CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - APRIL 22, 2024

Posted on April 22, 2024 by Cyrus Mehta

Headlines:

Cap Reached for Additional Returning Worker H-2B Visas for Early Second Half of FY 2024 – U.S. Citizenship and Immigration Services has received enough petitions to reach the cap for the additional 19,000 H-2B visas made available for returning workers for the early second half of fiscal year 2024 with start dates from April 1 to May 14, 2024.

DOS Announces New Exchange Visitor Program for Japan – The program authorizes an exception under the Specialist category in the Exchange Visitor Program regulations to permit Japanese language and culture specialists to stay up to 36 months in the United States on J-1 visas.

USCIS Updates Fee Schedule for Petition for a Nonimmigrant Worker (I-129) – U.S. Citizenship and Immigration Services has updated its fee schedule for Form I-129, Petition for a Nonimmigrant Worker—H-1B and H-1B1 Petitions, to reflect the additional required fees for online filings.

DHS Provides Work Authorization for Certain Ethiopian and Palestinian Students in F-1 Nonimmigrant Status – Covered students may request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain their F-1 nonimmigrant status.

DOS Suspends Visa Services in Haiti – The U.S. Embassy in Port-au-Prince has suspended routine immigrant and nonimmigrant visa appointments until further notice.

DOJ Secures Agreement to Resolve Claims of Immigration-Related Discrimination at Washington University School of Medicine – The agreement resolves the Department of Justice's determination that Washington

University School of Medicine in St. Louis violated the Immigration and Nationality Act by discriminating against a worker, who had been granted asylum, based on his citizenship status and then retaliating against him for complaining about the discrimination.

Non-Minister Special Immigrant Religious Workers Category Extended – H.R. 2882, signed into law on March 23, 2024, extended the Employment Fourth Preference Certain Religious Workers (SR) category until September 30, 2024.

DOS Seeks Comments on Attestation for Employers Seeking H-2B Nonimmigrant Workers – The Department of State seeks comments on an Employment and Training Administration information collection request that supports a temporary final rule, Exercise of Time-Limited Authority to Increase the Numerical Limitation for Fiscal Year 2024 for H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking to Change Employers.

Details:

Cap Reached for Additional Returning Worker H-2B Visas for Early Second Half of FY 2024

U.S. Citizenship and Immigration Services (USCIS) announced on April 18, 2024, that it has received enough petitions to reach the cap for the additional 19,000 H-2B visas made available for returning workers for the early second half of fiscal year (FY) 2024 with start dates from April 1 to May 14, 2024, under the H-2B supplemental cap temporary final rule (FY 2024 TFR). USCIS said that April 17, 2024, was the final receipt date for petitions requesting supplemental H-2B visas under the FY 2024 early-second-half-returning-worker allocation.

USCIS said it is still accepting petitions for "H-2B nonimmigrant workers for the additional 20,000 visas allotted for nationals of El Salvador, Guatemala, Honduras, Haiti, Colombia, Ecuador, and Costa Rica (country-specific allocation) who are exempt from the returning worker requirement, as well as those who are exempt from the congressionally mandated cap."

Starting April 22, 2024, USCIS will begin accepting petitions for workers for the late second half of FY 2024, requesting employment start dates from May 15 to September 30, 2024. USCIS said that the 5,000 visas available under this allocation are limited to returning workers who were issued H-2B visas or held

H-2B status in fiscal years 2021, 2022, or 2023, regardless of country of nationality.

Details:

- USCIS alert (Apr. 18, 2024).
- Temporary Increase in H-2B Nonimmigrant Visas for FY 2024, USCIS (information on the 20,000 visas set aside for nationals of El Salvador, Guatemala, Honduras, Haiti, Colombia, Ecuador, and Costa Rica) (Apr. 18, 2024).

Back to Top

DOS Announces New Exchange Visitor Program for Japan

On April 19, 2024, the Department of State (DOS) announced a new international exchange visitor program for Japan. The program authorizes an exception under the Specialist category in the Exchange Visitor Program regulations to permit Japanese language and culture specialists to stay up to 36 months in the United States on J-1 visas.

The Japan Specialist Program "will expand educational and cultural exchange opportunities between the people of the United States and Japan, promote the interchange of knowledge and skills among foreign and U.S. specialists, and foster long-term mutual understanding and international cooperation with U.S. communities across the United States," DOS said.

During their program, DOS said, exchange visitors from Japan "will share their specialized knowledge of Japanese language and education in the United States at community based, non-profit organizations, U.S. Government offices, secondary schools, or post-secondary academic institutions offering Japanese, and similar types of institutions to increase U.S. local communities' understanding of Japan, its culture, and language. Selected experts in Japanese culture and language will gain a better understanding of U.S. culture and society and promote mutual enrichment by enhancing U.S. knowledge of Japanese culture, language, and educational systems."

Details:

- DOS notice, 89 Fed. Reg. 28839 (Apr. 19, 2024).

