



## IMMIGRATION UPDATE - APRIL 10, 2023

*Posted on April 10, 2023 by Cyrus Mehta*

### Headlines:

[DOS Publishes Notice on Ukrainian J-1 Student Relief](#) – The Department of State is extending Special Student Relief to eligible Ukrainian students in the United States on J-1 visas "to help mitigate the adverse impact on them resulting from the full-scale Russian invasion of Ukraine that began on February 24, 2022."

[USCIS Allows Additional 30 Days for Comments on Revisions to Form I-829, Petition by Investor to Remove Conditions](#) – U.S. Citizenship and Immigration Services said it may consider recommendations made in previous comments received on its December 2022 notice in a separate comprehensive revision.

[USCIS Is Accepting Self-Identified Gender Markers for Immigration Benefits](#) – U.S. Citizenship and Immigration Services is accepting a self-identified gender marker for individuals requesting immigration benefits. The gender marker they select does not need to match the gender marker indicated on their supporting documentation.

[DHS Announces Six New Subcommittees for Homeland Security Advisory Council](#) – The Department of Homeland Security expects that the subcommittees' findings and recommendations will be submitted to the HSAC for its deliberation and vote during a public meeting in mid- to late summer 2023.

[U.S. District Court Finds CBP Violated Rights of Pastor Ministering to Migrants](#) – A U.S. district court ruled that U.S. Customs and Border Protection (CBP) violated the rights of an ordained senior pastor, Rev. Kaji Dousa, a U.S. citizen, who was providing pastoral support and conducting rituals for migrants along the U.S.-Mexico border, including religious marriage ceremonies with no legal effect.

**Details:**[Back to Top](#)**DOS Publishes Notice on Ukrainian J-1 Student Relief**

Under the Exchange Visitor Program regulations, the Department of State's (DOS) Assistant Secretary for Educational and Cultural Affairs published a notice on April 5, 2023, waiving and modifying certain regulatory requirements with respect to a temporary educational and cultural exchange program established for Ukrainian J-1 students in the United States. DOS said it is extending Special Student Relief to eligible Ukrainian students in the United States on J-1 visas "to help mitigate the adverse impact on them resulting from the full-scale Russian invasion of Ukraine that began on February 24, 2022."

DOS explained that many exchange visitors from Ukraine dependent upon financial support originating in their home country have limited or no access to funds, and others may have difficulty returning home. The agency said it took this action "to ameliorate hardship arising from lack of financial support and to facilitate these students' continued studies in the United States."

The action is effective retroactively from August 18, 2022, until October 23, 2023, "unless the U.S. Government unilaterally ends the arrangement early or the U.S. Government and the Government of Ukraine together extend its termination date." In that case, DOS will publish a notice in the Federal Register of the termination date, the agency said.

Individuals eligible for Special Student Relief must have continuously resided in the United States since April 11, 2022. Special Student Relief with respect to program status and employment for J-1 Ukrainian students does not apply to Federal Work-Study jobs, DOS said.

**Details:**

- DOS notice, 88 Fed. Reg. 20202 (Apr. 5, 2023).  
<https://www.govinfo.gov/content/pkg/FR-2023-04-05/pdf/2023-07021.pdf>

[Back to Top](#)**USCIS Allows Additional 30 Days for Comments on Revisions to Form I-829,**

## Petition by Investor to Remove Conditions

U.S. Citizenship and Immigration Services (USCIS) is allowing an additional 30 days, until May 5, 2023, for comments on revisions to Form I-829, Petition by Investor to Remove Conditions on Permanent Resident Status.

USCIS said it may consider recommendations made in previous comments received on its December 2022 notice in a separate comprehensive revision. The revisions proposed through the December notice were limited to updating the Certification section and minor grammar changes, USCIS said.

### Details:

- USCIS 30-day notice, 88 Fed. Reg. 20177 (Apr. 5, 2023).  
<https://www.govinfo.gov/content/pkg/FR-2023-04-05/pdf/2023-07013.pdf>
- Original USCIS 60-day notice, 88 Fed. Reg. 79345 (Dec. 27, 2022).  
<https://www.govinfo.gov/content/pkg/FR-2022-12-27/pdf/2022-28152.pdf>
- Comments on December 2022 notice.  
<https://www.regulations.gov/document/USCIS-2006-0009-0070/comment>

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## USCIS Is Accepting Self-Identified Gender Markers for Immigration Benefits

U.S. Citizenship and Immigration Services (USCIS) recently announced that it is accepting a self-identified gender marker for individuals requesting immigration benefits. The gender marker they select does not need to match the gender marker indicated on their supporting documentation.

