



IMMIGRATION UPDATE - JULY 26, 2022

Posted on July 26, 2022 by Cyrus Mehta

Headlines:

[USCIS Reminds Employers That Only Unexpired I-9 List B Documents Are Accepted](#) – If a current employee presented an expired List B document between May 1, 2020, and April 30, 2022, employers must **update their I-9 forms by July 31, 2022.**

[Guidance Updated on Evidence to Support STEM-Related O-1 Extraordinary Ability Nonimmigrant Petitions](#) – Being named on a competitive government grant for STEM research can be a positive factor in demonstrating that a beneficiary is at the top of their field, USCIS said.

[Reports: Record-High Delays in Visa Interviews and Backlogs Lead to Lawsuits](#) – Tourists and business visitors wishing to travel to the United States are waiting more than six months to schedule visa interviews or process renewals at most consulates, and the wait for some visa interviews is more than a year. Wait times vary significantly, depending on the consulate.

[USCIS Updates Guidance for Afghans and Iraqis Seeking Special Immigrant Classification](#) – Among other things, the guidance clarifies statutory requirements that a noncitizen seeking an Afghan or Iraqi SIV must establish to show that they provided faithful and valuable service to the U.S. government.

Details:

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USCIS Reminds Employers That Only Unexpired I-9 List B Documents Are Accepted

U.S. Citizenship and Immigration Services (USCIS) reminded employers that the Department of Homeland Security (DHS) ended the temporary flexibility related

to accepting expired List B documents for Form I-9 employment eligibility verification purposes. DHS explained that it adopted the temporary policy in response to the difficulties many individuals experienced with renewing documents during the COVID-19 pandemic, but document-issuing authorities have reopened and/or provided alternatives to in-person renewals. If a current employee presented an expired List B document between May 1, 2020, and April 30, 2022, employers must **update their I-9 forms by July 31, 2022.**

Details:

- USCIS announcement, July 6, 2022,
<https://www.uscis.gov/i-9-central/form-i-9-related-news/reminder-dhs-ended-covid-19-temporary-policy-for-expired-list-b-identity-documents>

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Guidance Updated on Evidence to Support STEM-Related O-1 Extraordinary Ability Nonimmigrant Petitions

U.S. Citizenship and Immigration Services (USCIS) updated its guidance on evidence that can be used to support a petition for an O-1A nonimmigrant of extraordinary ability with a focus on science, technology, engineering, and mathematics (STEM) fields.

USCIS clarified that "being named on a competitive government grant for STEM research can be a positive factor toward demonstrating that a beneficiary is at the top of their field. This evidence is added to the listed examples of evidence that may be submitted to show that an applicant has extraordinary ability in the STEM fields."

Details:

- USCIS alert, July 22, 2022,
<https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-for-o-1-petitions-with-a-focus-on-stem-fields>
- O-1 Beneficiaries, Chapter 4, USCIS Policy Manual,
<https://www.uscis.gov/policy-manual/volume-2-part-m-chapter-4>

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Reports: Record-High Delays in Visa Interviews and Backlogs Lead to Lawsuits

According to reports, due to visa interview wait times and backlogs reaching new highs, thousands of lawsuits have been filed. Tourists and business visitors wishing to travel to the United States are waiting more than six months to schedule visa interviews or process renewals at most consulates, and the wait for some visa interviews is more than a year. Wait times vary significantly, depending on the consulate.

U.S. Citizenship and Immigration Services (USCIS) acknowledged the increase in delays and backlogs in recent years and blamed the problems on the COVID-19 pandemic and resource constraints, including a drop in paperwork submissions with fees and a staff hiring freeze under the previous administration. USCIS released a public statement in March 2022 outlining steps the agency is taking to address the issues, including targeting processing backlogs, expanding premium processing, and improving access to employment authorization documents. A USCIS spokesperson said the agency expects to resolve related processing issues and reach a 95 percent hiring target by the end of 2022.

Details:

- "Visa Interview Wait Times Reach New Highs: 247 Days for Visitors/Business Travelers," CATO at Liberty, July 19, 2022, <https://www.cato.org/blog/visa-interview-wait-times-reach-new-highs-247-days-visitors/business-travelers>
- "Government Inaction on Immigration Paperwork Leads to Record High Lawsuits," TRAC Report, July 12, 2022, <https://trac.syr.edu/tracreports/civil/689/>
- "Thousands of Lawsuits Have Been Filed Over Wait Times, Backlogs at U.S. Citizenship and Immigration Services," Reason, July 18, 2022, <https://reason.com/2022/07/18/thousands-of-lawsuits-have-been-filed-over-wait-times-backlogs-at-u-s-citizenship-and-immigration-services/>
- "USCIS Announces New Actions to Reduce Backlogs, Expand Premium Processing, and Provide Relief to Work Permit Holders," USCIS, March 29, 2022, <https://www.uscis.gov/newsroom/news-releases/uscis-announces-new-actions-to-reduce-backlogs-expand-premium-processing-and-provide-relief-to-work>

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USCIS Updates Guidance for Afghans and Iraqis Seeking Special Immigrant Classification

USCIS updated guidance regarding Afghan and Iraqi nationals seeking special immigrant classification. Effective immediately, the new guidance:

- Explains that noncitizens seeking an Afghan Special Immigrant Visa (SIV) on or after July 20, 2022, must file Form DS-157, Petition for Special Immigrant Classification for Afghan SIV Applicants, with the Department of State when they are applying for Chief of Mission approval. In some circumstances, noncitizens must still file a petition with USCIS to pursue an Afghan SIV;
- Updates eligibility criteria to reflect that the employment requirement for an Afghan SIV is now one year and clarifies what type of employment with the International Security Assistance Force qualifies;
- Updates eligibility criteria for surviving spouses and children of deceased principal noncitizens to expand the scope of who may apply for Afghan and Iraqi SIVs;
- In cases where a visa is not immediately available, removes the date limitation to convert an approved petition for an Afghan or Iraqi translator or interpreter to an approved petition for an Iraqi or Afghan employed by or on behalf of the U.S. government; and
- Clarifies statutory requirements that a noncitizen seeking an Afghan or Iraqi SIV must establish that they provided faithful and valuable service to the U.S. government by submitting a positive recommendation or evaluation from their supervisor.

Details:

- USCIS alert, July 20, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-for-afghans-and-iraqis-seeking-special-immigrant-classification>

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