

Immigration Newsletter



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Supreme Court Unable to Decide Whether to Approve DAPA or Expanded DACA

The eight member United States Supreme Court recently announced it could not decide whether to allow President Obama's Deferred Action for Parental Authority (DAPA) work permits for parents or expanded Deferred Action for Childhood Arrivals (DACA) for young DREAMers which would have changed the date of entry and age cap requirements. The vote was 4 to 4. The Supreme Court normally has 9 members, so that it is rare for a tie vote because the 9th justice would break these ties. The Republican controlled Senate and House refused to allow President Obama to appoint a new Supreme Court justice until after the new president takes office January 2017. With this impasse, President Obama's DAPA and expanded DACA programs cannot move forward. The original Deferred Action for Childhood Arrivals (DACA) remains an option through January 2017 when President Obama leaves office. The current DACA program will likely continue if Hillary Clinton is elected the next President. Candidate for President Donald Trump has stated he would cancel the DACA program if elected. The election will be held November 4, 2016.



Month Long Series of Raids Targeting Central American Women and Children Scheduled

The news source Reuters states that U.S. immigration officials are planning a large scale arrest and deportation of mothers and children from Central America covering May and June. This past January 2016 the Obama Administration targeted women and children in Georgia, Texas and North Carolina. Immigration Customs Enforcement said "immigrants who arrived illegally after January 1, 2014 are priorities for removal." Most of these women and children fleeing violence were unaware or lacked the resources to attend their scheduled hearings. It is important for to immediately file for relief without delay and attend all hearings as well as the need to competent legal representation.



"At Barten Law, we understand that your immigration needs are important to you and your family. You deserve the highest quality representation and legal advice in all areas of immigration law."





Foreign Students: New Final Rule on Employment After Graduation

The Student and Exchange Visitor Program (SEVP) has created a webpage called “Study in the States” to help university and college advisors, students, and employers understand the new DHS final rule on OPT for F-1 students. <https://studyinthestates.dhs.gov/stem-opt-hub>

The website includes a transition plan and training plan, as well as FAQs. This resource page includes links to information found on the STEM OPT webpage, as well as resources from other sources. Immigration Customs Enforcement also has provided a Student Planning Tool to assist students in making sure they comply with the requirements for employment, you can find this Student Planning Tool on our website.

Business Employment: Pending Employment Change of Employer or Extension of Stay Taking Longer Than 210 Days

In prior newsletters we’ve discussed that USCIS processing times for Form I-129 temporary employment such as H-1B, are often taking longer than usual. Many employers have felt forced into spending an additional \$1225 in government fees to request premium processing because regular processing was taking so long that critical employees were losing driving privileges, couldn’t travel abroad with certainty, etc. USCIS recently announced that temporary employment Form I-129 petitioners (employers) may contact USCIS directly at 800-375-5283 and provide the original receipt notice to alert USCIS that the case is pending for more than 210 days.



“U.S. military members can immediately sponsor their spouses, minor children, and parents...”

USCIS Announces Plans to Increase Filing Fees an Average of 21%

CIS is requesting public comments through July 5, 2016 regarding their proposed fee increases for applications. USCIS states that fees have not been increased since 2010 and since USCIS is funded through filing fees the amounts currently charged do not cover the expense of government processing. Further some types of applications such as asylum and U visa victims applications do not require a fee and fees collected for other applications are used to cover the cost of processing those types of cases. An example of projected fee increases is for U.S. Citizenship. For the N-400 Form, USCIS proposes to establish a three-level fee structure: (1) the standard fee would increase from \$595 to \$640, (2) Applicants with family income between 150-200% of the poverty guidelines would pay a fee of \$320, and, (3) military service and applicants with family income below 150% of the poverty guidelines there would be no charge. USCIS proposes a fee increase from \$635 to \$750 for a child under the age of 14 years when filing Form I-485 Application to Adjust Status with a parent. For the I-129 Petition for Nonimmigrant Worker, the proposed fee increase would be \$325 to \$460.



Problems Obtaining File Requests from Customs and Border Protection?

One way for us to help our clients is to request the records from their entries to the U.S. Lately CBP has been responding that “no records are found” even when we know CBP does have records. The only way to force CBP to release the information is to file a lawsuit against CBP which is an expensive and time consuming process.



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Visa and Immigration Services

- » Family-sponsored Immigration
- » Citizenship/Naturalization
- » Special Immigrant Juveniles
- » Permanent Employment EB-1 through EB-4
- » Removal/Deportation Defense
- » Asylum
- » Waivers
- » Fiancé Visa (Including LGBT)
- » H-1B Specialty Occupations
- » Consular Processing

USCIS Announces Plans to Review Possibility of More Accurate Processing Time Information

Currently processing times for the various types of immigration applications are self-reported from each of the Service Centers and then published on the USCIS website. Often the reports are outdated and possibly not accurate. In response, USCIS announced it is reviewing the feasibility of creating and publishing the processing time reports from data generated directly from the case management system. If and when this is implemented, it will be a welcome improvement.

Preference Categories: August 2016 Visa Bulletin

The first priority date listed are cases which beneficiaries may file for adjustment of status or immigrant visa for residency August 1, 2016.

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	22MAY09	22MAY09	22MAY09	08MAR95	22MAR05
F2A	15NOV14	15NOV14	15NOV14	01SEP14	15NOV14
F2B	08JAN10	08JAN10	08JAN10	08SEP95	15SEP05
F3	01DEC04	01DEC04	01DEC04	22OCT94	15MAR94
F4	15SEP03	01JAN03	01JAN01	15APR97	01FEB93

The New Visa Bulletin Chart Allows More to Apply for Residency

August 2016

Employment based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES
1st	C	01JAN10	C	01JAN10	C	C
2nd	01FEB14	01JAN10	01FEB14	15NOV04	01FEB14	01FEB14
3rd	15MAR16	01JAN10	15MAR16	08NOV04	15MAR16	15MAY09
Other Workers	15MAR16	01JAN04	15MAR16	08NOV04	15MAR16	15MAY09
4th	C	C	01JAN10	01JAN10	01JAN10	C
Certain Religious Workers	C	C	01JAN10	01JAN10	01JAN10	C
5th Non-Regional Center (C5 and T5)	C	15FEB14	C	C	C	C
5th Regional Center (I5 and R5)	C	15FEB14	C	C	C	C

USCIS Visa Bulletin

Department of State Begins Cancelling Visas for Arrests in U.S.

The Department of State (“DOS”) recently announced its new policy of cancelling visas of foreign nationals in the U.S. with arrests. DOS receives information on arrests and convictions from U.S. government electronic databases for foreign nationals in the U.S. on visas such as F-1 students, J-1 scholars, H-1B workers, L-1A or L-1B employees, or TN workers and their dependent spouse and children. The DOS may revoke a visa based on an “suspected ineligibility” and does not require an the foreign national have admitted to any criminal wrongdoing or a conviction. Driving Under the Influence arrests are specifically targeted for revocation because the DOS states it indicates ineligibility for a possible physical or mental disorder associated with harmful behavior. The Visa Office has instructed consular officers to revoke the visas of visa-holders with a DUI arrest that has occurred within the past five years, unless that arrest was already reviewed during a prior visa application. Other types of arrests will also be reviewed. After making the decision to revoke the visa, the foreign national is expected to leave the U.S., re-apply for their visa and the consulate will review potential criminal ineligibilities at the time of re-application.



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