

A New Dawn

A Look at U.S. Immigration Policies and Practices
at the Start of the Biden Administration

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Welcome and Introduction

*When day comes we ask ourselves,
where can we find light in this never-ending shade?
The loss we carry,
a sea we must wade
We've braved the belly of the beast
We've learned that quiet isn't always peace
And the norms and notions
of what just is
Isn't always just-ice
And yet the dawn is ours
before we knew it
Somehow we do it
Somehow we've weathered and witnessed
a nation that isn't broken
but simply unfinished*

--Amanda Gorman, Inauguration of President Biden

Lessons in American Civics: How Law and Policy is Made and Unmade

Employment-Based Reform Initiatives in the Opening Days of the Biden Administration

Employment-Based Reform Initiatives

- Revocation of Buy American-Hire American Doctrine
 - BAHA
 - EO released April 2017
 - A harbinger of things to come
 - EO rescinding BAHA January 2021
 - Sets a more open, inclusive tone
 - Possible decrease in denials and RFEs?

Revisions to the H-1B Program

- Definition of Specialty Occupation
 - Proposed changes under previous administration
 - Current standing of proposed changes
 - Current adjudication practices
 - Rescission of 2017 memo that suggests computer programmers cannot constitute a specialty occupation
 - Suggests change in attitude towards IT professionals

Revisions to the H-1B Program

- H-1B Wage Considerations
 - Employers must pay the required wage
 - Greater of the prevailing wage or actual wage paid to similarly situated employees
 - Calculating the prevailing wage and wage levels
 - Proposed rule and delayed effective date
 - Would impact H-1Bs and permanent residency process through PERM labor certification

H-1B Lottery Registration

- 85,000 H-1Bs available per fiscal year (October 1 - September 30)
- Lottery to determine who is selected for coveted slots
- Employer registration selection process – same as last year
- Proposed changes to the lottery and delayed effective date

Miscellaneous EB Updates

- Status of the Public Charge Rule
 - On again and off again...and on again and off again
- F/J Reforms
 - Not moving forward
- H-4 Employment Authorization
 - Rule to rescind withdrawn

International Travel Restrictions and Visa Bans Under the Biden Administration

International Travel Restrictions and Visa Bans

- Travel Restrictions
 - Schengen Area, UK, Ireland, Brazil, South Africa
- Essential travel restrictions
- Visa Suspensions
 - H, L, J
- Consular processing
 - Emergency, Expedited, Closures

International Travel Restrictions and Visa Bans

- National Interest Exceptions
 - H-1B (public health, government, ongoing employment, economy)
 - H-2B (government, economy)
 - J-1 (care, public charge, childcare, exchange)
 - L-1A (public health, government, ongoing employment, senior manager)
 - L-1B (public health, government, ongoing employment, critical infrastructure)

International Travel Restrictions and Visa Bans

- International Student Exemption
- Quarantine and negative test requirements

Biden Administration: The Big Picture Out of the Oval Office

Restoring Integrity to our Immigration System

- DREAMERS & earned legalization
- Immigration court system

Shortening Permanent Resident Wait Times

- Abolishing per country quotas
- Recapturing unused immigrant visas
- Exempting spouses and dependents from quota calculations
- Accelerated adjustment of status submission dates

Enhancing Administrative Processing Efficiencies

- Restoration of deference rule
- Time requirements for issuing interim benefits
- Eliminating biometrics for H dependents
- Waiving adjustment of status interviews for employment-based cases

Enhancing U.S. Competitiveness in Brain Race

- H-1B Reforms
- Pathways to Permanent Residence for STEM
- Expanded Exemptions from Quota System
- Reforms for International Students and Scholars
- Dual Intent for International Students and Scholars
- Reforms and Expansions to OPT

Occupation-Specific Reforms to Address Workplace Shortages

- Physicians and healthcare workers
- Immigrant investors
- Agricultural workers
- Temporary workers

Immigration Legislation and Court Proceedings

Immigration Legislation and Court Proceedings

- U.S. Citizenship Act of 2021 (Biden)
- Conrad State 30 & Physician Access Act (Senate)
- Other legislation
- Litigation
 - DOL Wage Rule
 - Public Charge Rule
 - Fee Increase

Conclusion

Presenters



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