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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - SEPTEMBER 26, 2022

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Headlines:

COVID-Related Restrictions Expected to Ease at Canadian Border – According to unofficial reports, by the end of September, Canada may drop its COVID-19 vaccine requirement for travelers entering Canada from the United States via the Detroit-Windsor border. Canada may also end COVID-19 for airport arrivals and no longer require filling out the ArriveCan app.

DHS Publishes Final Rule Implementing Court's Vacatur of Two Rules on Asylum Applications, Interviews, and Work Authorization – The court decision requires U.S. Citizenship and Immigration Services to process all initial employment authorization document applications from asylum applicants within 30 days.

DOJ Secures Settlements With Four Companies for Discriminatory Job Advertising on College Recruiting Platforms – DOJ said that during its investigation, the agency learned about dozens of "facially discriminatory advertisements employers posted on Georgia Tech's job recruiting platform as well as other platforms operated by colleges across the United States."

USCIS Is Reviewing Policy Changes Related to Military Naturalization – USCIS will soon provide guidance and instructions for *Calixto* class members who may be eligible to apply for military naturalization.

Congress Passes Bill to Conduct Employment-Related Study of Foreign-Credentialed Immigrants and Refugees – Congress passed the "Bridging the Gap for New Americans Act" (S. 3157) to require the Department of Labor to submit to Congress a study on the factors affecting employment opportunities for certain individuals with professional credentials obtained in a non-U.S. country, specifically individuals who are lawfully present noncitizens or naturalized U.S. citizens. The study will include policy recommendations for

better enabling such individuals to obtain skill-appropriate employment in the United States.

Indian Green Card Seekers Ask Court to End Federal Policy Placing Applications in 'Legal Limbo' – Plaintiffs argue that U.S. Citizenship and Immigration Services' and the Department of State's requirement that a visa must be available at both the time of filing and of approval of the application is wrong.

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COVID-Related Restrictions Expected to Ease at Canadian Border

According to unofficial reports, by the end of September, Canada may drop its COVID-19 vaccine requirement for travelers entering Canada from the United States via the Detroit-Windsor border. That border crossing handles more than 40,000 travelers each day, including commuters, truck drivers, and tourists. Canada may also end COVID-19 vaccine requirements for airport arrivals and no longer require filling out the ArriveCan app. Currently, all travelers in Canada must be fully vaccinated to travel by most air, rail, or passenger vessels. In addition, some provinces or individual businesses may continue to limit discretionary activities, such as visits to restaurants, bars, gyms, and retail shops, to individuals who can provide proof of COVID-19 vaccination.

It is unclear whether the United States will also drop similar land-border vaccine requirements. At present, all nonimmigrant, non-U.S. citizen air travelers to the United States must be fully vaccinated and provide proof of vaccination status before boarding an airplane to the United States. Fully vaccinated foreign nationals may enter the United States at land ports of entry (POEs) and ferry terminals. Fully vaccinated travelers do not need to provide a pre-entry COVID-19 test result to enter the United States by air, land, or sea. Fully vaccinated foreign travelers can travel to the United States across the Northern and Southwest borders with Canada (and Mexico). U.S. citizens and lawful permanent residents do not need to provide proof of vaccination status at land POEs and ferry terminals.

A group of Canadian legislators and border-area mayors from both countries published a letter on September 20, 2022, to Prime Minister Justin Trudeau and President Joe Biden asking them to remove the border restrictions.

Details:

- "Canada to Lift COVID Vaccine Requirement for Travelers At Border," Detroit News, Sept. 21, 2022, https://www.detroitnews.com/story/news/local/detroit-city/2022/09/21/canada-lift-covid-vaccine-requirement/8070492001/
- "Open Letter: President Joe Biden and Canadian Prime Minister Justin Trudeau," Sept. 20, 2022, https://twitter.com/jimdiodati/status/1572253493968408576/photo/1
- Travel to Canada: Requirements for COVID-19 Vaccinated Travellers, https://travel.gc.ca/travel-covid/travel-restrictions/covid-vaccinated-travellers-entering-canada
- COVID-19 Information - Canada, U.S. Embassy & Consulates in Canada, Sept. 9, 2022, https://ca.usembassy.gov/covid-19-information-canada-3/
- COVID-19: Travel, Testing and Borders, https://travel.gc.ca/travel-covid

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DHS Publishes Final Rule Implementing Court's Vacatur of Two Rules on Asylum Applications, Interviews, and Work Authorization

The Department of Homeland Security published a final rule on September 22, 2022, that removes changes to regulatory text resulting from two final rules issued in June 2020, which were vacated by a federal district court in February 2022 in *Asylumworks v. Mayorkas*. The court decision requires U.S. Citizenship and Immigration Services (USCIS) to process all initial employment authorization document (EAD) applications from asylum applicants within 30 days. The decision vacated a June 22, 2020, rule that removed that requirement.

