

Department of State / AILA Liaison Committee Meeting May 27, 2021

Introduction

The Department of State, Office of the Assistant Legal Adviser for Consular Affairs (L/CA), welcomes AILA's Department of State Liaison Committee to discuss issues of interest to AILA's membership. Below are responses to Agenda questions presented by AILA to inform today's discussion. These responses, edited as necessary based on today's discussion, will be published in Travel.State.Gov, for the general information of the public.

Visa Bulletin Questions

1. Congratulations to Charlie Oppenheim on his new monthly YouTube engagement, "Chats with Charlie"! During the recent "Chats with Charlie", Charlie reminded the public that there is a record 262K employment-based (EB) visa allocation this year and that he expects next fiscal year's EB allocation to be at least 275K. Although these are both large numbers, it appears that the ability for USCIS to accept new filings in the next fiscal year will be largely contingent upon how successful they are processing the EB adjustment of status applications that were filed at the start of the current fiscal year. The massive number of October 2020 filings can only be compared with the filings in the summer of 2007 when all EB preference categories became current. To assist AILA and the general public in avoiding a condensed preparation window, it would be helpful to understand whether and to what extent the dates for filing might reasonably advance in October 2021 and beyond. With the understanding that projections are subject to numerous variables and that the actual advancement may vary, is it possible to give a "moment in time" projection as to where the dates for filing might reasonably be in October 2021 for EB-2 China, EB-2 India, EB-3 China, EB-3 India and through the end of the calendar year?

It is important to remember that the FY 2022 annual limit estimate which was previously provided is based on the current INA guidelines for the determination of the annual limits.

The various Employment-based Application Filing Dates will be advanced throughout the summer months in anticipation of the (estimated) higher FY 2022 annual limits. It is not possible to comment on whether USCIS might allow such dates to be used during FY 2021. We will also be working closely with USCIS to establish October Application Filing Dates which will help maximize number use throughout the year, knowing that USCIS typically allows such dates to be used for filing purposes during the early months of each fiscal year.

At this point it is not possible to provide any estimates regarding the movement of specific Application Filing Dates. The movement of such dates is dependent upon information received at the beginning of each month regarding the number of pending I-

485s based on past movements and the totals of applicants with pending I-140s that are beyond the established dates.

2. Given that Guangzhou resumed IV processing on April 9th, how far does DOS expect the EB-5 final action dates to advance by the end of this fiscal year?

The China EB-5 Final Action Date will be advanced based on estimates of visa availability under the FY 2021 EB-5 annual limit. Movement of the date is likely to be limited based on the large number of filings received during September 2015.

Consular Post Reopening

3. In response to question 34 from our [December 11, 2020 liaison meeting](#), AILA was informed that “(a)lthough phased reopening of routine visa services originally corresponded with phases of Diplomacy Strong, posts were instructed on November 12 that they are no longer obligated to be in a specific Diplomacy Strong phase before providing additional categories of visa services.” To what extent does Diplomacy Strong continue to be agency policy across all posts? If Diplomacy Strong is no longer agency policy, what guideline is DOS applying to determine the phased reopening of posts and what services posts should prioritize?

The Department continues to use the Diplomacy Strong framework to make decisions based on objective criteria about operating status of its facilities worldwide, with a goal of restoring full mission capacity while minimizing risks to our workforce. Consular sections overseas have been instructed to restore services in keeping with local conditions and resources and following a tiered and hierarchical approach, prioritizing services to American citizens, followed by immigrant visas, then nonimmigrant visas. The services provided are not contingent on Diplomacy Strong, but Diplomacy Strong may still impact consular operations (e.g. if remote work is still necessary to ensure adequate social distancing to avoid COVID transmission). The pandemic continues to severely impact the number of visas our embassies and consulates abroad are able to process.

4. Guidance issued by DOS on [April 8, 2021](#) providing an update on NIEs and [April 6, 2021](#) on the visa services operating status, outline that posts will prioritize U.S. citizen services, followed by immediate relative Immigrant Visas (IVs) and Fiancée visas and certain Special Immigrant Visa applications, as well as IVs previously refused under Presidential Proclamations 9645 and 9983. Where do family-sponsored preference and employment-based preference immigrant visas fall within this priority scheme?

U.S. embassies and consulates are using a tiered approach to prioritizing immigrant visa applications based on the category of immigrant visa, as they resume and expand visa services. Our consular sections, where possible, are scheduling some appointments within all of these four priority tiers every month:

- Tier One: Immediate relative intercountry adoption visas, age-out cases (cases where the applicant will soon no longer qualify due to their age), and certain Special Immigrant Visas (SQ and SI for Afghan and Iraqi nationals working with the U.S. government)
 - Tier Two: Immediate relative visas; fiancé(e) visas; and returning resident visas
 - Tier Three: Family preference immigrant visas and SE Special Immigrant Visas for certain employees of the U.S. government abroad
 - Tier Four: All other immigrant visas, including employment preference and diversity visas
5. The [April 6, 2021](#) update further notes that posts that process NIV applications are prioritizing travelers with urgent needs, foreign diplomats, mission-critical categories of travelers (such as those coming to assist with the U.S. response to the pandemic), students, exchange visitors, and some temporary employment visas. Please address the following questions:

- a. What types of needs would be considered “urgent” for purposes of being prioritized?

Cases that fall in the highest priority category for NIV processing typically involve extreme humanitarian circumstances; USG interest, including traveling in support of public health or national security; or situations of bilateral importance.

- b. Does the “mission-critical categories of travelers” category include critical infrastructure workers?

“Mission critical” is an end result of the calculus described here and not a category unto itself. Any case that meets all the standards to be processed as a top priority could be properly referred to as “mission critical.”

- c. How does DOS define “workers who are essential to the American food supply”? Based on our members’ interactions with posts, it appears that posts may not have received clear guidance on how this is defined.

All H-2As are considered workers essential to the U.S. food supply; H-2Bs that are related to the food supply could include workers involved in seafood processing or meat packing, for examples, but a dishwasher, wait person, or cashier at a restaurant would not qualify.

- d. Please confirm if this includes agricultural workers, meatpacking and grocery store workers, chefs, and other restaurant workers?

It does include agricultural workers, but not restaurant workers.

- e. Where do temporary workers whose presence is necessary in the U.S. to create or sustain U.S. jobs fit within this hierarchy of priorities?

