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

IMMIGRATION UPDATE - JUNE 24, 2024

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Headlines:

President Announces New Measures for Spousal Work Authorization, DACA Recipients – On June 18, 2024, President Biden announced measures "to ensure that U.S. citizens with noncitizen spouses and children can keep their families together." He also announced measures to enable certain Deferred Action for Childhood Arrivals recipients and others to receive work visas more quickly.

USCIS Extends Certain TPS Work Permits Through March 9, 2025 – USCIS is extending the work authorization of Temporary Protected Status beneficiaries under the designations of El Salvador, Honduras, Nepal, Nicaragua, and Sudan through March 9, 2025.

DOJ Reaches Settlement With Staffing Agency for Discrimination Against Noncitizens –Under the settlement, the company will pay civil penalties, train its employees on the INA's requirements, revise its employment policies, and be subject to monitoring.

Coming Soon: Increased Login Security for E-Verify and SAVE – U.S. Citizenship and Immigration Services announced that login security will be enhanced for E-Verify and Systematic Alien Verification for Entitlements later this year

DOS Rolls Out 'Beta Release' of Online Passport Renewal System – The Department of State is testing a system for U.S. citizens to renew their passports online.

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President Announces New Measures for Spousal Work Authorization, DACA Recipients

On June 18, 2024, President Biden announced measures "to ensure that U.S. citizens with noncitizen spouses and children can keep their families together." He said that:

- To be eligible, noncitizens must—as of June 17, 2024—have resided in the United States for 10 or more years and be legally married to a U.S. citizen, while satisfying all applicable legal requirements. On average, those who are eligible for this process have resided in the U.S. for 23 years.
- Those who are approved after the Department of Homeland Security's case-by-case assessment of their application will be allowed to remain with their families in the United States and be eligible for work authorization for up to three years. This will apply to all married couples who are eligible.
- This action will protect approximately half a million spouses of U.S. citizens, and approximately 50,000 noncitizen stepchildren under the age of 21 whose parents are married to U.S. citizens.

President Biden also announced measures to enable Deferred Action for Childhood Arrivals (DACA) recipients "and other Dreamers, who have earned a degree at an accredited U.S. institution of higher education in the United States, and who have received an offer of employment from a U.S. employer in a field related to their degree, to more quickly receive work visas." He said the administration "is taking action to facilitate the employment visa process for those who have graduated from college and have a high-skilled job offer, including DACA recipients and other Dreamers." The action will involve streamlining the so-called “D-3” waiver process, by which people can overcome their unlawful presence problem by applying for a waiver at a consular post.

According to reports, details are expected to be released over the summer, along with an application process. People cannot apply yet.

Details:

- Fact Sheet: President Biden Announces New Actions to Keep Families Together (June 18, 2024).

- Easing the Nonimmigrant Visa Process for U.S. College Graduates, Department of State (June 18, 2024).
- Biden Is Offering Some Migrants a Pathway to Citizenship. Here's How the Plan Will Work, Associated Press (June 18, 2024).

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USCIS Extends Certain TPS Work Permits Through March 9, 2025

U.S. Citizenship and Immigration Services (USCIS) announced on June 20, 2024, that it is extending the work authorization of Temporary Protected Status (TPS) beneficiaries under the designations of El Salvador, Honduras, Nepal, Nicaragua, and Sudan through March 9, 2025.

USCIS will issue Form I-797, Notice of Action, to these TPS beneficiaries who are eligible to re-register for TPS or have a pending application to renew their Form I-766, Employment Authorization Document (EAD). The notice further extends the validity of their EAD through March 9, 2025.

USCIS said that employees may show their Form I-797, along with their TPS-based EAD (EAD with an A12 or C19 code), to any U.S. employer as proof of continued work authorization through March 9, 2025.

USCIS provided additional instructions for employers:

After a new employee has completed Form I-9, Employment Eligibility Verification, create a case in E-Verify for this employee. Enter the EAD document number you entered on Form I-9, as well as the automatically extended date of March 9, 2025. You must reverify these employees on Form I-9 before they start work on March 10, 2025.

Details:

- USCIS alert (June 20, 2024).

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DOJ Reaches Settlement With Staffing Agency for Discrimination Against Noncitizens

The Department of Justice (DOJ) announced a settlement agreement with Selective Personnel Inc. (SPI), a California staffing agency. The agreement resolves DOJ's determination that SPI's predecessor business entity, South Bay

Safety (SBS), violated the Immigration and Nationality Act (INA) by regularly discriminating against non-U.S. citizens when checking their permission to work in the United States.

After investigating, the Civil Rights Division's Immigrant and Employee Rights Section (IER) concluded that between September 2020 and October 2022, SBS required non-U.S. citizens to present specific types of documentation reflecting their immigration status to prove their permission to work. In contrast, U.S. citizens could present any acceptable document of their choosing. IER concluded that SPI was a successor in interest to SBS and liable for the violations that IER found.

Under the settlement, SPI will pay civil penalties to the United States, train its employees on the INA's requirements, revise its employment policies, and be subject to departmental monitoring.

Details:

- DOJ press release (June 17, 2024).

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Coming Soon: Increased Login Security for E-Verify and SAVE

U.S. Citizenship and Immigration Services (USCIS) announced that login security will be enhanced for E-Verify and Systematic Alien Verification for Entitlements (SAVE) later this year, when users will begin logging into E-Verify or SAVE using Login.gov. This change "will require users to enter more information than just a password through a process called multi-factor authentication," USCIS said. For example, "along with the password, users may be asked to enter a code sent to their email or phone."

USCIS said that enhancing these processes will help prevent unauthorized account access and minimize risk due to human error, misplaced passwords, or lost devices.

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DOS Rolls Out 'Beta Release' of Online Passport Renewal System

The Department of State (DOS) is testing a "beta release" of a system for U.S. citizens to renew their passports online. DOS said routine processing times for

renewing a passport online are expected to be six to eight weeks (not including mailing). Expedited renewals are not available online.

DOS noted that applicants might not be able to start their applications on the days of their choice during the beta release period. The system will open for a limited time midday ET each day, "and will close once we reach our limit for the day." If you can't start your application, DOS said, "try again on another day." Renewal by mail is still available also.

Details:

- DOS announcement (June 12, 2024).

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Firm in the News

Cyrus Mehta was quoted extensively by *Forbes* in DHS, USCIS Urged to Protect Green Card Applicants and Their Children. The article notes that a new letter by a bipartisan group of lawmakers in Congress urges the Biden administration to take action to protect the children of green card applicants and proposes several policy changes. Mr. Mehta said, among other things, that the administrative proposals in the letter "are both interesting and intriguing as they may only give a temporary benefit to the child who has aged out with no pathway to permanent residence. Still, until Congress provides a legislative solution, these proposals, especially the first and second, would be an interim solution." The article notes that Mr. Mehta favors advancing the Dates of Filing in the Department of State's Visa Bulletin as much as possible to allow those waiting in employment-based green card categories to file I-485 applications for adjustment of status.

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