



IMMIGRATION UPDATE - NOVEMBER 8, 2022

Posted on November 8, 2022 by Cyrus Mehta

Headlines:

[Employer Reminder: E-Verify Operations Resume; Preferred Dates Released for Employee Visits to SSA to Resolve Mismatches](#) – E-Verify reminded employers that operations have resumed, and released preferred dates for employees to visit the Social Security Administration to resolve their Tentative Nonconfirmations (mismatches of Social Security numbers).

[CBP Is Discontinuing Passport Entry Stamps, Transitioning to Online I-94 Arrival/Departure Records Only; Mistakes Are Common](#) – U.S. Customs and Border Protection (CBP) has automated the I-94 process for most nonimmigrants arriving by air and sea. This means that in many cases, foreign nationals no longer receive an entry stamp in their passports at ports of entry documenting their arrival. Earlier this year, CBP also announced that it is issuing electronic I-94s at land ports of entry.

[DHS Begins Limited Implementation of DACA Under Final Rule](#) – U.S. Citizenship and Immigration Services (USCIS) will continue to accept and process applications for deferred action, work authorization, and advance parole for current DACA recipients. USCIS will continue to accept but cannot process initial DACA requests. Current grants of DACA and related employment authorization documents remain valid.

[Accrediting Agency's Loss of Recognition May Affect Certain Foreign Students Applying for English-Language Study and 24-Month STEM OPT Extension Programs, As Well As H-1B and](#)

[I-140 Applicants](#) – A Department of Education decision to no longer recognize the Accrediting Council for Independent Colleges and Schools as an accrediting agency immediately affects two immigration-related student programs.

[ABIL Global: Switzerland](#) – Nationals of countries with which Switzerland holds permanent residence agreements now must also show local language proficiency when applying for permanent residence.

Details:

Employer Reminder: E-Verify Operations Resume; Preferred Dates Released for Employee Visits to SSA to Resolve Mismatches

E-Verify reminded employers that operations have resumed, and released preferred dates for employees to visit the Social Security Administration (SSA) to resolve their Tentative Nonconfirmations (TNCs) (mismatches of Social Security numbers). E-Verify said that the timeframes are recommended, not required, but that all employees must visit SSA to resolve their TNCs by September 29, 2023, or their cases will automatically get Final Nonconfirmations.

The SSA provided the following information:

Details:

- E-Verify notice.
<https://www.e-verify.gov/social-security-administration-resumes-e-verify-operations>

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CBP Is Discontinuing Passport Entry Stamps, Transitioning to Online I-94 Arrival/Departure Records Only; Mistakes Are Common

U.S. Customs and Border Protection (CBP) has automated the I-94 process for most nonimmigrants arriving by air and sea. According to reports, this means that in many cases, foreign nationals no longer receive an entry stamp in their passports at ports of entry documenting their arrival.

Employers should advise their foreign national employees to check the accuracy of their I-94 Arrival/Departure Records on the [U.S. Customs and Border Protection \(CBP\) website](#) soon after they enter the United States, as errors are common. The site requires the name, date of birth, and passport number. The I-94, not the passport, visa, or prior approval notice, documents a nonimmigrant's status, approved length of stay in the United States, and departure information.

In case of an I-94 error, there is an [online CBP system for requesting corrections](#), but some practitioners report months-long delays and agency inaction. They recommend contacting the appropriate CBP office directly or sending a [Deferred Inspections email](#) instead to get I-94 records corrected.

Earlier this year, CBP also announced that it is issuing electronic I-94s at land ports of entry. For land arrivals, CBP is no longer issuing paper I-94s to nonimmigrants upon arrival except in limited circumstances and upon nonimmigrant request if feasible. Nonimmigrants can access Form I-94s online at the CBP website or via mobile application.

Details:

- Official Site for Travelers Visiting the United States: Apply for or Retrieve Form I-94, Request Travel History and Check Travel Compliance, CBP.
<https://i94.cbp.dhs.gov/i94/#/home>
- Streamlining I-94 Issuance at the Land Border, CBP notice, 87 Fed. Reg. 15446 (Mar. 18, 2022).
<https://www.govinfo.gov/content/pkg/FR-2022-03-18/pdf/2022-05758.pdf>

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DHS Begins Limited Implementation of DACA Under Final Rule

The Department of Homeland Security's (DHS) final rule on Deferred Action for Childhood Arrivals (DACA) took effect on October 31, 2022. Under the final rule, U.S. Citizenship and Immigration Services (USCIS) will continue to accept and process applications for deferred action, work authorization, and advance parole for current DACA recipients. Due to ongoing litigation, USCIS will continue to accept but cannot process initial DACA requests. Current grants of DACA and related employment authorization documents remain valid, USCIS said.

USCIS said the final rule's implementation "means that DACA is now based on a formal regulation, thereby preserving and fortifying the program while the program remains the subject of litigation in court. Previously, DACA was based on a policy memorandum that then-DHS Secretary Janet Napolitano issued on August 15, 2012."