Posts processing nonimmigrant visa applications will continue to prioritize travelers with urgent travel needs, foreign diplomats, and certain mission critical categories of travelers such as those coming to assist with the U.S. response to the pandemic, followed by students and exchange visitors (F-1, M-1, and J-1) and temporary employment visas

- 6. On [April 26, 2021, TSG added an update](#), “National Interest Exceptions for Certain Travelers from China, Iran, Brazil, South Africa, Schengen Area, United Kingdom and Ireland,” extending the NIE criteria previously only applicable to the Schengen Area, United Kingdom and Ireland, to China, Iran, Brazil and South Africa. This update further clarified that students with valid F-1 and M-1 visas intending to begin or continue an academic program commencing on August 1, 2021, or later were not required to seek an NIE to travel but could proceed directly to the U.S. and that F-1 and M-1 students needing a visa would be required to check the status of visa processing at the nearest embassy or consulate. Please confirm the following:

- a. Are students with valid F-1 and M-1 visas who intend to enter the U.S. to resume studies before August 1, 2021, required to seek and obtain a national interest exception (NIE) from either an embassy or consulate or CBP prior to traveling to the U.S.?

Students and academics subject to these proclamations due to their presence in China, Iran, Brazil, or South Africa may qualify for an NIE only if their academic program begins August 1, 2021 or later. Students with valid F-1 and M-1 visas intending to begin or continue an academic program, including optional practical training (OPT), starting August 1, 2021 or later do not need to contact an embassy or consulate to travel. They may enter the United States no earlier than 30 days before the start of their academic program. Students seeking to apply for new F-1 or M-1 visas should check the status of visa services at the nearest embassy or consulate; those applicants who are found to be otherwise qualified for an F-1 or M-1 visa will *automatically* be considered for an NIE to travel.

- b. Given the instruction to check visa appointment availability at the nearest embassy or consulate and understanding that many posts continue to operate at minimal capacity, what efforts are being made to ensure that F-1 university students will be able to obtain visas before the Fall 2021 semester? Specifically, will F-1 and M-1 student applications receive priority for visa interviews? Will DOS consider expedited processing or drop-box options to facilitate student visa interviews?

Students and academics are and will continue to be prioritized by the Department. Embassies and Consulates world-wide are offering as many student visa appointments as local conditions permit. Additionally, some students may benefit

from the extended interview waiver program for renewals of same category visas that expired within the previous 48 months, allowing them to renew their visa and return to classes without an in-person interview.

- c. As NIV issuances at posts in China have been highly curtailed compared to posts in other parts of the world, does DOS anticipate that intending Chinese students will be able to secure visas at consular posts in China in time for the Fall 2021 semester?

Mission China resumed student visa operations on May 4th and is prioritizing F and M, as well as some J visas. They are sufficiently staffed and working at full capacity to process as many applications as possible by fall. We encourage students to apply and schedule their interviews as early as possible.

- d. If processing at posts in China remains extremely limited, would DOS be willing to designate other posts in the region to accept third-country national (TCN) Chinese F-1 applicants following a mandatory 14-day quarantine period?

All applicants, including Chinese nationals, are able to interview at any operating post in the world. Last year, Chinese students applied for visas in Canada, Europe, Latin America, and neighboring countries in Asia. Applicants should comply with local and U.S. quarantine and testing requirements before departing for the United States.

7. During the [December 11, 2020 liaison meeting](#), AILA was advised that there were a handful of posts in East Asia operating at close to normal capacity. Please confirm:
 - a. Have any posts fully resumed normal operations? If so, how many and which posts?

The status of an Embassy or Consulate's operations changes in line with local conditions. Posts' websites are regularly updated to reflect their operational status, and this information can be accessed at travel.state.gov. As of May 12, 2021, 133 of our 139 immigrant visa processing posts are processing at least some routine immigrant visa services. The remainder of those are able to do just emergency services. 160 of 223 nonimmigrant visa processing posts are offering some routine nonimmigrant visa appointments. The remaining 63 posts remain closed for all but emergency and mission critical services.

- b. On April 9, 2021, a [CATO Institute blog](#) asserted that 76 percent of consulates are fully or partially closed. Please confirm if this number is accurate.

See above.

- c. Does DOS anticipate that the vaccine shortage in Europe will slow down posts there resuming normal operations relative to other regions where vaccines are more plentiful?

Local country conditions can affect our ability to process cases as the safety and welfare of our staff and applicants is paramount. Consular sections provide non-emergency services in line with resource availability and on-the-ground situations. Vaccine availability, host country government restrictions, and other medical-related conditions may affect how quickly a post can resume normal operations.

- d. How has DOS prioritized the vaccinations of consular personnel and locally engaged consular staff to prevent or minimize COVID-related disruptions to consular operations?

The Acting Under Secretary for Management is responsible for the Department's vaccine roll-out plan. The Bureau of Consular Affairs has worked closely with colleagues in the Bureau of Medical Services and others as the vaccines were distributed.

8. In an April 13th Consular Affairs [Facebook Q&A](#) concerning the IV backlog, DOS mentioned that consulates would not entertain virtual/Zoom visa interviews due to current regulations that require all applicants to appear in person before a consular officer. While security was likely a motivating concern for those regulations, and given the ability to check an applicant's identity against a machine-readable passport, would DOS consider amending this regulation to facilitate posts' ability to address the significant visa backlogs caused by the pandemic?

The Department is focused on the challenge of addressing the demand for visa services in an efficient, but secure manner, but has no comment on current plans to amend Department regulations. Information regarding the Department's on-going regulatory initiatives are published in the Unified Agenda by the OMB/Office of Information and Regulatory Affairs.

In-person appearance requirements for immigrant visa (IV) applicants are outlined in INA Section 222(e), 8 U.S.C. 1202(e), (“[E]ach application for an immigrant visa shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer.”) but the law allows for exceptions to be made by regulation. The Department's regulations currently require IV applicants to “appear personally before a consular officer” and swear to their application “before a consular officer.” 22 CFR 42.62 and 42.67.

Additionally, there are statutory and regulatory requirements for biometrics collection. Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 requires that visas use biometric identifiers, a requirement implemented in part through Department regulations at 22 CFR 42.67(c) generally require immigrant visa applicants to furnish fingerprints. In addition, INA 222(e) requires IV applications to be signed in the presence of, and verified by an oath administered by, a consular officer, except as otherwise provided by regulation, and Department regulations require IV applications to

be executed, sworn to, and biometrically signed before a consular officer. 22 CFR 42.62(a) and 42.67(a)(3).

9. Please also confirm if DOS plans to communicate legal and policy-related information about visas on Facebook and travel.state.gov. Are the Consular Affairs Facebook page postings, such as the one from April 13, 2021, referenced above, reviewed by Legal Affairs prior to posting?

