

Mayor's International Affairs Advisory Commission
Immigration Issues Committee
Report to the Co-Chairs of MIAAC

Date: May 7, 2021

Co-Chairs: Marilyn Daniel, Charles Baesler

Members: Karen Slaymaker (MIAAC Commissioner), Glen Krebs, Emily Jones, Katie Taylor, Tatiana Lipsey, Sarah Adkins, Jerry Clark, Isabel Taylor

Intern: Mihir Kale

Goals:

- (1) Establish, activate and update a Google spreadsheet summarizing the changes occurring in Immigration Law and Practice in 2021.
- (2) Develop a Communication Plan to disseminate the spreadsheet information to appropriate recipients.
- (3) Provide written summaries of the most significant changes for MIAAC quarterly meetings.

The Immigration Issues Committee met by Zoom on Monday, May 3, 2021. We had ongoing discussions on the changes in immigration regulations, policies and practices since January 2021. Members are to provide a brief description of the most significant changes they have dealt with since the first of the year in the areas they work with. Those comments are included in this report. Isabel Taylor will provide members with a draft list of languages encountered in this area for comment and proposed changes. Members will review the list of LFUCG Council Committees made available by Melissa McCartt-Smyth to determine when and to whom certain changes in immigration practice should be directed.

Next Committee meeting: Monday, August 2, 2021, noon - 1:00 pm by Zoom

Most significant changes since January 1, 2021:

Travel ban/ Freeze on certain VISA categories

1. Former President Trump imposed an immigration ban on mostly majority-Muslim countries ([Iran](#), [Libya](#), [Somalia](#), [Syria](#), [Yemen](#), [North Korea](#), [Venezuela](#), [Burma \(Myanmar\)](#), [Eritrea](#), [Kyrgyzstan](#), [Nigeria](#), [Sudan](#) and [Tanzania](#)), and imposed a freeze on various Visa categories ([H-1B](#), [H-4](#), [H-2B](#), [L-1](#) and [J](#)). Both the ban and the freeze were revoked on January 20, 2021 and February 24, 2021 respectively. President Biden says the orders did not advance U.S. interests and hurt industries and individuals alike.

The Southern Border

2. On March 20, 2020, US Customs and Border Protection (CBP) began expelling all individuals (who normally would be detained after arrival, including [asylum seekers](#), [unaccompanied children](#), and [those entering without inspection](#)) entering the US from [Can-](#)

[ada and Mexico](#). These individuals were expelled without the opportunity to seek asylum or other relief. This was initiated by a CDC Order under [Title 42](#) of the US Code, claiming that this was necessary to protect the US from Covid-19. 13,000 unaccompanied minors were expelled before a federal judge stopped the expulsion of unaccompanied minors in November 2020. In January 2021, the Biden administration amended the Title 42 Order to exempt unaccompanied minors. Hence, unaccompanied minors haven't been expelled since November 2020. However, by February 2021, CBP had expelled more than 520,000 people. The Biden administration has not revoked this Title 42 Order but has begun to permit some asylum-seeking families with young children to enter. Critics have pointed out that in December 2020 alone, 9,000,000 people entered the US from Mexico and that the fundamental problem with Title 42 expulsions is that they are targeted primarily at a small number of people seeking asylum at a time when large numbers of other people cross the border daily.

Source: American Immigration Council Fact Sheet. March 29, 2021

Asylum

3. On January 19, 2021, the [third party transit ban](#), detailed in 85 FR 82260, came into effect. This regulation blocked individuals from asylum eligibility if they crossed the southern land border on or after July 16, 2019, if they are not from Mexico, and if they did not file for asylum in Mexico. On February 16, 2021, the U.S. District Court for the Northern District of California issued a nationwide, preliminary injunction blocking the third party transit ban.

Temporary Protected Status

4. Temporary Protected Status (TPS) grants work authorization and temporary protection from removal to individuals of certain countries when the situation in the country is so precarious that it is unreasonable to force people to return until the situation can improve. In March, both [Venezuela and Burma \(Myanmar\)](#) were designated as TPS countries. Individuals from these countries who were present in the United States before the effective date of the designation and have continuously resided in the United States since then (and who meet other eligibility criteria) must apply to USCIS within 6 months to obtain the status. This status is valuable for anyone who does not currently have immigration status or whose status will be expiring soon, but it provides no permanent status in the United States. Whether TPS holders are then eligible to apply for permanent residency through other means (like marriage), is a question that was heard at the Supreme Court in April in *Sanchez v. Mayorkas*, with no answer yet.

Refugee Admissions

5. On May 3, 2021, President Biden announced that he would be raising the refugee ceiling (the maximum number of refugees allowed to enter the United States in a given fiscal year) to [62,500](#) from 15,000 for this fiscal year. Biden anticipates setting the refugee ceiling for the new fiscal year at [125,000](#) at the end of September.

Extensions of work visas

6. The Biden administration recently restored USCIS' previous policy of giving deference to its prior approvals of petition-based extensions of status (used in many [temporary work visa categories](#)) for requests made by the same employer and employee involving the same facts as the original case. In 2004, USCIS announced that it would give deference and approve routine extension requests unless it determined that there had been clear error in the prior approval, or circumstances changed such that the petitioner was no longer eligible for the classification requested. In 2017, the Trump administration rescinded the 2004 deference policy, instituting a practice of adjudicating cases on a blank slate. The practical effect of the 2017 change was to enable USCIS to deny cases using stricter standards than previously applied, furthering the administration's goal of reducing legal employment-based immigration. On April 27, 2021, USCIS rescinded the 2017 policy, returned to standards more aligned with the 2004 deference standard. In addition, USCIS affirmed that it will consider eligibility determinations on petitions or applications made to other government agencies when adjudicating USCIS petitions (such as the Department of State on issues of eligibility for a visa, Customs & Border Protection on the issue of admissibility, and the Department of Labor on issues relating to eligibility under prevailing wage requirements applicable to some temporary work classifications).

International Student Update

7. On April 21, 2021, the U.S. Department of Homeland Security (DHS) posted Federal Register notices announcing the suspension of certain regulatory requirements for F-1 nonimmigrant students from [Venezuela](#) and [Syria](#) who are experiencing severe economic hardship as a result of emergent circumstances in their country of citizenship. The U.S. State Department updated its National Interest Exception (NIE) [page](#) to expand certain NIE eligibility to countries subject to a geographic COVID-19 entry ban. As a result of this determination, both NEW, Current and continuing F-1 students present in [India](#), [China](#), [Iran](#), [Brazil](#), [South Africa](#), [the Schengen area](#), [the United Kingdom](#), and [Ireland](#), are able to travel to the United States through the National Interest Exception (NIE).

Respectfully submitted,
Marilyn S, Daniel, Co-Chair