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

IMMIGRATION UPDATE - APRIL 30, 2024

Posted on April 30, 2024 by Cyrus Mehta

Headlines:

DOL Amends Regulations on Certification for Temporary/Seasonal Nonimmigrant Agricultural Workers – Effective June 28, 2024, the Department of Labor is amending its regulations governing certification of temporary employment of nonimmigrant workers in temporary or seasonal agricultural work and enforcement of contractual obligations applicable to their employers.

USCIS Agrees to Refund Ukrainians for I-765 Fees – U.S. Citizenship and Immigration Services (USCIS) announced on April 24, 2024, that it is refunding all of the I-765 work permit fees collected from eligible Ukrainian parolees who entered as parolees after February 24, 2022.

DOS Issues Final Rule on Exchange Visitor Program Provisions – The Department of State issued a final rule, effective May 23, 2024, on Exchange Visitor Program regulations that apply to J-1 sponsors. The final rule includes a requirement for digital signatures when signing the Form DS-2019.

USCIS to Open International Field Offices in Qatar and Turkey – U.S. Citizenship and Immigration Services announced the opening of international field offices in May in Doha, Qatar, and Ankara, Turkey.

Details:

DOL Amends Regulations on Certification for Temporary/Seasonal Nonimmigrant Agricultural Workers

Effective June 28, 2024, the Department of Labor (DOL) is amending its regulations governing certification of temporary employment of nonimmigrant workers in temporary or seasonal agricultural work and enforcement of

contractual obligations applicable to their employers. The revisions in the final rule "focus on strengthening protections for temporary agricultural workers and enhancing capabilities to monitor program compliance and take necessary enforcement actions against program violators." DOL said it determined the need for these revisions "through program experience, recent litigation, challenges in enforcement, comments on this rulemaking as well as on prior rulemakings, and reports from various stakeholders."

The regulatory revisions include provisions to protect workers' voices and empowerment; clarify termination for cause; designate an immediate effective date for adverse effect wage rate updates; enhance transparency for job opportunities and foreign labor recruitment; enhance transparency and protections for agricultural workers; enhanced enforcement capabilities; and the definitions and factors used in determining terms such as what constitutes a "single employer" or a "successor in interest."

Details:

- DOL final rule, 89 Fed. Reg. 33898 (Apr. 29, 2024) (advance copy).

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USCIS Agrees to Refund Ukrainians for I-765 Fees

U.S. Citizenship and Immigration Services (USCIS) announced on April 24, 2024, that it is refunding all of the I-765 employment authorization document (EAD) fees collected from eligible Ukrainian parolees who entered as parolees after February 24, 2022. The action is a result of a class action lawsuit against USCIS.

IMMpact sued USCIS in August 2022 for failing to carry out provisions in the 2022 Ukraine supplemental bill, which mandated that Ukrainian parolees be provided automatic, free employment authorization. As a result of the litigation, IMMpact noted, USCIS changed its policy to recognize automatic work authorization in November 2022 but failed to refund unlawfully collected I-765 EAD fees for applications received before that date. IMMpact filed a second suit in 2023 to recover those funds for tens of thousands of Ukrainians.

USCIS will refund the filing fee Ukrainians paid for their initial EADs if they:

- Were paroled under the Uniting for Ukraine process or were paroled between February 24, 2022, and September 30, 2023;

- Filed their initial Form I-765 between May 21, 2022, and November 21, 2022, based on their parole; and
- Paid a filing fee of $410.

IMMpact is a collaboration of the firms Bless Litigation in Boston, Massachusetts; Joseph & Hall in Denver, Colorado; Kuck Baxter in Atlanta, Georgia; and Siskind Susser in Memphis, Tennessee.

Details:

- IMMpact Litigation press release (Apr. 25, 2024).
- Refund information and form, USCIS (N.D.)
- For further information or updates on the lawsuit, email Greg Siskind at gsiskind@visalaw.com.

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DOS Issues Final Rule on Exchange Visitor Program Provisions

The Department of State (DOS) issued a final rule, effective May 23, 2024, on J-1 exchange visitor program regulations that apply to sponsors that DOS designates to conduct international educational and cultural exchange programs. The final rule includes a requirement for digital signatures when signing the Form DS-2019, Certificate of Eligibility for Exchange Visitor Status.

DOS noted that most of the 64 commenters addressed two topics: sponsor preference for electronic signatures rather than digital signatures, and the need for sponsors to electronically transmit Forms DS-2019 directly to third parties acting on their behalf. After consideration, DOS has retained the requirement for digital signatures for signing Forms DS-2019, and it makes no changes to the list of entities to which sponsors may transmit Forms DS-2019 electronically. However, the final rule will allow third parties to retrieve Forms DS-2019 directly from sponsors' password-protected computer network systems and/or databases. "This modification allows third parties to retrieve copies of digital Forms DS-2019 directly from sponsors that wish to give them such access," the rule notes. DOS will also continue to allow sponsors to "wet sign" and physically mail Forms DS-2019 to exchange visitors and/or third parties.

DOS explained that a digital signature, which requires digital signature software, provides a "higher level of security" over an electronic signature.

Details:

- DOS final rule, 89 Fed. Reg. 30268 (Apr. 23, 2024).

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USCIS to Open International Field Offices in Qatar and Turkey

On April 23, 2024, U.S. Citizenship and Immigration Services (USCIS) announced the opening of international field offices in May in Doha, Qatar, and Ankara, Turkey, available by appointment, "to increase capacity for refugee processing, strengthen strategic partnerships, and facilitate interagency cooperation." USCIS Director Ur M. Jaddou said that opening these field offices "establishes a USCIS presence and expertise in critical locations in the Middle East."

USCIS noted that the Biden administration set the refugee admissions ceiling for fiscal year 2024 at 125,000 refugees. Establishing USCIS field offices in Qatar and Turkey will support the U.S. Refugee Admissions Program's infrastructure in the region and will directly support long-established and increasing USCIS refugee processing circuit rides, USCIS said.

With the opening of the Doha field office on May 7, 2024, and the Ankara field office on May 9, 2024, USCIS will have 11 international field offices. The others include Beijing and Guangzhou, China; Guatemala City; Havana, Cuba; Mexico City; Nairobi, Kenya; New Delhi, India; San Salvador, El Salvador; and Tegucigalpa, Honduras.

Details:

- USCIS news release (Apr. 23, 2024).

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