The Department regularly provides policy and visa related updates on the U.S. Visa News page of travel.state.gov at <https://travel.state.gov/content/travel/en/News/visas-news.html>. Postings go through a standard internal review process.

10. Given the approximately 500,000 cases stuck in the IV backlog, our members' clients are eager for information as to when they may be called for an interview and worry that their applications may have slipped through the cracks. During the [February 2021 liaison meeting](#), the National Visa Center (NVC) noted that cases are sent to post based on post's request and according to their capacity and case type preferences. According to the date the case became documentarily qualified, these cases are sent to post on a first-in, first-out basis. Please confirm:

- a. Given the burden that inquiries about case status are likely to yield, what steps, if any, is NVC taking to assure applicants that their documentarily qualified cases are still active?

NVC has started a pilot in which all case parties are sent an electronic notification 60 days after their case has reached documentarily complete status if the case has not been scheduled. The notification assures applicants that they don't need to take any further action, and that their case will be scheduled for interview in a first-in, first-out manner, as soon as the interviewing embassy or consulate can accommodate them. That message will be repeated every 120 days there-after until the case is scheduled.

- b. Would VO and/or NVC consider publishing on their or posts' websites the documentarily qualified date that each post is working on by IV category?

We are looking into the possibility, although we cannot address the feasibility at this time.

- c. Is there any information that can be provided to AILA and the general public that would help set expectations as to where specific IV cases are in the queue as posts re-open and we move through and beyond the pandemic?

Beyond the information to be provided in the notification referenced above in the answer to 10(a) and the [NVC Immigrant Visa Backlog Report](#) on travel.state.gov, there is no additional information that can be provided.

11. DOS' decision last year to suspend most of its visa operations overseas, while understandable given the COVID-19 global pandemic, has resulted in enormous frustration for applicants, who face a sizeable backlog of pending immigrant visa cases and limited availability of appointment slots for nonimmigrant travel. Please describe steps now being taken or that are under consideration to staff-up overseas consular operations and increase the numbers of visa appointments? Specifically, are there plans to surge overseas staffing with new officers or temporary assignment or detail (TDY) personnel, as was done a few years ago with domestic passport agencies to reduce their backlogs?

While the Department did suspend operations in March 2020, Presidential Proclamation 10014 (effective April 23, 2020 – Feb 24, 2021) and the geographic proclamations (up until April 8, 2021) also played a major role in limiting our ability to process immigrant visas. The Bureau of Consular Affairs (CA) is under enormous financial pressure as a result of an almost 50 percent drop in revenue due to the COVID-19 pandemic. We decreased staffing at some posts based upon demand, though those changes are not irreversible. We constantly monitor staffing and demand and redistribute resources as necessary. We examine all options available as we balance resource constraints and workload. The provision of services to U.S. citizens remains our top priority, but we are directing many resources to address the IV backlog. We are employing a number of innovative solutions to assist IV processing posts, including having other missions provide remote help on everything from correspondence to document review. We are utilizing TDY staffing as resources and conditions allow. Local country conditions can affect our ability to send TDY personnel to process these cases as the safety and welfare of our staff is paramount.

12. Since consular operations are fee-based, is DOS considering an increase in certain consular fees as part of a strategy to properly staff and tackle the backlog?

Possibly, if additional resources are being requested through the formulation process, as those requirements are part of the update on unit costs. Recommendations to adjust fees are made after reviewing annual updates of the cost of service model. It is then that the Comptroller's office initiates discussions with CA leadership for decisions on fee recommendations for consular services based on full cost recovery to adequately and appropriately fund the Consular and Border Security Program. Once additional resources or in this case, staff, are in place or have been formally requested in the formulation process, the Comptroller's office would capture them in the annual review to ensure that those additional resources are accounted for and then make the appropriate fee recommendations.

National Interest Exceptions (NIEs) and Ongoing Travel Restrictions

13. In the [April 26, 2021 guidance](#) issued by DOS concerning NIEs for countries impacted by health-related travel restrictions in light of COVID-19, it appears that there is no mention of whether NIEs for individuals who directly support the creation or retention of U.S. jobs remains available in the Schengen, U.K., and Ireland area. Can DOS please

confirm that this is still a criterion for an NIE? If so, can DOS please clarify the criteria under which someone who will directly support the creation or retention of U.S. jobs might be eligible for an NIE in the Schengen, U.K., and Ireland areas? Per the excerpted communication below, which our members received from consular posts in Europe, AILA would like to understand whether additional internal guidance on this topic (*i.e.*, U.S. job creation/retention as a basis for an NIE) is imminent, and if so, whether the criteria can be shared with the public via TSG.

Our consular chiefs in the field cannot approve exceptions based on the “directly support the creation or retention of U.S. jobs” standard. These cases must be referred for approval by the Assistant Secretary of Consular Affairs. Given the different authorities and operational complexities, we do not detail this on our front-facing webpages. Our consular chiefs are aware of this national interest determination and consider it when reviewing NIE requests. Operationally, these will always take longer as the recommendation and approval must go back and forth to Washington.

14. During AILA’s Spring Conference, we were informed that a decision of the nature described in the above question would be reserved for rare cases and decided at the Assistant Secretary level. Since that time, the Assistant Secretary role has been filled. Given the importance of U.S. job retention and creation to the pandemic economy, is the Assistant Secretary reviewing this issue with the possibility of developing criteria to delegate administration of this standard to consular section chiefs?

Authority for assessing whether an individual’s travel falls under the categorical determination regarding job creation and retention remains with the Assistant Secretary and is currently exercised by the Acting Assistant Secretary.

15. Please address the following questions concerning the [April 8, 2021 guidance titled, “Updates to National Interest Exceptions for Regional COVID Proclamations”](#), posted on travel.state.gov (TSG):

- a. Please confirm that all immigrant and fiancée visas are considered *per se* to be in the national interest with respect to the regional COVID-19 health-related restrictions.

Yes, travel by all immigrant and fiancé(e) visa holders was determined by the Secretary on April 8, 2021 to be in the national interest.

- b. At AILA’s Spring Conference, CBP indicated that they would categorically grant NIEs for professional athletes and the personnel that accompany them in support of the sporting activity as part of a critical infrastructure industry. This provides a process for these individuals where there is an existing visa. For those who do not have an existing visa and are subject to a COVID-19 health-related ban, what is DOS’ position on whether professional athletes and those that accompany them qualify for an NIE? If DOS does not have a similar categorical exception, what is the process by which professional athletes and those who accompany them can

request an NIE of a consular post?

We refer you to CBP, as they are handling all NIE requests for athletes.

