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## AUGUST 2023 - T&R Newsletter

Welcome to our August newsletter and we hope that you have been having a good summer! In this month's newsletter we review the September Visa Bulletin, Processing times for F-1 EADs via premium processing, online tools for scheduling appointments and rescheduling biometrics, and the reopening of the USCIS Field Office in Havana, Cuba.

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### SEPTEMBER VISA BULLETIN RELEASED

The September visa bulletin shows little movement with all dates remaining the same for employment preferences, except for EB-2 Worldwide and EB-3 China which advance 3 months. USCIS has announced that Final Action Dates will be used for employment-based cases. You can find the September visa bulletin [\[here\]](#).

Anticipated October 2023 visa bulletin: While there has been little movement in the priority dates for September, we are anticipating a lot of movement for the October 2023 visa bulletin (which should be released mid-September). October 1 is the start of the new government fiscal year and when new immigrant visa numbers become available.

For the EB-1 category, it is anticipated that: EB-1 worldwide will become current again; EB-1 for India will advance by almost 10 years back to the final action date of July 2023 Visa Bulletin (February 1, 2022); and EB-1 for China will advance only 1-2 months. EB-1 includes a) Persons of Extraordinary Ability; b) Outstanding Researchers and Professors; and c) Multinational Managers and Executives.

It is anticipated that EB-2 and EB-3 for India and China will move forward by several weeks, but that EB-3 Worldwide is unlikely to advance at all.

Please note that these are only predictions, and we will provide updates once the October visa bulletin is released next month.

## **USCIS OMBUDSMAN CLARIFIES PREMIUM PROCESSING FOR F-1 EAD CARDS**

As of April 3, 2023, F-1 students have been able to file applications for Employment Authorization (Form I-765) for pre-completion OPT; post-completion OPT; and 24-month STEM OPT extension. The fee for this premium processing fee is \$1,500 for a 30-day processing time. The Ombudsman's office issued a flyer this month that indicates that the 30 days is for the USCIS to adjudicate the I-765 (approval, denial, RFE) but not to issue the EAD. Instead, the EAD card will be issued after 30 days and may take an additional one to two weeks to be delivered. The USCIS will mail the EAD via U.S. Postal Service (Informed Delivery). See Ombudsman Flyer [\[here\]](#).

## **USCIS LAUNCHES ONLINE APPOINTMENT REQUEST FORM**

Earlier this week, USCIS launched a new online form to request an in-person appointment at a local field office without having to call USCIS. The requested appointments can be to obtain an I-551 ADIT Stamp in passport, or Emergency Advance Parole, or other benefit. The online form allows individuals or their attorneys to request a specific date for an appointment, but not to schedule the appointment online. The USCIS will review the submitted forms and then the availability of appointments at the requested field office and then confirm and schedule the individual for an available in-person appointment on a specific date and time. It is not guaranteed that the date and time requested will be honored. The USCIS hopes that this will help improve the customer experience. The online form can be accessed [\[here\]](#).

## **USCIS LAUNCHES ONLINE RESCHEDULING OF BIOMETRICS APPOINTMENTS**

In July, the USCIS announced the ability for foreign nationals or their representatives to reschedule their biometrics appointment. This scheduling tool is found in an individual's online USCIS account. Biometrics appointments can only be rescheduled for "sufficient reasons" that include:

- Illness, medical appointment, or hospitalization;
- Previously planned travel;
- Significant life events – wedding, funeral, etc;
- Inability to obtain transportation to the appointment location;
- Employment or caregiver responsibilities; and
- Late delivered or undelivered biometric services appointment notice.

Individuals should notify their attorneys if they plan to reschedule their appointments. The USCIS announcement is found [\[here\]](#).

## **USCIS REOPENS FIELD OFFICE IN HAVANA, CUBA**

The Department of Homeland Security (DHS), via the USCIS, announced on August 17<sup>th</sup> that it will reopen an international field office in Havana, Cuba. This office will

assist with U.S. immigration benefits and services, including processing cases for pending Cuban Family Reunification Parole (CFRP) cases and asylum/refugee applications, as well as other limited services. The Havana field office had been closed by the previous administration on December 10, 2018, due to a reallocation of agency resources and the long-term suspension of operations in 2017 after the U.S. Department of States had all non-essential personnel and families leave Cuba.

### **ARE YOU ABLE TO SELF-PETITION FOR A GREEN CARD?**

In addition to employers sponsoring foreign national employees for green cards, there are two types of I-140, immigrant visa petitions, that foreign nations can submit on their own via self-petition. These categories are:

1. Person of Extraordinary Ability in their Field (EB-1a): This requires that a person have *sustained national or international acclaim* and is *one of the few who has reached the top of their field*. This can be demonstrated through a one-time international award, such as a Nobel Peace Prize, or by meeting at least 3 criteria enumerated by USCIS regulations such as articles published in major media, lesser international awards or prizes, high compensation, original contributions to one's field, being the judge of others' work, having held critical roles for esteemed organizations, and other such criteria.

2. Persons of Exceptional Ability (EB-2) whose work is in the national interest of the United States (National Interest Waiver (NIW)): This requires that a person has *exceptional ability* in their field, which is defined by having at least a Master's degree or a bachelor's degree and 5 years of experience in their field, and seeking a waiver of "Labor Certification" by the U.S. Department of Labor because their work is in the national interest of the United States. Factors considered by the USCIS for NIW are: (1) The proposed endeavor has both substantial merit and national importance; (2) the individual is well positioned to advance the proposed endeavor; and (3) on balance, it would be beneficial to the United States to waive the requirement of a job offer, and thus labor certification.

Both immigrant visa employment-based categories can be petitioned or sponsored by one's employer, or a foreign national can self-petition. More and more foreign nationals are looking at these options because the backlog or retrogression in priority dates are either non-existent or much shorter for most nationalities.

If interested in exploring these options, contact T&R to set up a consultation to assess if you might be eligible to self-petition for a green card.

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3 Bethesda Metro Center | Suite 610 | Bethesda MD 20814

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