



IMMIGRATION UPDATE - DECEMBER 09, 2024

Posted on December 9, 2024 by Cyrus Mehta

Headlines:

[DOS Removes China, India, Others From Countries on Skills List for Exchange Visitors](#) – The Department of State is updating the countries on the Exchange Visitors Skills List. DOS has removed China and India, among others, from the list. DOS is not updating the skills on the list.

[FY 2025 H-1B Cap Reached, USCIS Says](#) – U.S. Citizenship and Immigration Services has received enough H-1B petitions to reach the congressionally mandated 65,000 H-1B visa regular cap and the 20,000 H-1B visa U.S. advanced degree exemption (master's cap) for fiscal year 2025.

[Certain Applicants Now Must File Medical Exam and Vaccination Record With Adjustment Application](#) – U.S. Citizenship and Immigration Services is now requiring certain applicants filing Form I-485, Application to Register Permanent Residence or Adjust Status, to submit Form I-693, Report of Immigration Medical Examination and Vaccination Record, with their Form I-485 or the Form I-485 may be rejected.

[Actions President Biden Can Take Now](#) – The American Immigration Lawyers Association has released [text](#) with its recommendations for swift action that can be sent to members of Congress and the Biden administration.

[DOJ Reaches Agreement With Healthcare Facilities Service Provider to Resolve Immigration-Related Discrimination Claims](#) – The Department of Justice has secured an agreement with Pennsylvania-based HCSG East LLC and its parent company, Healthcare Services Group Inc. (HCSG), a nationwide provider of housekeeping, laundry, and food services for healthcare and nursing facilities.

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Details:

DOS Removes China, India, Others From Countries on Skills List for Exchange Visitors

The Department of State (DOS) announced an [update](#) of the countries on the Exchange Visitors Skills List, effective December 9, 2024. This update supersedes the most recent update in 2009. DOS has [removed China and India](#), among others, from the list. This means that J nonimmigrant exchange visitors from those countries who were subject to the two-year foreign residence requirement based on designations in the previously published Skills List [no longer need to return](#) to their countries for two years after their studies in the United States if their country is not on the revised list. DOS is not updating the skills on the list.

The notice explains that the Skills List is a list of countries designated as clearly requiring the services of persons engaged in certain fields of specialized knowledge or skills. Criteria for designation include overall economic development (per capita Gross Domestic Product), country size, and overall outbound migration rate, the notice states. In addition to China and India, Saudi Arabia, South Korea, the United Arab Emirates, and others were removed from the list.

Exchange visitors who seek a definitive determination from DOS of whether the two-year foreign residence requirement applies to them may request an Advisory Opinion from the Waiver Review Division, the notice says.

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FY 2025 H-1B Cap Reached, USCIS Says

On December 2, 2024, U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it has received enough H-1B petitions to reach the congressionally mandated 65,000 H-1B visa regular cap and the 20,000 H-1B visa U.S. advanced degree exemption (master's cap) for fiscal year (FY) 2025.

USCIS said that when it finishes sending out the non-selection notifications, the status for properly submitted registrations that the agency did not select for the FY 2025 H-1B numerical allocations will state:

- Not Selected: Not selected—not eligible to file an H-1B cap petition based

on this registration.

USCIS will continue to accept and process petitions that are otherwise exempt from the cap. The agency noted that petitions filed for current H-1B workers who have been counted previously against the cap, and who still retain their cap number, are exempt from the FY 2025 H-1B cap. USCIS said it will continue to accept and process petitions filed to:

- Extend the amount of time a current H-1B worker may remain in the United States;
- Change the terms of employment for current H-1B workers;
- Allow current H-1B workers to change employers; and
- Allow current H-1B workers to work concurrently in additional H-1B positions.

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Certain Applicants Now Must File Medical Exam and Vaccination Record With Adjustment Application

On December 2, 2024, U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it is now requiring [certain applicants](#) filing Form I-485, Application to Register Permanent Residence or Adjust Status, to submit Form I-693, Report of Immigration Medical Examination and Vaccination Record, with their Form I-485 or the Form I-485 may be rejected.