- c. With summer approaching, a number of camps are dependent upon J-1 camp counselors being able to obtain their exchange visitor visas and travel to the U.S. to commence employment. Is DOS willing to consider allowing J-1 camp counselors subject to a COVID-19 health-related ban to receive NIEs to fill this important seasonal need? Is DOS willing to consider prioritizing this exchange visitor category more broadly for visa appointments?

At this time there are no plans to for additional national interest determinations or prioritization for J-1 camp counselors.

Healthcare Insurance Proclamation

16. Presidential Proclamation 9945, Suspension of Immigrants Who Will Financially Burden the U.S. Healthcare System, was enjoined by the 9th Circuit on May 5, 2020, but to our knowledge, has not been formally repudiated by DOS. Does DOS plan to announce a change in policy to align with the court injunction and [Executive Order 14012](#), Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans, which directs the elimination of barriers that limit access to immigration benefits?

On October 4, 2019, then President Trump issued Presidential Proclamation 9945, which was to take effect on November 3, 2019. On November 2, 2019, after the U.S. District Court for the District of Oregon issued a nationwide temporary restraining order halting implementation of P.P. 9945, the Department instructed consular officers to halt implementation until further notice. On May 14, 2021, President Biden revoked P.P. 9945. Because of various Court orders the Department never implemented P.P. 9945. The Department has informed consular officers and the public of this revocation.

New Procedures for Refugee Admissions

17. On February 4, 2021, [President Biden issued Executive Order 14013](#), Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change relating to the United States Refugee Admissions Program, or USRAP. Therein, the President revoked and rescinded numerous previous executive orders, including but not limited to enhanced security and fraud vetting procedures and limited admission numbers. The President re-stated the United States' policy to generally welcome refugees experiencing humanitarian crises. The Order further mentioned a recommitment to the Afghan and Iraqi special immigrant visa program to protect nationals who served the United States and now face danger. The President set timelines for compliance with the Department of Defense and DOS working together to implement new and timely procedures. In a [memo issued April 16, 2021](#), the President revised the admission numbers for classifications of refugees. Based on these declarations, what can

stakeholders anticipate in terms of new processing procedures, timelines, the backlog, and SIVs for Afghan and Iraqi nationals? What steps is DOS taking to implement the President's guidelines, and when might the international community see these changes?

The Bureau of Consular Affairs does not process refugee applications; the office of Population, Refugees, and Migration (PRM) is the lead Bureau in the Department of State on refugee matters. The Bureau of Consular Affairs is actively engaged with the interagency on the Afghan and Iraqi SIV processes. The Department is mandated by Congress to provide Quarterly reports on the Afghan and Iraqi SIV programs, which also include reporting any efficiencies made to the process during that quarter.

Immigrant Visa Processing

18. Will DOS grant an expedited visa interview for an individual who has been selected in the DV-2021 lottery given that their visa must be processed by September 30, 2021?

The Department is making every effort to process as many Diversity Visa cases as possible, consistent with other priorities, despite the severe operational constraints and backlog resulting from the COVID-19 pandemic. However, as a result of COVID-19-related restrictions and complications, the number of Diversity Visas issued will likely not approach the statutory ceiling in Fiscal Year 2021. Beyond that, we would note that selection in the DV lottery is not a guarantee of a visa or interview in any program year, as we always select more participants than will be issued visas in order to make sure that we do not run out of applications before the end of the fiscal year, and every year there are applicants whose cases could not be adjudicated before the end of the relevant fiscal year, for a broad range of reasons.

19. Consular posts in Abu Dhabi, Ankara, and Yerevan, were designated by DOS to handle Iranian IV applications due to the lack of a U.S. consular post in Iran. As a result of various travel restrictions between countries, many Iranians have been unable to enter the country where the embassy they are applying for a visa is located. This has especially affected Iranians applying through Abu Dhabi, where a ban on issuing visas to Iranians and other nationals was implemented. Iranians have responded by requesting a transfer of their cases to other embassies in countries where they can travel. Notwithstanding being a designated post for Iranians, the consular post in Ankara has responded to these requests by stating that it is only scheduling interviews for residents of Turkey due to limited capacity. Yerevan has stated the same, as has Abu Dhabi, citing limited capacity and the U.A.E.'s visa restrictions. The posts' policy of restricting visa appointments to nationals of the country where they are located is inconsistent with their being designated posts for Iranians and leaves Iranian citizens without any posts to process IVs. Please address the following questions:
- a. Can DOS please clarify its formal policy regarding where Iranians can process their IV applications?

U.S. Embassy Ankara, U.S. Embassy Abu Dhabi, and U.S. Embassy Yerevan remain the designated processing posts for citizens and residents of Iranian seeking immigrant visas. However, the COVID-19 pandemic continues to severely affect the ability of these embassies to be able to resume routine visa services. The constraints vary based on local conditions and restrictions but include local and national lockdowns; travel restrictions; host country quarantine regulations; and measures taken by our embassies and consulates to contain the spread of COVID-19. Combined, these restrictions have reduced appointment capacity during the pandemic, which has created a significant backlog of both immigrant and nonimmigrant visa applicants awaiting a visa interview. The State Department is working to reduce this backlog while ensuring the safety of our staff and applicants and protecting our national security

On April 26, the government of Turkey announced additional closures and restrictions due to a new wave of COVID transmission that was expected to last until May 17. During that time the consular sections in Turkey were only able to provide emergency services. On May 16, the government of Turkey announced a gradual normalization period that will conclude on June 1. As a health and safety measure, Embassy Ankara is currently only adjudicating IVs for Turkish nationals and residents. However, there are exceptions for non-resident third country nationals, including cases that were previously refused under PPs 9645 and 9983, reissuances, medical emergencies, humanitarian safety/security emergencies, SIVs, and adoptions. In fact, these exceptions currently make up the bulk of post's available appointments.

Embassy Abu Dhabi is prepared to process Iranian applicants as soon as the Abu Dhabi authorities permit entry to Iranian nationals. The Department is exploring alternatives for biometric and fee collection in Dubai to complete processing of applications for IV applicants who have already been interviewed.

Embassy Yerevan is currently processing all categories of IVs and Ks for Iranians. However, the pandemic has drastically decreased the number of people we can safely move through our facilities overseas and just like the majority of workplaces in the United States, it has also reduced the number of staff we can safely have in the office at the same time. Therefore, Embassy Yerevan will not be able to resume the same number of appointments it was able to offer before the pandemic, nor can it absorb all current IV demand from Iranian nationals. Applicants should anticipate delays.

