



IMMIGRATION UPDATE - OCTOBER 24, 2022

Posted on October 24, 2022 by Cyrus Mehta

Headlines:

[USCIS Implements New Process for Venezuelans](#) – U.S. Citizenship and Immigration Services began implementing a new process for Venezuelans on October 18, 2022. As announced previously, the fully online process will allow individuals to be considered on a case-by-case for "advance authorization to travel to the United States and seek a temporary period of parole for up to two years" if they meet certain conditions.

[DHS Designates Ethiopia for Temporary Protected Status](#) – The 18-month designation will be effective on the publication date of the forthcoming Federal Register notice, which will provide instructions for applying for TPS and work authorization.

[USCIS Issues Filing Guidance for CW-1 Petitions Seeking to Extend Status](#) – U.S. Citizenship and Immigration Services will consider certain CW-1 petitions seeking an extension of status for temporary workers present in the Commonwealth of the Northern Mariana Islands to be filed on time, even if USCIS receives them after the worker's current period of CW-1 petition validity expires.

[Fortune 500 Companies Call for Protection of DACA Program, 'Dreamers'](#) – Several large U.S. corporations have launched an advertising campaign to protect the Deferred Action for Childhood Arrivals program, whose more than 600,000 beneficiaries are called "Dreamers."

[USCIS Updates Guidance on Medical Exceptions to Naturalization Requirements for Applicants With Disabilities](#) – The revisions to Form N-648 eliminate questions and language that no longer have practical utility or were redundant.

[Coalition Urges the University of California to Hire Undocumented Students](#) – A coalition of students and legal scholars has proposed that the 10 University of California campuses hire undocumented students. They are challenging federal immigration laws that prohibit the hiring of undocumented persons by U.S. employers, based on a new legal interpretation by constitutional and immigration scholars that argues that these laws do not apply to states.

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USCIS Implements New Process for Venezuelans

U.S. Citizenship and Immigration Services (USCIS) began implementing a new process for Venezuelans on October 18, 2022. As announced previously, the new process will provide a "lawful and streamlined" way for nationals of Venezuela who are "outside the United States and lacking U.S. entry documents to come to the United States."

The fully online process will allow individuals to be considered on a case-by-case for "advance authorization to travel to the United States and seek a temporary period of parole for up to two years" if they have a supporter in the United States who will provide financial and other support; undergo and clear security vetting; meet other eligibility criteria; and warrant a favorable exercise of discretion. Those who attempt to enter the United States between ports of entry will be subject to return to Mexico and will be subsequently ineligible for this process, USCIS said.

Details:

- USCIS alert, Oct. 18, 2022.

<https://www.uscis.gov/newsroom/alerts/uscis-implements-new-process-for-venezuelans>

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DHS Designates Ethiopia for Temporary Protected Status

The Department of Homeland Security announced the designation of Ethiopia for temporary protected status (TPS) for 18 months. Only individuals who were

already continuously residing in the United States as of October 20, 2022, will be eligible for TPS.

This is the first TPS designation for Ethiopia. The 18-month designation will be effective on the publication date of the forthcoming Federal Register notice, which will provide instructions for applying for TPS and work authorization. TPS applicants must meet all eligibility requirements and undergo security and background checks.

Details:

- DHS notice, Oct. 21, 2022.
<https://www.dhs.gov/news/2022/10/21/dhs-designates-ethiopia-temporarily-protected-status-18-months>

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USCIS Issues Filing Guidance for CW-1 Petitions Seeking to Extend Status

U.S. Citizenship and Immigration Services (USCIS) announced on October 18, 2022, that it will consider certain CW-1 petitions seeking an extension of status for temporary workers present in the Commonwealth of the Northern Mariana Islands (CNMI) to be filed on time, even if USCIS receives them after the worker's current period of CW-1 petition validity expires.

USCIS said it is providing this limited accommodation to address current temporary labor certification (TLC) processing delays at the Department of Labor (DOL). USCIS is exercising its discretionary authority to excuse late filings of CW-1 petitions (petitions USCIS receives after the current CW-1 status expires) by employers in the CNMI, only if:

- The TLC application was filed with DOL at least 60 days before the requested start date;
- The petition is otherwise properly filed and includes an approved TLC; and
- USCIS receives the petition no later than 30 days after the date of TLC approval, or by November 15, 2022, whichever is earlier.

If an employer files an extension petition meeting these requirements, the CW-1 worker may continue employment with the same employer for up to 240 days beginning on the expiration of the authorized period of stay, pending adjudication of the petition (or, in the case of a non-frivolous petition for

extension of stay with change of employer, until USCIS adjudicates the petition).

Details:

- USCIS alert, Oct. 18, 2022,
<https://www.uscis.gov/newsroom/alerts/filing-guidance-for-cw-1-petitions-seeking-to-extend-status>

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Fortune 500 Companies Call for Protection of DACA Program, 'Dreamers'

Several large U.S. corporations have launched an advertising campaign to protect the Deferred Action for Childhood Arrivals (DACA) program, whose more than 600,000 beneficiaries are called "Dreamers." They argue in an open letter that they "face another crisis if Congress fails to act on an issue that has strong bipartisan support from the American people." The letter states:

The recent ruling by the U.S. 5th Circuit Court of Appeals declaring DACA illegal puts all of these individuals, their families, and their employers at risk. Each DACA recipient will soon face the threat of losing their work authorization and protection from deportation, while our businesses face the threat of losing critical employees.

The worker shortage will get worse for the United States if hundreds of thousands of critical workers are stripped of their legal ability to support themselves and their families. That is the situation we currently face if this ruling becomes final, and it is the reason for our request today.