Since DACA's inception in 2012, USCIS noted, the program has allowed more than 800,000 young people "to remain with their families in the only country

many of them have ever known and continue to contribute to their communities in the United States."

Details:

- USCIS news release.
<https://www.uscis.gov/newsroom/news-releases/dhs-begins-limited-implementation-of-daca-under-final-rule>
- USCIS DACA webpage. <https://www.uscis.gov/DACA>
- DACA final rule, 87 Fed. Reg. 53152 (Aug. 30, 2022).
<https://www.govinfo.gov/content/pkg/FR-2022-08-30/pdf/2022-18401.pdf>

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Accrediting Agency's Loss of Recognition May Affect Certain Foreign Students Applying for English-Language Study and 24-Month STEM OPT Extension Programs, As Well As H-1B and I-140 Applicants

A Department of Education (DOE) decision to no longer recognize the Accrediting Council for Independent Colleges and Schools (ACICS) as an accrediting agency immediately affects two immigration-related student programs, U.S. Citizenship and Immigration Services (USCIS) announced:

- English language study programs; and
- F-1 students applying for a 24-month science, technology, engineering, and mathematics (STEM) optional practical training (OPT) extension.

USCIS said the Student and Exchange Visitor Program (SEVP) will provide guidance to affected students in notification letters if their schools' accreditation is revoked. However, students enrolled at an ACICS-accredited school should contact their Designated School Officials immediately "to better understand if and how the loss of recognized accreditation will affect their status and/or immigration benefits applications," USCIS said.

ACICS-accredited schools will be unable to issue program extensions, and students will only be allowed to finish their current session if the ACICS-accredited school chooses to voluntarily withdraw its accreditation or is withdrawn by SEVP, USCIS explained. Students whose ACICS-accredited school can provide evidence of a DOE-recognized accrediting agency or evidence in lieu of accreditation within the allotted timeframe may remain at the school to complete their programs of study.

Details:

- USCIS alert, Nov. 1, 2022.

<https://www.uscis.gov/newsroom/alerts/acics-loss-of-recognition-may-affect-certain-students-applying-for-english-language-study-and-24>

ABIL Global: Switzerland

Nationals of countries with which Switzerland holds permanent residence agreements now must also show local language proficiency when applying for permanent residence.

Language competence is generally considered to be the ability to communicate in a national language in everyday life. The Swiss legislature attaches considerable importance to the minimum linguistic integration of foreigners in Switzerland, considering it to be of strong public interest to ensure the acquisition of a minimum knowledge of one of the three official languages: French, German, and Italian. These are central to the integration of immigrant foreigners and to the cohesion of Swiss society.

Foreign nationals who come from a country with which a permanent residence agreement or a settlement treaty exists are entitled to a permanent residence permit after an uninterrupted residence of five years if the integration criteria are met and there are no grounds for revocation.

Switzerland has permanent residence agreements with Belgium, Germany, Denmark, France, Liechtenstein, Greece, Italy, Netherlands, Austria, Portugal, and Spain.

Foreign nationals must prove that they have oral language skills at least at reference level A2 and written language skills at least at reference level A1 in the local official language spoken at their place of residence in order to obtain permanent residence. Nationals of countries with which permanent residence agreements exist must also provide evidence of language skills in accordance with recent case law of the Federal Supreme Court (ruling BGer 2C_881/2021 of 9 May 2022 E. 4.2. and 4.3).

Previously, nationals from the countries noted above did not need to prove language proficiency to obtain a permanent residence permit in Switzerland. This change has been incorporated into the guidelines that the State Secretariat for Migration publishes for the benefit of executing authorities, such as the

cantonal migration offices, as well as the interested public, in its newest iteration as of October 1, 2022 ([4 Aufenthalt mit Erwerbstätigkeit \(admin.ch\)](#), available in the three official national languages).

Test results showing local language proficiency at the required levels should be submitted when applying for permanent residence. For those nationals who speak the relevant local language already by virtue of having grown up in a country where the same language is spoken, documentation showing years spent in the schooling system or studying at a university are an alternative.

The language-skill requirement does not always apply. In case of disability, illness, or other weighty personal circumstances, it may be waived. On a last and lighter note, there is no requirement to learn and speak Swiss-German, a dialect which, to the relief of many, is not an official national language.

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Firm in the News

Cyrus Mehta authored a new blog post: "Guide to Terminated Noncitizen Workers: Preserving Nonimmigrant Status and Permanent Residency Options." <http://blog.cyrusmehta.com/2022/11/guide-to-terminated-nonciitzen-workers-p-reserving-nonimmigrant-status-and-pemrnaent-residency-options.html>

Cyrus Mehta and **Jessica Paszko** co-authored a new blog post: "USCIS Guidance Enabling STEM Graduates to Obtain O-1 Extraordinary Visas Should Apply Equally to EB-1 Extraordinary Ability Petitions for Green Cards." <https://bit.ly/3T9OhO3>