- b. What steps can Iranian IV applicants take to successfully obtain IV interviews at these posts despite the restrictions?

As resources allow, embassies and consulates will continue to provide emergency and mission critical visa services and will resume routine visa services as local conditions and resources allow.

- c. Are there any provisions contemplated to address Iranian DV lottery selectees who may miss the 09/30/2021 deadline because they are unable to get an appointment at any post?

Once their cases are complete and ready for interview, Iranian DV applicants will continue to be scheduled at their selected posts according to their rank order. If they are scheduled at a post they can no longer travel to, they can request a transfer to another post.

- d. What other posts should Iranians request their cases be transferred to for continued processing, and are there any special steps they should take to do so?

Because of unique and constantly evolving quarantine requirements in each country, if an applicant is unable to attend a visa appointment in one country, the Department is unable to recommend another processing post.

Applicants who would like to have their immigrant visa file transferred to another U.S. Embassy/Consulate, after the case file has been sent to post, should contact the appropriate U.S. Embassy/Consulate directly in the country where they wish to apply and follow their instructions to request a case transfer. For cases that have not been transferred to post, the applicant should contact NVC to request the change.

- e. More generally, when an IV applicant cannot continue with processing at their selected consular post due to temporary closures/restrictions, is it DOS' intent that such applicants must wait until the restrictions are lifted to resume processing at that consular post, or should such applicants try to request a transfer of their case to a consular post that can process it?

We acknowledge the stress and hardships borne by petitioners and applicants both due to reduced capacity to adjudicate visas during the pandemic and the various restrictions on visa issuance as well as the COVID-related limitations on their travel. We've prioritized the processing of immigrant visas at every IV-processing post and as there is capacity, these will be the first visas adjudicated. IV applicants may request case transfers to any IV-processing U.S. embassy or consulate but should remain mindful that most posts are facing backlogs and will have limited capacity to accept such requests.

- f. Does DOS have any indication as to when Abu Dhabi will lift its visa moratorium for Iranian citizens?

No. Embassy Abu Dhabi and the Department will continue to monitor the situation.

20. In April 2019, President Trump designated the Iranian Revolutionary Guard Corps (IRGC) as a terrorist organization. U.S. Consulates and Embassies have since been

routinely denying visas to certain applicants from Iran under section 212(a)(3)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. §1182(a)(3)(B) – the so-called “terrorism bar” – based on an applicants’ past compulsory military service in the IRGC, or Sepah. Iranian nationals are being found inadmissible for having completed mandatory military service in the IRGC as long as four decades ago, the vast majority of them having undertaken non-combatant duties, with negligible firearms training. Does the Administration have any plans to de-designate IRGC as a terrorist organization? Will DOS reconsider the applicability of the INA § 212(d)(3) finding for those who performed mandatory military service prior to the April 2019 designation?

We are not aware of any plans to rescind the April 2019 designation of the IRGC as a terrorist organization or to reconsider the relevant legal analysis under INA 212(a)(3)(B).

21. After the closure of the U.S. Embassy in Baghdad, Iraq, family-based IV cases with completed interviews and pending administrative processing at the time of the embassy closure have been stuck in limbo with no recourse or ability to follow status. As of April 2, 2021, the website for the U.S. Embassy in Baghdad states that immigrant visa petitions can be transferred from Baghdad to a different post and that applicants and petitioners should contact the NVC for additional instruction. Additionally, the U.S. Consulate in Erbil is currently not accepting IV applications. Attempts by attorneys to have family-based IV cases transferred to different posts have been unsuccessful. The NVC repeatedly states that these cases remain “pending with Baghdad,” but the U.S. Embassy website contradicts this position. Please confirm:

a. What is the status of IV cases pending in Baghdad?

The U.S. Embassy in Baghdad suspended public services as of January 1, 2020 due to the attack on its facility. Currently, there is no timeline for reconstruction. If an IV applicant's initial visa interview was scheduled to take place at U.S. Embassy Baghdad after January 1, 2020, or if the interview was not yet scheduled, the visa application has been reassigned to either Abu Dhabi, Ankara, or Doha by NVC. If an immigrant visa applicant interviewed at U.S. Embassy Baghdad prior to December 31, 2019, but the application was refused under Section 221(g) of the Immigration and Nationality Act because the case required additional administrative processing, Embassy Baghdad will contact the applicant upon completion of the case's administrative processing to provide further instructions.

b. Are these cases being transferred to a particular post or several, and if so, to which one(s)?

In addition to the posts listed above, Amman is also processing a limited number of cases.

c. Whom should attorneys contact to ensure that a decision or progress is made on a pending IV case?

IV applicants or their attorneys should contact the Embassy or Consulate where the case was transferred. If the case was assigned to Baghdad and has not been transferred or the status of the case is unknown, they may contact BaghdadIV@state.gov.

- d. What is DOS' plan for future Iraqi IV cases that require an interview?

Iraqi IV cases will be assigned to either Abu Dhabi, Amman, Ankara, or Doha.

22. After the closure of the U.S. Embassy in Damascus, Syria, NIV and IV cases have been routed to the U.S. post in Amman, Jordan. Applicants from Syria have difficulty entering Jordan due to travel restrictions set by the Jordanian government. The Embassy in Beirut is generally unwilling to accept IV transfers for cases originally assigned to Damascus.

- a. Are these cases being transferred to a particular post or several, and if so, to which ones?

Syrian applicants may apply for non-immigrant visas at any U.S. Embassy or Consulate, and the same standards under U.S. law and policy apply at each U.S. Embassy and Consulate where one applies for a visa. Syrian applicants may apply for immigrant visas at the U.S. Embassies in Amman, Jordan or Beirut, Lebanon.

- b. What posts in the region can accept pending Syrian IV cases from the Embassy in Amman if an applicant cannot obtain a visa to enter Jordan?

See (a) above. Applicants may also request that their immigrant visa case be transferred to another Embassy or Consulate; to do this, applicants must make the request directly to the receiving post.

- c. What is DOS' plan for future Syrian IV cases that require an interview?

We do not have any additional information to share beyond what the Bureau of Consular Affairs currently publishes.

Voluntary Return

23. AILA members report that visa applicants are being found inadmissible during the IV interview under INA § 212(a)(6)(C)(i) for misrepresenting their nationality prior to a voluntary return. This section states an alien is inadmissible for fraud or willful misrepresentation in obtaining admission or a benefit under the Act. "Voluntary return" is closely related to, although distinct in terms of final "disposition" and paperwork, to voluntary departure. "Voluntary return" is not a term utilized in the INA or the CFR. It is an alternative to expedited removal, used at the southern land border. Except for unaccompanied minors, who, if voluntarily returned, must be either Mexican or Canadian, voluntary return procedures are not contingent on a person's nationality.

