



## IMMIGRATION UPDATE - MARCH 28, 2022

*Posted on March 28, 2022 by Cyrus Mehta*

### Headlines:

[Biden Administration Announces Relief Measures for Ukrainians](#) – President Biden announced that the United States will accept up to 100,000 Ukrainians and other displaced people fleeing the Russian invasion in Ukraine.

[DHS, DOJ Issue Interim Final Rule to 'Improve and Expedite' Asylum Claims Processing for Noncitizens Subject to Expedited Removal](#) – The rule authorizes asylum officers to consider the asylum applications of individuals subject to expedited removal who assert a fear of persecution or torture and pass the required credible fear screening, USCIS noted. Currently, the agency said, such cases are decided only by immigration judges.

[USCIS Updates Guidance on Qualifying Published Material and Scope of Leading or Critical Role in Extraordinary Ability and Outstanding Professor or Researcher Visa Classifications](#) – USCIS is updating its guidance about two evidentiary criteria relating to immigrants of extraordinary ability and one relating to outstanding professors and researchers "to more closely align with recently issued nonimmigrant guidance pertaining to O-1A nonimmigrants of extraordinary ability."

[USCIS Updates Guidance on Employment Authorization Class of Admission Codes for E and L Nonimmigrant Spouses](#) – USCIS announced new Class of Admission (COA) codes for certain E and L nonimmigrant dependent spouses who are employment authorized based on their status. Forms I-94 containing these code designations are acceptable as a List C, #7 Employment Authorization Document issued by the Department of Homeland Security.

[E-Verify Releases New Case Features](#) – Users can now close a case from the document upload page in E-Verify by providing one of several reasons.

E-Verify also added a requirement to download the Further Action Notice before referring a case. E-Verify said this will ensure that users correctly process Tentative Nonconfirmation cases.

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**Details:**

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## **Biden Administration Announces Relief Measures for Ukrainians**

On March 24, 2022, President Biden announced that the United States will accept up to 100,000 Ukrainians and other displaced people fleeing the Russian invasion in Ukraine, in addition to providing an additional \$1 billion in humanitarian aid. "This is not something that Poland or Romania or Germany should carry on their own. This is an international responsibility," he said.

U.S. officials acknowledged that many displaced Ukrainians will want to remain in Europe, closer to their homes and family members, but some may need to find refuge elsewhere. A Biden administration official told reporters traveling with President Biden on March 24, 2022, that admissions of Ukrainians into the United States will be accomplished through a combination of refugee admissions, parole, and immigrant and nonimmigrant visas, with a focus on Ukrainians with family members in the United States. The official said that the United States will prioritize vulnerable people, including those with medical needs, journalists, dissidents, and LGBTQI.

The new measures are in addition to temporary protected status (TPS), for which Ukraine has been designated for 18 months. Individuals eligible for TPS under the Ukraine designation must have continuously resided in the United States since March 1, 2022. Up to an estimated 75,000 Ukrainians in the United States could be eligible for TPS.

According to reports, the Biden administration still struggles with processing issues, including for tens of thousands of Afghans evacuated following the U.S. military withdrawal from Afghanistan, along with other immigration and refugee-related backlogs. Although about 75,000 Afghans have entered the United States via humanitarian parole, many others wait overseas in U.S.-run centers for their cases to be processed.

[Details:](#)

- "The U.S. Will Take In Up to 100,000 Ukrainian Refugees Fleeing the War," National Public Radio, Mar. 24, 2022, <https://www.npr.org/2022/03/24/1088506487/us-ukraine-refugees>
- "United States Will Welcome Up to 100,000 Ukrainian Refugees," New York Times, Mar. 24, 2022, <https://www.nytimes.com/2022/03/24/us/ukrainian-refugees-biden.html>
- Remarks by President Biden, Mar. 24, 2022, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/24/remarks-by-president-biden-in-press-conference-7/>
- USCIS news release (Ukrainian TPS), Mar. 3, 2022, <https://www.uscis.gov/newsroom/news-releases/secretary-mayorkas-designates-ukraine-for-temporary-protected-status-for-18-months>

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## **DHS, DOJ Issue Interim Final Rule to 'Improve and Expedite' Asylum Claims Processing for Noncitizens Subject to Expedited Removal**

On March 24, 2022, the Departments of Homeland Security and Justice announced an interim final rule to "improve and expedite processing of asylum claims made by noncitizens subject to expedited removal, ensuring that those who are eligible for asylum are granted relief quickly, and those who are not are promptly removed."

The rule authorizes asylum officers to consider the asylum applications of individuals subject to expedited removal who assert a fear of persecution or torture and pass the required credible fear screening, USCIS noted. Currently, the agency said, such cases are decided only by immigration judges.

Due to existing court backlogs, USCIS said, the process for hearing and deciding these asylum cases takes several years on average. "When fully implemented, the reforms and new efficiencies will shorten the process to several months for most asylum applicants covered by this rule," the agency said.