USCIS explained that applicants for adjustment of status generally must complete an immigration medical examination and all required vaccinations and submit a properly completed Form I-693 signed by a civil surgeon to show that they are free from health conditions that would render them inadmissible under the health-related grounds.

USCIS said it has made this change "to reduce the number of Requests for Evidence we issue before adjudicating a Form I-485."

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Actions President Biden Can Take Now

The American Immigration Lawyers Association has released [text](#) with its

recommendations for swift action that can be sent to members of Congress and the Biden administration. The actions include:

- Finalizing regulations, particularly the H-1B and H-2 modernization rules and a temporary final rule that extends work authorization for 540 days.
- Protecting vulnerable populations who may be subject to unnecessary detention and enforcement.
- Expediting adjudications for populations at risk of deportation, including renewals of Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status (TPS), and work permit applications.
- Prioritizing visa adjudications for those who were subject to travel bans.
- Extending TPS designations of countries that will expire in 2025.
- Making permanent the domestic visa renewal program so essential employees do not need to travel overseas to complete visa processing.
- Withdrawing or rescinding Trump-era regulations that were not finalized or implemented and that could be rapidly implemented by the incoming administration.
- Withdrawing regulations that undermine fairness and due process in immigration courts and that would harm DACA recipients.
- Rescinding regulations that unfairly restrict access to asylum and jeopardize the lives of those needing humanitarian protection.

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DOJ Reaches Agreement With Healthcare Facilities Service Provider to Resolve Immigration-Related Discrimination Claims

On December 6, 2024, the Department of Justice [announced](#) that it secured an [agreement](#) with Pennsylvania-based HCSG East LLC and its parent company, Healthcare Services Group Inc. (HCSG), a nationwide provider of housekeeping, laundry, and food services for healthcare and nursing facilities. The agreement resolves DOJ's determination that HCSG discriminated against non-U.S. citizens with permission to work in the United States when hiring at its Siler City, North Carolina, location and engaged in unfair practices regarding work authorization

documents.

Specifically, DOJ's Civil Rights Division's Immigrant and Employee Rights Section (IER) concluded that HCSG discriminated against a worker by refusing to honor her valid document showing her permission to work because of her citizenship status. IER's investigation also determined that HCSG had a policy of unlawfully refusing to hire certain workers who had permission to work but were not U.S. citizens or lawful permanent residents at its Siler City location from at least February 2022 to at least December 2022.

Under the settlement, HCSG will pay a civil penalty of \$6,914 to the United States and provide \$10,500 in backpay to an affected worker. The backpay includes lost wages and benefits, including lost overtime pay, bonuses, fringe benefits, paid holidays, vacation time, and interest, less any required withholdings. The agreement also requires HCSG to "train its personnel on the Immigration and Nationality Act's requirements, revise its employment policies, broadly recruit workers, avoid unnecessary English-language requirements in its job ads and be subject to departmental monitoring," DOJ said.

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Firm in the News

Cyrus Mehta was an invited speaker at the 57th Annual Immigration and Naturalization Institute, Practising Law Institute, on December 4, 2024 where he spoke on a panel entitled Ethical Issues for the Immigration Practitioner. Mr. Mehta discussed emerging ethical issues that will arise under the Trump administration including ethical obligations of the attorney to not reveal the whereabouts of a client with a removal order, harboring, encouragement and contesting charges in removal proceedings including the client's alienage. Mr. Mehta was joined by Lauren Migliaccio, Training and Legal Technical Assistance Director of the Immigration Justice Corps.

Mr. Mehta was an invited speaker at the 11th Biennial IBA Global Immigration on December 6, 2024 in London, United Kingdom where he spoke on the impact of Trump on immigration laws and policies including mass deportations, de-recognition of birthright citizenship, H-1B and L visas and how Trump's policies could be challenged in federal court. The discussion also covered immigration in Canada and Mexico. The other panelists were Ben Johnson, Executive Director of AILA and distinguished colleagues Kathleen Walker, Evan

Green and Maria Elena Abraham. The panel was moderated by eminent immigration attorney Scott Borene.

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