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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - FEBRUARY 12, 2024

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Headlines:

Mayorkas Impeachment Attempt Fails, But Republicans May Try Again After Killing Proposed Bipartisan Bill to Address Border Issues – On February 6, 2024, Republicans in the House of Representatives tried but failed to impeach Secretary of Homeland Security Alejandro Mayorkas. In the same week as the impeachment vote, Senate Republicans killed a border security bill.

USCIS Releases FY 2023 Data and Highlights of FY 2024 Plans – U.S. Citizenship and Immigration Services released end-of-fiscal-year 2023 data and highlights of its plans for FY 2024.

EOIR to Transition to DOJ Login – The Executive Office for Immigration Review is implementing a phased migration to DOJ Login that it expects to complete this spring. EOIR will notify users by email when it is time for them to activate their new DOJ Login ID.

Details:

Mayorkas Impeachment Attempt Fails, But Republicans May Try Again After Killing Proposed Bipartisan Bill to Address Border Issues

On February 6, 2024, Republicans in the House of Representatives tried but failed to impeach Secretary of Homeland Security Alejandro Mayorkas. The final vote was 214-216. Republicans accused Mr. Mayorkas of failing to maintain operational control of the border, among other things.

Despite the impeachment defeat, some Republicans said they would work on revisiting that effort, including Rep. Mark Green (R-TN), chair of the Homeland Security Committee, and a spokesperson for House Speaker Mike Johnson, who

said they would reconsider impeachment "when we have the votes for passage."

The Department of Homeland Security previously said in a statement that Republicans "don't want to fix the problem; they want to campaign on it. That's why they have undermined efforts to achieve bipartisan solutions and ignored the facts, legal scholars and experts, and even the Constitution itself in their quest to baselessly impeach Secretary Mayorkas." In the same week as the impeachment vote, Senate Republicans killed a border security bill that had been in the works for months and was touted as a bipartisan way forward.

Only one cabinet member has ever been impeached in U.S. history. Secretary of War William Belknap was impeached in 1876 for corruption. A group of 25 constitutional law experts issued a letter to Rep. Green in January objecting to the impeachment efforts against Mr. Mayorkas as "utterly unjustified as a matter of constitutional law." They said, "If allegations like this were sufficient to justify impeachment, the separation of powers would be permanently destabilized."

Details:

- House Vote to Impeach Homeland Security Secretary Mayorkas Fails, Thwarted by Republican Defections, Associated Press (Feb. 7, 2024).
- House GOP Releases Impeachment Articles in Bid to Oust Homeland Security's Mayorkas Over the Border, Associated Press (Jan. 28, 2024).
- Articles of impeachment and related press releases.
- Senate Republicans Knife Bipartisan Border Security Bill, Declaring It Dead, NBC News (Feb. 6, 2024).
- Constitutional Law Experts on the Impeachment Proceedings Against Secretary of Homeland Security Alejandro Mayorkas (Jan. 10, 2024).
- Mayorkas Impeachment Effort is Nothing Like the Only Other Cabinet Impeachment From 1876, CNN (Feb. 6, 2024).

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USCIS Releases FY 2023 Data and Highlights of FY 2024 Plans

On February 9, 2024, U.S. Citizenship and Immigration Services (USCIS) released end-of-fiscal-year (FY) 2023 data. Below are selected highlights of the data and USCIS's plans for FY 2024:

FY 2023 Backlog Reductions

- USCIS received 10.9 million filings and completed more than 10 million pending cases, both of which it called "record-breaking numbers." In doing so, USCIS said it reduced overall backlogs by 15%, including "effectively eliminating the backlog of naturalization applications." The median processing time for naturalization applicants also decreased from 10.5 months to 6.1 months by the end of the fiscal year.

FY 2023 Actions Affecting Workers and Employers

- USCIS and the Department of State issued more than 192,000 employment-based immigrant visas and, for the second year running, ensured that no available visas went unused, USCIS said. The agency increased the maximum validity period of Employment Authorization Documents (EADs) to five years for adjustment of status applicants. USCIS said it clarified eligibility for a range of immigration services, including the International Entrepreneur Rule, the EB-1 immigrant visa for individuals of extraordinary ability and outstanding professors and researchers, and the waiver of the two-year foreign residence requirement for J-1 cultural and educational exchange visitors (including foreign medical graduates). The agency also proposed a new rule "to strengthen worker protections and the integrity of the H-2 temporary worker program."
- USCIS removed the biometrics fee and appointment requirement for applicants for a change or extension of nonimmigrant status and updated the agency's interpretation of the Child Status Protection Act to prevent many child beneficiaries of noncitizen workers from "aging out" of child status, allowing them to seek permanent residence along with their parents.

FY 2024 Plans

In FY 2024, USCIS plans to:

- Work to maintain median processing times of 30 days for certain EAD applications filed by individuals who entered the United States after scheduling an appointment through the CBP One mobile application or the CHNV processes.
- Continue to update policy guidance for the EB-5 investor visa program,

incorporating statutory reforms to the Regional Center Program as they relate to regional center designation and other requirements for immigrant investors.
- Continue to update policy guidance for student classifications, including eligibility for employment authorization, change of status, extension of stay, and reinstatement of status for F and M students and their dependents in the United States.
- Finalize a new rule on the H-1B program for specialty occupation workers.
- Propose a new rule on the adjustment of status process, including regulations clarifying the age calculation under the Child Status Protection Act and providing employment authorization for certain derivative beneficiaries awaiting immigrant visa availability when they present compelling circumstances.

Details:

- USCIS news release (Feb. 9, 2024).

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EOIR to Transition to DOJ Login

On February 9, 2024, the Department of Justice (DOJ)'s Executive Office for Immigration Review (EOIR) announced new procedures for accessing the EOIR Courts & Appeals System (ECAS) Case Portal. EOIR is transitioning to "DOJ Login," a cloud-based identity management and authentication service. To facilitate this change, users must confirm or correct their primary email address, which will serve as their DOJ Login ID.

All currently registered practitioners will be migrated to DOJ Login ID to access ECAS Case Portal, EOIR said. EOIR is implementing a phased migration that it expects to complete this spring. EOIR said it has developed detailed instructions for this phased transition and will notify users by email when it is time for them to activate their new DOJ Login ID.

Those who have questions or need assistance can email customer support at ECAS.techsupport@usdoj.gov or call 1-877-388-3842.

Details:

- EOIR notice (Feb. 9, 2024).

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