Likewise, voluntary departure is not premised on nationality. Voluntary return is not a benefit under the Act but a creature of policy; moreover, nationality is not a criterion for voluntary return. Hence there is no materiality in a misrepresentation of nationality. This issue was raised during the [Spring 2018 liaison meeting](#) with VO, but it continues to occur. Will DOS consider issuing guidance to posts confirming that such a misrepresentation does not amount to a material misrepresentation justifying a visa denial?

The Department presumes this question pertains to individuals who entered without inspection and are encountered by CBP. Per section 235(a)(1) of the Immigration and Nationality Act, an alien who is “present in the United States who has not been admitted, or who arrives in the United States (whether or not at a designated port of arrival ...) shall be deemed for purposes of this Act an applicant for admission.” We have been advised that CBP customarily asks individuals questions to ascertain whether the individual is eligible for immediate return to Mexico. For that reason, the Department cannot agree with a statement that a misrepresentation about one’s nationality would never be material for purposes of evaluating a possible ineligibility under 212(a)(6)(C)(i) under those circumstances.

Medical Exams / Physicians

24. Regarding medical exams for IV interviews, members report instances of physicians framing questions to accuse clients of using drugs and/or alcohol and then alleging that clients are lying when the client requests clarification on the question being asked. For example, at a recent medical exam in Mexico, a physician asked a client, “when did you start drinking?” and “when was the last time you drank?” even though the client had not been asked if he drank alcohol and had not stated that he did. Is there a process for appealing a physician’s finding with DOS or filing a complaint where an attorney believes the physician acted improperly or is overstating a client/patient’s response? Can applicants and their counsel review and refute or mitigate a panel physician’s report to overcome an inadmissibility finding?

Guidance for the panel physician program is coordinated between the Department of State and Centers for Disease Control and Prevention (CDC). CDC publishes technical instructions which provides guidance to panel physicians on how they must conduct the medical exam for immigration. These instructions are developed to implement Sections 221(d) and 212(a)(1)(A) of the Immigration and Nationality Act (INA) and related regulations 42 CFR Part 34, 22 CFR Parts 40.11, 41.108, and 42.66, regarding the health-related grounds for inadmissibility of persons applying for visas and admission into the United States. There is no appeal process for disputing a physician's finding. If an applicant believes that a panel physician has acted improperly, they should inform the consular section, which can follow up and investigate any complaints made against a panel physician, as appropriate. The consular section will also inform the Visa Office and the CDC, which will determine what other actions need to be taken. Due to the

statutory confidentiality of visa records, applicants and their counsel are not able to receive or review a panel physician's report.

Special Immigrant Visas

Attorneys representing Special Immigrant Visa applicants in Chief of Mission (COM) applications and/or appeals have flagged high rates of errors on COM decisions, mostly stemming from adjudicators misunderstanding legal requirements or failing to contact supervisors to corroborate employment. In cases when a denial of a COM appeal is caused by agency error, can DOS clarify what process attorneys should follow to prompt COM to reopen the case and revisit the decision?

Applicants who are denied by the COM may file one appeal of a COM denial, and it must be filed within 120 days of receiving the denial letter by email. The applicant should request that an improperly denied COM application be reopened and the applicant should provide additional information pertinent to the application, clarify existing information in the original application, or explain any unfavorable information that was contained in the letter of denial.

CSPA Fee Bills

25. Members report difficulty obtaining a fee bill from NVC for children protected under CSPA whose biological age is over 21. Please provide clarification on how the determination as to whether to issue a fee bill for a child is made. What guidance can AILA give our members to proactively ensure that a fee bill is issued for such a child? Further, once an applicant receives fee bills but is missing a fee bill for the child, how can an applicant or the attorney most effectively request a fee bill from NVC?

NVC creates cases, including derivatives, as they appear on the approved petition received from USCIS. If new derivatives are added to the family after USCIS approval, information about those family members can be communicated directly to NVC at <https://nvc.state.gov/inquiry>. When a case is created at NVC, a preliminary CSPA check is run to determine if derivatives appear to be over 21. Fee bills are issued to all derivatives who appear to be eligible for a visa. If fee bills are issued for a case and case parties disagree with a derivative being left off, they can contact NVC at <https://nvc.state.gov/inquiry> to insist that a fee bill be issued for the derivative in dispute. Outside of narrow circumstances, IV fees are non-refundable, so if a consular officer makes the same determination that a derivative is not CSPA-protected, that fee will not likely be eligible for refund.

Returning Resident Visas (SB-1s)

26. During the COVID-19 pandemic, many LPRs who have intended to return to the United States have been unable to do so for long periods, either because travel has been restricted or because it has been unsafe to travel. This situation has particularly impacted elderly LPRs. Is DOS considering issuing guidance to posts that pandemic-related reasons for not returning to the U.S. in excess of one year are considered a circumstance

beyond the LPR's control warranting issuance of a returning resident visa? Just as DHS has issued blanket extensions for responding to requests for evidence and I-9 inspections, would DOS consider a blanket policy to allow the issuance of SB-1 when the applicant has not been absent for more than 24 months? Alternatively, could DOS coordinate an interagency solution with CBP whereby CBP inspectors would be formally directed to admit LPRs under these circumstances?

While SB-1 criteria and guidance remain unchanged, COVID could still be a valid reason for an individual not to return to the United States. Each case must be assessed on its own merit utilizing the existing criteria.

Public Charge

27. In light of the Biden Administration's rescission of the public charge rule, can DOS advise as to proper steps or procedures to either appeal a denial or reopen an IV denial based on the enhanced public charge inquiry procedures previously in effect?

An applicant who has previously been refused under INA 212(a)(4) may subsequently present sufficient evidence to overcome the ineligibility finding. IV applicants may present information tending to overcome a ground of ineligibility within one year of the refusal pursuant to 22 CFR 42.81(e). If the refusal was made more than a year ago, then the applicant would need to reapply.

IV and NIV Third Country National (TCN) Processing

28. AILA understands the policy for TCN interviews for NIV applications to be that posts will interview anyone who is lawfully in their jurisdiction. Recently, we have become aware that several posts have explicitly stated that they will only interview applicants who are nationals or residents of the post's jurisdiction.

- a. Can DOS confirm that, even if local nationals and residents are prioritized, there is no new policy prohibiting TCN applications from applicants who are not resident in the post's jurisdiction?