Back to Top

USCIS Updates Fee Schedule for Petition for a Nonimmigrant Worker (I-129)

U.S. Citizenship and Immigration Services (USCIS) has updated its fee schedule for Form I-129, Petition for a Nonimmigrant Worker—H-1B and H-1B1 Petitions, to reflect the additional required fees for online filings.

According to the American Immigration Lawyers Association (AILA), USCIS made the update in response to an AILA query noting that "the information listed was unclear and could have been construed as an indication that the additional fees, such as the ACWIA fee, the Fraud Detection Fee and Asylum Program fee, were not required if a Form I-129 was filed online."

Details:

- AILA Practice Alert (Apr. 19, 2024).
- USCIS Fee Schedule (I-129, Petition for a Nonimmigrant Worker—H-1B and H-1B1 Petitions) (Apr. 1, 2024).

Back to Top

DHS Provides Work Authorization for Certain Ethiopian and Palestinian Students in F-1 Nonimmigrant Status

The Department of Homeland Security's U.S. Immigration and Customs Enforcement agency issued notices providing work authorization for certain Ethiopian and Palestinian students in lawful F-1 nonimmigrant status. Covered students may request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain their F-1 nonimmigrant status.

For covered Ethiopian students, the notice is effective June 13, 2024, through December 12, 2025. For covered Palestinian students, the notice is effective February 14, 2024, through August 13, 2025. See the Federal Register notices for additional details about eligibility.

Details:

- Ethiopian notice, 89 Fed. Reg. 26161 (Apr. 15, 2024).
- Palestinian notice, 89 Fed. Reg. 26156 (Apr. 15, 2024).

Back to Top

DOS Suspends Visa Services in Haiti

The Department of State has suspended visa services in Haiti. The U.S. Embassy in Port-au-Prince has suspended routine immigrant and nonimmigrant visa appointments until further notice.

Immigrant visa applicants who can travel to another U.S. embassy or consulate that processes immigrant visas and remain in that country for the duration of their visa processing should consider requesting the transfer of their case from U.S. Embassy Port-au-Prince using the instructions in the DOS notice.

DOS said that the U.S. Embassy in Port au Prince can only accept expedited nonimmigrant visa appointments for life-or-death medical emergencies (with proof of travel plans) or to facilitate travel for a child with a confirmed USCIS appointment for a naturalization interview based on a Form N-600K. Applicants can submit a request for an expedited NIV appointment by following the instructions at https://www.ustraveldocs.com/ht/en/nonimmigrant-visa. Nonimmigrant visa applicants may apply at any embassy or consulate where they are physically present and where appointments are available, DOS said.

Details:

- DOS notice (Apr. 15, 2024).

Back to Top

DOJ Secures Agreement to Resolve Claims of Immigration-Related Discrimination at Washington University School of Medicine

The Department of Justice (DOJ) announced on April 17, 2024, that it secured a settlement agreement with Washington University, a private university headquartered in St. Louis. The agreement resolves DOJ's determination that the university's medical school, known as Washington University School of Medicine in St. Louis (WashU School of Medicine), violated the Immigration and Nationality Act (INA) by discriminating against a worker based on his citizenship status and then retaliating against him for complaining about the discrimination.

Specifically, DOJ said that the Civil Rights Division's Immigrant and Employee Rights Section (IER) determined that WashU School of Medicine discriminated against the individual, who had been granted asylum, when it repeatedly

confronted him about his immigration status, his documentation, and his right to work, even though he had provided sufficient proof of his authorization to work. The department also determined that WashU School of Medicine retaliated against the worker when it terminated his employment for complaining about the discrimination.

Under the terms of the settlement agreement, the school will pay civil penalties of $4,465 to the United States and pay $3,264 in back pay, plus interest, to the affected worker. The agreement also requires the school to train its personnel on the INA's antidiscrimination requirements, revise its employment policies, and be subject to departmental monitoring and reporting requirements.

Details:

- DOJ press release (Apr. 17, 2024).
- Settlement Agreement (Apr. 17, 2024).

Back to Top

Non-Minister Special Immigrant Religious Workers Category Extended

The Department of State's Visa Bulletin for May 2024 notes that H.R. 2882, signed into law on March 23, 2024, extended the Employment Fourth Preference Certain Religious Workers (SR) category until September 30, 2024.

The bulletin states that no SR visas may be issued overseas, or final action taken on adjustment of status cases, after midnight September 29, 2024. Visas issued prior to that date will be valid only until September 29, 2024, and all individuals seeking admission in the non-minister special immigrant category must be admitted into the United States by midnight September 29, 2024.

The bulletin notes that the SR category "is subject to the same final action dates as the other Employment Fourth Preference categories per applicable foreign state of chargeability."

Details:

- DOS Visa Bulletin for May 2024.

Back to Top

DOS Seeks Comments on Attestation for Employers Seeking H-2B Nonimmigrant Workers

The Department of State seeks comments on an Employment and Training Administration information collection request that supports a temporary final rule, Exercise of Time-Limited Authority to Increase the Numerical Limitation for Fiscal Year 2024 for H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking to Change Employers.

Details:

- DOS OMB notice, 89 Fed. Reg. 26937 (Apr. 16, 2024).

Back to Top