nigeria, Pakistan, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, Venezuela, and

Vietnam.

Natives of Macau SAR and Taiwan *are* eligible.

DV applicants must meet the education/work experience requirement by having either:

- At least a high school education or equivalent, defined as successful completion of a 12-year course of formal elementary and secondary education; or
- Two years of work experience within the past five years in an occupation that requires at least two years of training or experience to perform.

DOS noted that individuals who submit more than one entry during the registration period will be disqualified. The agency noted that for purposes of eligibility, some countries include "components and dependent areas overseas." Those who are natives of a dependency or overseas territory should "select the appropriate country of eligibility. For example, natives of Macau S.A.R. should select Portugal, and natives of Martinique should select France."

DOS posted DV-2023 program instructions in English and said those are the "only official version. Unofficial translations in additional languages" will be added as they become available. So far, unofficial translations in Nepali, Polish, Romanian, and Ukrainian were posted.

Details:

- Diversity Visa Instructions (announcement), Dept. of State, <https://travel.state.gov/content/travel/en/us-visas/immigrate/diversity-visa-program-entry/diversity-visa-instructions.html>
- Instructions for the 2023 Diversity Immigrant Visa Program, <https://travel.state.gov/content/dam/visas/Diversity-Visa/DV-Instructions-Translations/DV-2023-Instructions-Translations/DV-2023-Instructions-English.pdf>

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## **State Dept. Posts Update on Plans for Complying With Diversity Visa Court Orders**

The Department of State (DOS) released a statement on October 6, 2021, noting that the agency is aware of various court orders regarding the

reservation of DV-2020 and DV-2021 diversity visas. DOS said it will publish guidance regarding its plans for complying with the orders as the guidance becomes available. DOS summarized the court orders:

- On August 17, 2021, the U.S. District Court for the District of Columbia in *Gomez v. Biden* ordered DOS to "process DV-2020 applications in random order until all 9,905 diversity visas have been granted." However, as of September 30, 2021, the court had not issued a final order establishing a time frame for processing.
- On September 27, 2021, the U.S. District Court for the District of Columbia in *Rai v. Biden* ordered DOS to "reserve 966 diversity visa numbers of applicants awaiting adjudication at the twenty-seven embassies and posts previously subject to Proclamations 9984 and 10143 and Defendants' regional No-Visa Policy."
- On September 30, 2021, the U.S. District Court for the District of Columbia in the *Goodluck v. Biden*-related matters ordered DOS to "reserve 6,914 diversity visas for adjudication pending final judgment in the *Goodluck*-related matters."
- On September 30, 2021, the U.S. District Court for the District of Columbia in *Goh v. Biden* ordered DOS "to make 481 diversity visas available for adjudication" and to "adjudicate those diversity visas by the close of Fiscal Year 2022."

#### Details:

- Diversity Visa 2020 and 2021 Updates, Dept. of State, Oct. 6, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/diversity-visa-2020-and-2021-updates.html>

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### **SAVE Publishes Info on Afghan Special Immigrant Conditional Permanent Resident Status and Non-Special Immigrant Parolees**

The Systematic Alien Verification for Entitlements (SAVE) program published supplemental information regarding Afghan special immigrant (SI) lawful permanent residents (LPRs) and parolees. SAVE noted that although some Afghans will continue to be admitted as SI LPRs or provided SI parole, the Department of Homeland Security (DHS) recently started admitting a third

category: SI conditional permanent residents (CPRs). In addition, SAVE said, U.S. Customs and Border Protection (CBP) is allowing certain Afghans to enter the United States in a fourth category: non-SI parolee.

SAVE noted that a CPR becomes an LPR after DHS removes the conditions on their LPR admission. When these SI CPRs complete a medical examination and U.S. Citizenship and Immigration Services (USCIS) determines they are not medically inadmissible, DHS removes their conditions and they become an SI LPR. Such persons meet the immigration status requirement for public benefits under the Afghan Allies Protection Act of 2009, including refugee resettlement assistance and other benefits available to refugees.

#### Details:

- Afghan Special Immigrant Conditional Permanent Resident Status and Non-SI Parolees, USCIS/SAVE, <https://www.uscis.gov/save/whats-new/afghan-special-immigrant-conditional-permanent-resident-status-and-non-si-parolees>

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#### **Firm in the News**

**Cyrus Mehta** is an invited speaker at the 2021 AILA Federal Court Conference: Business Litigation on October 11, 2021 in Las Vegas, NV where he will be speaking on a panel entitled *Let's Get Ethical: Advertising, Charging and Serving Litigants Ethically*.

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