All posts are facing backlogs in their workloads; in an effort to ensure that residents inside a consular district are able to obtain visa services some posts have limited interview availability to applicants resident in their consular district. We encourage TCNs who feel their travel is urgent to request an emergency appointment at the nearest local US consulate or embassy where they would normally be processed.

- b. Due to the ongoing difficulty with international travel, especially long distances and to countries still experiencing high levels of infection, would DOS consider adding more appointments and sending officers temporarily to posts in Mexico and/or Canada to create an option for visa holders who are already in the U.S. but who cannot travel to their home countries to apply for a visa?

See response above.

Waiver Review Division

29. How long is it taking for waiver applications to be acknowledged and recorded in the system once received by the lockbox? Following receipt by the lockbox, how long is the Waiver Review Division (WRD) taking to issue recommendations?

It currently takes between eight and 12 weeks for waiver applications to be acknowledged and recorded in CA/VO/DO/W's system once received by the lockbox. Most cases are currently being processed within posted processing times.

30. The 212(e) email automated response indicates a 12-week processing time for cases to get from the lockbox to WRD and that the WRD's posted 12-16 week processing only begins once the case arrives at the WRD. This timeframe has had a troubling impact on applicants. For example, it affects physicians' ability to change status to H-1B and immediately start serving medically underserved communities. If their waiver is not processed expeditiously and they are required to depart the U.S., they face uncertainty in obtaining a visa appointment or establishing eligibility for an NIE, and potentially missing their board exams. Is WRD considering any process and staffing changes, including electronic transfer of information, to decrease the current processing timeframe?

Technological limitations currently prevent CA/VO/DO/W from further automating its process. No staffing changes are planned at present.

31. Members report several instances in which WRD states that it did not receive the \$120 filing fee for J-1 waiver case number applications despite attorneys having submitted checks or money orders. While obtaining proof of a personal canceled check is possible, the tracking system for money orders (U.S. postal service, Western Union, etc.) merely shows that the money order was cashed but does not provide a copy of the endorsed back of the instrument. DOS has been requesting copies of the endorsed money orders, which are unavailable. The delay this causes, often several months, has caused difficulty for H-1B beneficiaries. Has WRD been able to determine what might be the cause of the missing information? Does WRD have any plans to address the apparent inability to track fee payment?

We receive evidence of fee payment and forms DS-3035 from the lockbox in St. Louis. Less than one percent of cases submitted each year encounter problems arriving to our office from the lockbox. For cases that do not arrive at our office after 12 weeks, applicants or their representatives may contact U.S. Bank at govtlbxcustsvc@usbank.com.

32. An ongoing issue faced by many AILA members is that approved I-612s/I-613s are not properly being sent to DOS after USCIS issuance. When a member emails WRD, they

are informed that WRD does not have the I-612/I-613 and are asked to follow up with USCIS. This follow-up has not proven fruitful. Please confirm:

- a. What process, if any, is undertaken between USCIS and DOS to track the issuance by USCIS and confirm receipt of these cases at DOS?
- b. What is the best way to follow up on a case wherein USCIS claims to have sent the I-612/I-613, but WRD indicates that it has not received it?

CA/VO/DO/W maintains ongoing communication with USCIS' California Service Center. In cases where CA/VO/DO/W has not received the I-612/I-613, we recommend an applicant and/or their representative contact USCIS. AILA may wish to engage USCIS on this process.

33. The processing times for hardship waivers have grown steadily over the past year from 3-4 months in 2019 to 10-12 months in 2021. Please confirm:

- a. Does WRD have any plans to address growing delays?
- b. Does WRD anticipate that hardship waiver processing times will eventually exceed 12 months?
- c. Would WRD consider leveraging staff dedicated to other waiver types with significantly lower processing times to assist in reviewing hardship waivers?

CA/VO/DO/W has shifted personnel to focus more on hardship waivers and is evaluating this shift's impact on processing times.

34. We appreciate that the WRD has a designated email allowing the public to communicate with its office (212ewaiver@state.gov). AILA understands that many of the inquiries sent to this email box relate to processing delays. We recognize that some of these inquiries are addressed with automated and templated responses. The high volume of case status requests often results in attorney emails with more substantive queries not being addressed. Is there a particular way that WRD would recommend AILA members flag a substantive issue either in the subject or body of the email to ensure that it is appropriately identified by WRD staff as requiring a substantive response?

CA/VO/DO/W has increased the number of personnel responding to email inquiries to the 212ewaiver@state.gov email address. CA/VO/DO/W reviews and responds to all substantive emails on a first in, first out basis. Inclusion of the case number assists us in locating the case and addressing substantive questions.

Conrad 30 Waivers

35. The Conrad 30 IGA waiver recommendation letter sometimes contains incorrect or incomplete information about the primary worksite and employer. Secondary worksites are sometimes missing, and the incorrect name of the sponsoring employer is often listed when a practice group is the employer, but the physician will work at a hospital site. This becomes problematic because the practice group will file the I-129/H-1B petition, and

USCIS will request additional evidence or deny the petition due to the name discrepancy. The I-612 approval notice repeats the error in the WRD letter. Is there a process by which attorneys can obtain a corrected WRD recommendation letter for Conrad 30 waiver applicants?

CA/VO/DO/W must transmit the name of the physical location where a physician will work to USCIS in its recommendation letter. Contracts submitted as part of the application package are not always clear and are sometimes missing information. We encourage AILA to work with their clients to ensure that all workplace information is clear and complete.

An attorney may contact the Waiver Review Division to request a corrected recommendation letter to be sent to USCIS via 212ewaivers@state.gov. VO/DO/W will then review the file and determine whether a new recommendation letter should be generated. If we determine a new letter should be generated, a copy of the corrected letter will be sent to all necessary contacts.

36. Are there plans to automate the J-1 waiver process? Mailroom and U.S. Postal Service delays and remote work appear to have hindered the WRD's ability to timely adjudicate its cases, despite the diligent work of the officers. Has the option of submitting documentation by email, such as the IGA recommendation letter, been considered?

Existing technological and other resource constraints prevent further automation of the 212(e) process at this time.

B-2 Visa Processing

Numerous visitor visa applicants worldwide had their interviews canceled this past year. As posts re-open and resume B visa application processing, will priority be given to those whose appointments have been canceled over new applicants? Will the posts notify those with canceled appointments once appointments are again available?

Posts will not reschedule B visa appointments. NIV applicants whose appointments were cancelled should check the website of the nearest embassy or consulate for the current operating status and schedule an appointment when they again become available.