Details:

- DHS final rule, 87 Fed. Reg. 57795 (Sept. 22, 2022), https://www.govinfo.gov/content/pkg/FR-2022-09-22/pdf/2022-20228.pdf
- USCIS announcement (Sept. 21, 2022), https://bit.ly/3rnOxxz
- Rosario Class Action, USCIS (Sept. 19, 2022), https://www.uscis.gov/laws-and-policy/other-resources/class-action-settlement-notices-and-agreements/rosario-class-action

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DOJ Secures Settlements With Four Companies for Discriminatory Job Advertising on College Recruiting Platforms

On September 21, 2022, the Department of Justice (DOJ) announced that it entered into another four settlements to resolve claims that companies discriminated against non-U.S. citizens by posting job opportunities with unlawful citizenship status restrictions on college job recruiting platforms. The four agreements add to DOJ's recent settlements with 16 other companies to resolve similar claims, bringing the total civil penalty amount for all 20 employers to over $1.1 million. The latest four companies include CarMax, Axis Analytics, Capital One Bank, and Walmart.

DOJ said its involvement began after a Georgia Institute of Technology (Georgia Tech) student, who was a lawful permanent resident at the time, filed a discrimination complaint with the Civil Rights Division's Immigrant and Employee Rights Section. The student's complaint alleged that Capital One Bank restricted a paid internship opportunity only to U.S. citizens when it posted the job on a Georgia Tech job recruitment platform. DOJ said that during its investigation, the agency learned about "dozens of other facially discriminatory advertisements employers posted on Georgia Tech's job recruiting platform as well as other platforms operated by colleges across the United States."

Details:

- DOJ release, Sept. 21, 2022, https://www.justice.gov/opa/pr/justice-department-secures-settlements-carmax-axis-analytics-capital-one-bank-and-walmart

USCIS Is Reviewing Policy Changes Related to Military Naturalization

On September 22, 2022, U.S. Citizenship and Immigration Services (USCIS) was notified of a settlement agreement between the U.S. Army and class members of the civil action in *Calixto v. Department of the Army, Civ. A. No.* 18-1551 (PLF) (D.D.C.). The *Calixto* settlement agreement affects USCIS's military naturalization policies, and USCIS said it is reviewing policy changes based on the terms of this settlement agreement. USCIS will soon provide guidance and instructions for *Calixto* class members who may be eligible to apply for military naturalization.

Details:

- USCIS alert, Sept. 24, 2022, https://www.uscis.gov/newsroom/alerts/uscis-reviewing-military-naturalization-policy-based-on-settlement-agreement-in-calixto-v-department

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Congress Passes Bill to Conduct Employment-Related Study of Foreign-Credentialed Immigrants and Refugees

On September 19, 2022, Congress passed the "Bridging the Gap for New Americans Act" (S. 3157) to require the Department of Labor to submit to Congress a study on the factors affecting employment opportunities for certain individuals with professional credentials obtained in a non-U.S. country, specifically individuals who are lawfully present noncitizens or naturalized U.S. citizens. The study will include policy recommendations for better enabling such individuals to obtain skill-appropriate employment in the United States.

The study is to include: (1) an analysis of the employment history of applicable immigrants and refugees admitted to the United States during the five-year period immediately preceding the date of enactment; (2) an assessment of any barriers that prevent applicable immigrants and refugees from using occupational experience obtained outside the United States to obtain employment in the United States; (3) an analysis of available public and private resources assisting applicable immigrants and refugees who have professional experience and qualifications obtained outside of the United States to obtain skill-appropriate employment in the United States; and (4) policy recommendations for better enabling applicable immigrants and refugees who have professional experience and qualifications obtained outside of the United States to obtain skill-appropriate employment in the United States.

Details:

- 3157, https://www.congress.gov/bill/117th-congress/senate-bill/3157

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Indian Green Card Seekers Ask Court to End Federal Policy Placing Applications in

'Legal Limbo'

A group of green card seekers from India filed a motion for a temporary restraining order on September 15, 2022, in *Datta v. Jaddou*, asking a U.S. district court in the state of Washington to end a federal policy that pushes their applications into a "legal limbo."

They argue that U.S. Citizenship and Immigration Services' and the Department of State's requirement that a visa must be available at both the time of filing and of approval of the application is wrong. Brad Banias, an attorney for the plaintiffs, said, "If there is a visa available at the time they filed for adjustment of status, that's all that matters."

Details:

- "Green Card Hopefuls Want End to Policy Creating 'Legal Limbo,' " Bloomberg Law, Sept. 16, 2022, https://news.bloomberglaw.com/daily-labor-report/green-card-hopefuls-want-end-to-policy-creating-legal-limbo

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