



## IMMIGRATION UPDATE - JULY 05, 2022

*Posted on July 12, 2022 by Cyrus Mehta*

### Headlines:

[OFLC Publishes Prevailing Wage Data, Implements 2018 SOC Codes](#) – An OFLC announcement includes details on how new labor certification applications, and applications in process, will be handled with respect to SOC codes.

[USCIS Urges Employment-Based Adjustment Applicants to Promptly Send Medical Forms When Requested](#) – The agency is urging anyone within the United States who may be eligible for an employment-based adjustment of status to promptly send medical forms when requested, but not to send unsolicited forms.

[Supreme Court Allows Biden Administration to Terminate 'Remain in Mexico' Policy](#) – The Court held that the Biden administration had the legal authority to end the "Remain in Mexico" policy.

[White House Extends and Expands Eligibility for Deferred Enforced Departure for Liberians](#) – The White House issued a memorandum deferring through June 30, 2024, the removal of any Liberian national, or person without nationality who last habitually resided in Liberia, who is present in the United States and who was under a grant of DED as of June 30, 2022, as well as any Liberian national, or person without nationality who last habitually resided in Liberia, who has been continuously physically present in the United States since May 20, 2017.

[CBP Ends Use of Expired U.S. Passports for Direct Return of U.S. Citizens to United States](#) – As of July 1, 2022, U.S. citizens can no longer use their expired U.S. passports to return to the United States. U.S. citizens overseas with expired passports should contact their nearest U.S. embassy or consulate to apply for a passport.

[CIS Ombudsman Submits 2022 Annual Report to Congress](#) – The report outlines "some of the most significant problems encountered by individuals and employers when seeking immigration benefits," including backlogs, issues with employment authorization documents (EADs), expedite requests, and others, and makes recommendations.

[ABIL Global: Canada](#) – Canada has launched a new immigration stream for Ukrainians.

### **Details:**

OFLC Publishes Prevailing Wage Data, Implements 2018 SOC Codes

On July 1, 2022, the Department of Labor's Office of Foreign Labor Certification (OFLC):

- Published the latest prevailing wage data from the Occupational Employment and Wage Statistics (OEWS) as generated by the Bureau of Labor Statistics (BLS) for July 2022 through June 2023. Prevailing wage determinations issued from the National Prevailing Wage Center reflect the new data effective July 1.
- Implemented the 2018 Standard Occupational Classification (SOC) codes at the same time. OFLC said it is using 2018 SOC codes because the OEWS and the Occupational Information Network (O\*NET) have completed the transition from 2010 SOC codes to 2018 SOC codes. An OFLC announcement includes details on how new labor certification applications, and applications in process, will be handled with respect to SOC codes.
- Updated Appendix A to the Preamble–Education and Training Categories by O\*NET–SOC Occupations. Appendix A is a list of professional occupations "that serves as a guide for employers to distinguish between professional and non-professional occupations in order to comply with the professional recruitment requirements of the PERM program," OFLC said.
- Published updated prevailing wage data for the Commonwealth of Northern Mariana Islands.

### Details:

- OFLC announcement, <https://flag.dol.gov/node/23042>

- OFLC Technical Release Notes, July 1, 2022, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Technical%20Release%20Notes%20July%202022%20Wage%20Year.pdf>
- July 2022 Through June 2023 Wage Year Job Zone Data, OFLC, <https://bit.ly/3nB22YM>
- List of Professional Occupations for Appendix A with Education Levels, OFLC, <https://bit.ly/3I92HKe>
- Commonwealth of Northern Mariana Islands CW-1 Wage Table, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/OFLC%20CW-1%20Wage%20Table%202022-2023.pdf>
- Foreign Labor Certification Data Center, <https://www.flcdatacenter.com/>

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### **USCIS Urges Employment-Based Adjustment Applicants to Promptly Send Medical Forms When Requested**

To ensure that U.S. Citizenship and Immigration Services (USCIS) is able to use as many available visas as possible for fiscal year 2022, the agency is urging anyone within the United States who may be eligible for an employment-based adjustment of status to note the following regarding Form I-693, Report of Medical Examination and Vaccination Record:

- If you are planning to file an adjustment of status application, be sure to include a valid Form I-693.
- If you have a pending Form I-485, Adjustment of Status Application, do not send an unsolicited Form I-693 to USCIS. USCIS said it is proactively identifying employment-based adjustment of status applications with available visas that lack a valid Form I-693 and is directly contacting applicants to request that form.
- If you know that your previously filed Form I-485 does not have a valid Form I-693, your underlying petition is approved, and a visa is available to you, it will help USCIS use the available visas and adjudicate your application if you visit a civil surgeon and have a valid Form I-693 on hand when USCIS sends the request to you.
- A Form I-693 is valid for two years from the date on which the civil surgeon signs the form.

USCIS issued the information above via an emailed public engagement notice,

and made a brief related announcement on Twitter.

#### Details:

- USCIS tweet, <https://bit.ly/3ujUxcn>

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## **Supreme Court Allows Biden Administration to Terminate 'Remain in Mexico' Policy**

On June 30, 2022, the Supreme Court held that the Biden administration could end the so-called "Remain in Mexico" policy, which required asylum seekers to wait in Mexico for their immigration hearings. The Court ruled that the Biden administration's attempt to terminate it via a memorandum issued in October 2021 was a valid final agency action.

The Court reversed the judgment of the Court of Appeals and remanded the case for further proceedings consistent with its opinion. On remand, "the District Court should consider in the first instance whether the October 29 Memoranda comply with section 706 of the [Administrative Procedure Act," the Court said.