Blanket L Standard of Review

37. AILA has always understood the standard of review for Blanket L applications as set by DHS under 8 CFR 214.2(l)(5)(i)(E) to be "clearly approvable"; however, as this legal standard of review is not further defined in the regulations, the standard applied to determine whether an application is clearly approvable has changed several times in the past two years. The October 8, 2019 change in the FAM required a "clear and convincing" evidentiary standard and specifically provided: "The 'clear and convincing evidence' standard requires enough proof to make something highly probable or reasonably certain, more than what would be required for the 'preponderance of the

evidence' standard, but less than the 'beyond a reasonable doubt' standard commonly used in criminal court in the United States." By November 2019 all reference to "clear and convincing" had been removed from the FAM, and 9 FAM 402.12-8(F) reverted to "clearly approvable" as the only stated standard.

In June 2020, the relevant FAM section was changed again to include an instruction to officers to deny Blanket L applications if they "have any doubt whether an applicant has fulfilled his or her burden of proof." This evidentiary standard of "any doubt" seems to be even higher than "clear and convincing" and is, in fact, higher than the legal standard in criminal cases of "beyond a reasonable doubt." We are not suggesting that officers would not be reasonable in their adjudications. In fact, the FAM changes in September 2020 specifically added the word "reasonable" to the guidance in determining whether the applicant has submitted sufficient proof.

DOS further confirmed this in our last meeting on December 11, 2020, providing that any doubt that leads to a refusal must be reasonable, based on the evidence submitted, and the applicant should be allowed to address the issue. Again, while we understand that officers are instructed to act reasonably, the plain language of the standard of review seems to remain higher than in a criminal matter without reiterating a call to reasonableness.

Would DOS consider revisiting the standard of review in Blanket L adjudications by applying a standard that is recognized in law? Specifically, would DOS consider modifying the FAM to instruct officers that "clearly approvable" is akin to preponderance of the evidence (more likely than not), which is the legal standard used in all civil matters?

There are no plans to modify the language in the FAM, which reflects the DHS-established standard for Blanket L applications, per 8 CFR 214.2(i)(5)(i)(E) as "clearly approvable." Applicants bear the burden of proof to show entitlement to the classification and consular officers are instructed to be careful and thorough in the adjudication to ensure the applicant meets all requirements for the blanket L classification. If the applicant's documentation and interview do not provide sufficient information to allow the consular officer to determine eligibility under the clearly approvable standard, the applicant's visa must be refused.

National Visa Center Processing and Procedures

38. In 2019, the NVC indicated that it was planning to increase the upload file size from 2 MB to 4 MB. What is the status of this technology initiative?

This change is still a priority for NVC, but higher priority system development work and maintenance has precluded the developers from completing this update. It remains in the developers' queue.

39. Can DOS provide an update on the number of currently pending Security Advisory Opinions (SAOs) and whether there has been an improvement in processing times since January 2020? For cases with long-pending SAOs involving compelling humanitarian issues, how should members raise them to VO for consideration and resolution?

We do not have a number of pending SAOs to report. Processing times vary depending on the specifics of each individual request. Applicants should follow up with the adjudicating post to inquire about their cases and raise any humanitarian or other concerns.

40. In a briefing on March 1st, Consular Affairs Deputy Assistant Secretary for Visa Services, Julie Stufft, noted that as of February 2021, the IV backlog was 6-7 times greater than usual, at 473K as opposed to just 75K in January 2020. Can you please provide an update as to the current number of documentarily qualified IV applications?

Please refer to <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/visas-backlog.html> , which will be updated with current numbers every month.

EB-5 Processing in Guangzhou

41. At AILA's Spring Conference, VO indicated that Guangzhou resumed EB-5 IV processing on April 9, 2021. How many EB-5 IVs have been issued since then? Does Guangzhou have a plan to prioritize EB-5 visa interviews? If so, is it possible to share Guangzhou's anticipated monthly targets for EB-5 visa interviews through the remainder of this fiscal year?

The Visa Office provides information on the amount of Immigrant Visas being issued by post on a monthly basis at the following link: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/immigrant-visa-statistics/monthly-immigrant-visa-issuances.html> It is not possible to comment on processing targets at a specific post.

Renunciations

42. As posts have limited services over the past year, citizenship renunciations have been deprioritized. When does VO expect posts to start processing renunciations again?

Our goal is to return to normal service levels as soon as it is safe to do so for our staff and applicants, and as soon as local regulations allow. Wherever conditions allow for more services to be added, we will add them.

Access to Counsel

43. The current administration and Congress are advocating for policies that favor increased transparency in the immigration process. H.R. 1333, the National Origin Based Antidiscrimination for Nonimmigrants (NO BAN) Act, and H.R. 1573, Access to Counsel Act of 2021 would provide for access to legal counsel at ports of entry. In past years, DOS allowed attorneys to represent clients at consular posts, but this was suspended. Given the trend towards additional participation and acknowledging the benefits that attorney guidance can provide in an interview, is DOS considering a review of its policy?

We have no comment on any pending internal deliberations in this area, but we thank you for your perspective.

U.S. Mission Russia Reduction of Services

44. DOS [announced](#) a reduction of consular services at the U.S. Embassy in Moscow effective May 12, 2021 as a result of the Russian government's decision to prohibit U.S. Mission Russia from employing foreign nationals in any capacity. Consular services offered will include only emergency U.S. citizen services and a very limited number of age-out and life or death emergency immigrant visas. Nonimmigrant visa processing for non-diplomatic travel will cease. Embassy Moscow will not offer routine notarial services, Consular Reports of Birth Abroad, or passport renewal services for the foreseeable future. Given the significant reduction in services:

Where does DOS recommend that U.S. citizens seek those unavailable services?

The Russian government has extended permission to employ local and third country nationals and contractors until July 16. Consequently, the U.S. Embassy in Moscow has been able temporarily to resume routine services for U.S. citizens, including passport services, Consular Reports of Birth Abroad, and limited notarial services through July 16.

U.S. citizens may request ACS appointments at any embassy or consulate and be granted the same priority as a U.S. citizen living in that country. Additionally, CA has identified several posts that will likely see ACS service requests from U.S. citizens living in Russia, and those posts have been instructed to shift resources to their ACS units to accommodate the increased workflow, if needed.

- a. What post(s) will process immigrant visas that would otherwise have been processed in Russia?

U.S. Embassy Moscow has resumed processing high-priority and urgent IV cases. The Department is reviewing alternate processing locations for immigrant visa applicants who do not meet these criteria.

- b. How can an immigrant visa applicant request to have their case transferred from Embassy Moscow?

IV applicants interested in requesting a transfer may monitor the U.S. Embassy Moscow website for additional details.

End