The update also clarifies that people requesting benefits do not need to submit proof of their gender identity when submitting a request to change their gender marker, except for those submitting an application for a replacement naturalization/citizenship document.

Currently, the only gender markers available are "Male" (M) or "Female" (F). The Department of Homeland Security (DHS) is working on options to include an additional gender marker ("X") for another or unspecified gender identity. USCIS said it will update its forms and its *Policy Manual* accordingly.

In April 2021, DHS published a request for public feedback on barriers to USCIS benefits and services. Responses indicated that the evidentiary requirements associated with gender marker changes created barriers for individuals

requesting immigration benefits, USCIS said.

Those seeking to change their gender marker after their initial filings should refer to the [Updating or Correcting Your Documents](#) webpage.

Details:

- USCIS alert, Mar. 31, 2023.  
<https://www.uscis.gov/newsroom/alerts/uscis-updates-policy-guidance-on-self-selecting-a-gender-marker-on-forms-and-documents>

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## **DHS Announces Six New Subcommittees for Homeland Security Advisory Council**

The Department of Homeland Security (DHS) announced six new subcommittees for its Homeland Security Advisory Council (HSAC). HSAC comprises leaders in local law enforcement; first responders; state, local and tribal governments; national policy; the private sector; and academia. DHS said the notice is "not a solicitation for membership."

Topics for the new subcommittees will include (1) development of DHS's artificial intelligence (AI) strategy, to be divided into two subcommittees: one on how DHS can best use AI to advance critical missions, and one on how DHS can build defenses to the nefarious use of AI; (2) potential revisions to grant programs, including risk methodology, in light of the changed threat landscape over the past 20 years; (3) a review of the immigration Alternatives to Detention programs and recommendations to modernize them and make them more effective; and (4) potential revisions to the DHS workplace and workforce skill set, to be divided into two subcommittees: one to review DHS's current diverse work environments, from secure spaces and ports of entry to remote offices, and make recommendations for the workplace of the future; and one to assess the alignment of workforce skills with work responsibilities in discrete, critical mission areas.

DHS expects that the subcommittees' findings and recommendations will be submitted to the HSAC for its deliberation and vote during a public meeting in mid- to late summer 2023.

Details:

- DHS notice, 88 Fed. Reg. 19969 (Apr. 4, 2023).

<https://www.govinfo.gov/content/pkg/FR-2023-04-04/pdf/2023-06959.pdf>

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## **U.S. District Court Finds CBP Violated Rights of Pastor Ministering to Migrants**

A U.S. district court ruled that U.S. Customs and Border Protection (CBP) violated the rights of an ordained senior pastor, Rev. Kaji Dousa, a U.S. citizen, who was providing pastoral support and conducting rituals for migrants along the U.S.-Mexico border, including religious marriage ceremonies with no legal effect. The pastor was a member of the Global Entry program. She was active in making television and media appearances in which she discussed immigration issues, and met with local, state, and federal political representatives to discuss public policy and legislative issues related to immigration, the court noted. She participated in a "caravan" to provide aid and support to migrants in Mexico gathered near the border.

In January 2019, Rev. Dousa was detained at the border by U.S. Customs and Border Protection (CBP) agents in secondary inspection after she crossed into the United States from Mexico at the San Ysidro port of entry, then let go after about 43 minutes of questioning. The CBP "field encounter" report said there was no derogatory information found during the interview. Despite that, derogatory information was included in her records. Among other things, a CBP agent had emailed the Mexican government in December 2018 on behalf of CBP to request that Rev. Dousa be denied entry to Mexico and sent back to the United States. Various CBP actions had a chilling effect and substantially burdened her ministry in Mexico, she said.

The court found that Rev. Dousa's activities were constitutionally protected activity, and that the CBP agent's email to the Mexican government in 2018 constituted retaliation against her in violation of her First Amendment rights and violated her right to freely exercise her religion. The court also found that CBP violated the Religious Freedom Restoration Act. The court said she was entitled to recover at least some reasonable costs and attorneys' fees but deferred ruling on the amount, pending receipt of additional briefings from the parties.

Details:

- Order, U.S. District Court, Southern District of California, 3:19-cv-01255-

TWR-KSC (Mar. 21, 2023).

<https://www.documentcloud.org/documents/23728387-dousa-ruling>

- "Pastor Wins Civil Rights Suit Against Trump Administration Border Surveillance," The Intercept (Mar. 28, 2023).

<https://theintercept.com/2023/03/28/dhs-cbp-border-surveillance-kaji-do-usa/>

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