Given that DACA applications and renewals were granted on a rolling basis, the end to this program means that an estimated 22,000 jobs would be lost every month for two years. That is roughly 1,000 job losses per business day at a time when the U.S. economy already faces significant workforce shortages.

When the last DACA recipient's work permit expires, the U.S. will have lost more than 500,000 jobs, and the U.S. economy will lose as much as \$11.7 billion annually—or roughly \$1 billion monthly—in wages from previously employed DACA recipients. (To put this into perspective, in Texas alone, 400 healthcare workers and 300 teachers will be forced out of their jobs each month.)

Signers of the letter include, among others, Amazon, Apple, Google, Meta, MGM Resorts, Microsoft, Starbucks, and Target. The ads are running in various major

newspapers, including the Wall Street Journal, the Dallas Morning News, and the Charlotte Observer.

The ad campaign follows a decision by the U.S. Court of Appeals for the Fifth Circuit that ruled the program illegal but allowed current recipients to maintain status during a lower court's review. The lower court is likely to rule against DACA, according to observers. Further action in Congress is uncertain.

Details:

- Letter to Congress, Coalition for the American Dream, Oct. 20, 2022.
<https://www.coalitionfortheamericandream.us/daca-fifth-circuit-response/>
- "With DACA on Life Support, Microsoft, Apple and Other Big U.S. Firms Launch Ad Campaign to Protect 'Dreamers'," NBC News, Oct. 20, 2022.
<https://nbcnews.to/3SnDZtg>
- "Federal Judge Temporarily Allows DACA Protections to Continue," NBC News, Oct. 14, 2022.
<https://www.nbcnews.com/politics/immigration/federal-judge-temporarily-allows-daca-protections-continue-rcna52339>

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USCIS Updates Guidance on Medical Exceptions to Naturalization Requirements for Applicants With Disabilities

U.S. Citizenship and Immigration Services (USCIS) announced on October 19, 2022, that it has updated its policy guidance to clarify and conform with the revision of Form N-648, Medical Certification for Disability Exceptions.

Naturalization applicants with a physical or developmental disability or mental impairment that precludes them from fulfilling the English and civics testing requirements for naturalization may file Form N-648 to request an exception to those requirements. The form must be completed and certified by a medical professional.

Based on public comments, USCIS said, the revisions to Form N-648 eliminate questions and language that no longer have practical utility or were redundant. Most notable changes include elimination of questions about how each relevant disability affects specific functions of the applicant's daily life, including the ability to work or go to school. The revisions also eliminate dates of diagnosis, description of severity of each disability, and whether the certifying

medical professional has a pre-existing relationship with the applicant. Further, USCIS said, the revisions allow the medical professional the option to indicate an applicant's need for an oath waiver, thereby eliminating the need for separate medical documentation. The updated policy also provides guidance for telehealth medical examinations and allows USCIS to accept an applicant's Form N-648 after the Form N-400, Application for Naturalization, is filed.

Details:

- USCIS release, Oct. 19, 2022. <https://bit.ly/3MWvZ1g>

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Coalition Urges the University of California to Hire Undocumented Students

A coalition of students and legal scholars has proposed that the 10 University of California campuses hire undocumented students. They are challenging federal immigration laws that prohibit the hiring of undocumented persons by U.S. employers, based on a new legal interpretation by constitutional and immigration scholars that argues that these laws do not apply to states. The University of California system is the third-largest employer in the state of California, so any such decision would have significant impact.

A sign-on letter that sets out the legal aspects of the proposal says:

The core argument is as follows. The federal prohibition on hiring undocumented persons as a general matter is codified in the 1986 Immigration Reform and Control Act, or IRCA, in particular 8 U.S.C. § 1324a. Under governing U.S. Supreme Court precedents, if a federal law does not mention the states explicitly, that federal law does not bind state government entities. Nothing in 8 U.S.C. § 1324a expressly binds or even mentions state government entities.

According to observers, implementation would be likely to lead to lawsuits, fines, and political pushback, especially with the Deferred Action for Childhood Arrivals program purportedly on the chopping block.

Details:

- "Students, Legal Scholars Push California Universities to Hire Undocumented Students," New York Times, Oct. 19, 2022, <https://www.nytimes.com/2022/10/19/us/daca-dreamers-university-of-california.html>

- "Undocumented UC Student Leaders, Professors From UCLA CILP & Labor Center Launch Groundbreaking Campaign for Equal Access to Job Opportunities," Oct. 20, 2022,
<https://www.labor.ucla.edu/press-release/undocumented-uc-student-organizers-professors-from-ucla-cilp-labor-center-launch-groundbreaking-campaign-for-equal-access-to-job-opportunities/>
- "Opportunity for All" Campaign Sign-On Letter, UCLA Center for Immigration Law and Policy, Sept, 7, 2022,
<https://docs.google.com/document/d/1TDBqeo4MUmHk2mxlwCd0tYvWYLV1lxVX4m-jO4CV7-E/edit>
- Letter to Michael V. Drake, President of the University of California, Oct. 2022,
<https://docs.google.com/document/d/1VoKC7DPCr-PQ414Z-7r8CudhYFirey4DIMnRoRK8etk/edit>

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Firm in the News

Cyrus Mehta was an invited speaker at the 2022 AILA H-1B Conference and Webcast in Colorado Springs, CO, on October 22, 2022 where he spoke on two panels – Ethical Dual Representation in Employment-Based Cases and Confronting New Circumstances in Post-Petition Approval. The link to the program is available at

<https://agora.aila.org/store/products/view/h-1b-conference-and-webcast>.

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