Advocates expressed concerns that asylum seekers whose cases are denied could be hindered in obtaining legal representation. Jennifer Ibañez Whitlock, an immigration attorney and policy counsel for the American Immigration Lawyers Association (AILA), said, "If somebody is not approved in the first instance, they're going to be required to go through a pretty fast process to appeal. I firmly believe it's going to affect people's ability to get a lawyer." In a

statement released on March 24, 2022, AILA said that while the rule includes some positive changes, the organization is "gravely concerned about the tight deadlines and rapid scheduling of hearings which will curtail due process and interfere with the ability to obtain legal representation. Missing from the announcement is any reference to legal orientation, funded legal representation, or even basic know-your-rights presentations for individuals placed through these hearings or language access plans."

The interim final rule modifies a notice of proposed rulemaking (NPRM) in response to public comments received following the NPRM issued by the two departments in August 2021. The rule will take effect 60 days after publication in the *Federal Register*, which is expected to occur on March 29, 2022. The departments said they encourage further public comment on the rule during the 60-day comment period.

#### Details:

- "DHS and DOJ Issue Rule to Efficiently and Fairly Process Asylum Claims," USCIS, Mar. 24, 2022, <https://www.uscis.gov/newsroom/news-releases/dhs-and-doj-issue-rule-to-efficiently-and-fairly-process-asylum-claims>
- "New Process for Asylum Cases at the Border Unveiled by Biden Administration," Louisiana Illuminator, Mar. 24, 2022, <https://lailuminator.com/2022/03/24/new-process-for-asylum-cases-at-the-border-unveiled-by-biden-administration/>
- "Asylum Changes from the Biden Administration Will Not Ensure Due Process as Required by U.S. Asylum Law," AILA, Mar. 24, 2022, <https://www.aila.org/advo-media/press-releases/2022/asylum-changes-from-the-biden-administration>
- "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers" (advance copy), Dept. of Homeland Security, <https://public-inspection.federalregister.gov/2022-06148.pdf>

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**USCIS Updates Guidance on Qualifying Published Material and Scope of Leading or Critical Role in Extraordinary Ability and Outstanding Professor or Researcher**

## Visa Classifications

U.S. Citizenship and Immigration Services (USCIS) announced on March 23, 2022, that it has updated its policy manual, effective immediately, to align existing guidance on certain first preference immigrants with a recent manual update relating to nonimmigrants of extraordinary ability. Specifically, USCIS is updating its guidance about two evidentiary criteria relating to immigrants of extraordinary ability and one relating to outstanding professors and researchers "to more closely align with recently issued nonimmigrant guidance pertaining to O-1A nonimmigrants of extraordinary ability," the agency said.

The updated guidance clarifies that:

- For the extraordinary ability and outstanding professor or researcher classifications, "published material" about the person (or the person's work in the case of an outstanding professor or researcher) in professional or major trade publications or other major media need not be a printed article; rather, a petitioner may submit more varied forms of evidence including a transcript of audio or video coverage.
- In the extraordinary ability classification, a person may satisfy the leading or critical role criterion through a qualifying role for a distinguished department or division in addition to an entire organization or establishment.

### Details:

- "Qualifying Published Material and Scope of Leading or Critical Role in Extraordinary Ability and Outstanding Professor or Researcher Visa Classifications," USCIS Policy Alert, Mar. 23, 2022, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220323-ExtraordinaryAbility.pdf>

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## **USCIS Updates Guidance on Employment Authorization Class of Admission Codes for E and L Nonimmigrant Spouses**

Following an announcement by U.S. Citizenship and Immigration Services (USCIS) on March 18, 2022, that it is updating guidance to address the documentation that certain E and L nonimmigrant spouses may use as evidence of employment authorization based on their nonimmigrant status, the

agency announced on March 24, 2022, that as of January 30, 2022, USCIS and U.S. Customs and Border Protection began issuing Form I-94, Arrival-Departure records, with new Class of Admission (COA) codes for certain E and L nonimmigrant dependent spouses who are employment authorized based on their status.

USCIS said the COA designations for E nonimmigrant spouses are E-1S, E-2S, E-3S, and L-2S for nonimmigrant L spouses. Forms I-94 containing these code designations are acceptable as a List C, #7 Employment Authorization Document issued by the Department of Homeland Security, USCIS said.

#### Details:

- "Documentation of Employment Authorization for Certain E and L Nonimmigrant Dependent Spouses," USCIS, Mar. 24, 2022, <https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/documentation-of-employment-authorization-for-certain-e-and-l-nonimmigrant-dependent-spouses>
- USCIS policy alert, Mar. 18, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-on-employment-authorization-for-e-and-l-nonimmigrant-spouses>

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### **E-Verify Releases New Case Features**

E-Verify announced in an email sent March 21, 2022, that users can now close a case from the document upload page in E-Verify by providing one of the following reasons:

- *The information entered was not correct;*
- *The employee voluntarily quit working for the employer; or*
- *Other (full explanation required in text box).*

E-Verify also added a requirement to download the Further Action Notice before referring a case. E-Verify said this will ensure that users correctly process Tentative Nonconfirmation cases.

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### **Firm in the News**

**David Isaacson** was part of the panel of speakers at March 24, 2022 AILA NY EOIR Liaison Committee brown bag discussion on important cases issued by the Board of Immigration Appeals

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