Chief Justice Roberts delivered the opinion of the Court, in which Justices Breyer, Sotomayor, Kagan, and Kavanaugh joined. Justice Kavanaugh filed a concurring opinion. Justices Alito, Barrett, Thomas, and Gorsuch dissented.

#### Details:

- Biden v. Texas, 597 U.S. \_\_\_\_ (2022), [https://www.supremecourt.gov/opinions/21pdf/21-954\\_7l48.pdf](https://www.supremecourt.gov/opinions/21pdf/21-954_7l48.pdf)
- "The U.S. Supreme Court Rules Administration Can End 'Remain in Mexico' Immigration Policy," Texas Public Radio, June 30, 2022, <https://www.tpr.org/border-immigration/2022-06-30/the-u-s-supreme-court-rules-biden-administration-can-end-remain-in-mexico-immigration-policy>

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## **White House Extends and Expands Eligibility for Deferred Enforced Departure for**

## Liberians

The White House issued a memorandum deferring through June 30, 2024, the removal of any Liberian national, or person without nationality who last habitually resided in Liberia, who is present in the United States and who was under a grant of Deferred Enforced Departure (DED) as of June 30, 2022, as well as any Liberian national, or person without nationality who last habitually resided in Liberia, who has been continuously physically present in the United States since May 20, 2017. Also, any Liberian national, or person without nationality who last habitually resided in Liberia, who was under a grant of DED as of June 30, 2022, or who has been continuously physically present in the United States since May 20, 2017, will have continued employment authorization through June 30, 2024.

The memo directs the Secretary of Homeland Security to publish a notice in the *Federal Register* to grant work permits for Liberians who held appropriate DED-related employment authorization documents as of June 30, 2022, or those Liberian nationals who have been continuously present in the United States since May 20, 2017. The memo also directs the Secretary of Homeland Security to provide for "the prompt issuance of new or replacement employment authorization documents in appropriate cases."

### Details:

- Memorandum on Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians, Presidential Action, June 27, 2022, <https://bit.ly/3RaarA2>

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## **CBP Ends Use of Expired U.S. Passports for Direct Return of U.S. Citizens to United States**

As of July 1, 2022, U.S. citizens can no longer use their expired U.S. passports to return to the United States. U.S. citizens overseas with expired passports should contact their nearest U.S. embassy or consulate to apply for a passport.

### Details:

- CBP announcement, [https://help.cbp.gov/s/article/Article1861?language=en\\_US](https://help.cbp.gov/s/article/Article1861?language=en_US)

- Websites of U.S. Embassies, Consulates, and Diplomatic Missions, <https://www.usembassy.gov/>

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### **CIS Ombudsman Submits 2022 Annual Report to Congress**

On June 30, 2022, the Citizenship and Immigration Services (CIS) Ombudsman submitted its 2022 Annual Report to Congress. The report outlines "some of the most significant problems encountered by individuals and employers when seeking immigration benefits," including backlogs, issues with employment authorization documents (EADs), expedite requests, and others. The report also provides recommendations for how U.S. Citizenship and Immigration Services (USCIS) can address these problems and improve its administrative processes.

Highlights include the "avalanche impact of backlogs," the need for more flexibility in renewing employment authorization, accessibility to advance parole in a timely manner, access to the expedite process, ways to address the affirmative asylum backlog, barriers to obtaining proof of employment authorization for asylum applicants in removal proceedings, USCIS's digital strategy, and the U nonimmigrant status "bona fide determination" process.

Details:

- Annual Report 2022, CIS Ombudsman, June 30, 2022, [https://www.dhs.gov/sites/default/files/2022-06/CIS\\_Ombudsman\\_2022\\_Annual\\_Report\\_0.pdf](https://www.dhs.gov/sites/default/files/2022-06/CIS_Ombudsman_2022_Annual_Report_0.pdf)

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### **ABIL Global: Canada**

*Canada has launched a new stream of immigration for Ukrainians.*

A new program called the Canada-Ukraine Authorization for Emergency Travel (CUAET) allows Ukrainian nationals to apply for a Canadian visa without most of the usual requirements (free of charge, exempt from completing an immigration medical exam overseas, the option to apply for an open work permit, exempt from Canada's COVID-19 vaccination requirements) excepting biometrics in certain cases and ArriveCAN. Announced on March 17, 2022, the CUAET is particularly interesting for Ukrainians as compared to other visas

available because it allows them to obtain an open work permit and/or study permit free of charge, and they can be authorized to stay in Canada up to three years instead of the standard six months. For non-complex cases, the aim is to approve such visa applications within 14 days of receipt. No sponsor in Canada is required, no ties to home country are to be considered, and there are no financial requirements.

To apply for CUAET, Ukrainians need to apply for a Temporary Resident Visa and an Open Work Permit by mentioning in their application that it is made through CUAET to highlight the urgency of the demand to the visa officers. Once the application is submitted, Ukrainians need to take biometrics only if they are aged 18 to 60. Then they normally would need to submit their passport for placement of Canadian Visa (although Canadian authorities now emit counterfoil-less visas if the applicant is in one of six departure countries: Poland, Germany, Slovakia, Hungary, Austria, or Romania).

On April 28, 2022, Canada received 163,747 applications and approved 56,633, and 19,628 Ukrainians arrived in Canada. According to reports, because there is no limit on the number of CUAET applications of CUAET, it is a popular and successful program.

#### Details:

- Canada-Ukraine Authorization for Emergency Travel (updated Apr. 22, 2022), Government of Canada, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/ukraine-measures/cuaet.html>
- Ukraine Immigration Measures: Key Figures (updated Apr. 29, 2022), Government of Canada, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/ukraine-measures/key-figures.html>

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