

IMMIGRATION SENTINEL

January 2025



Jennifer Cory, Partner

January 2025 Visa Bulletin

The U.S. Department of State January 2025 Visa Bulletin reflects no priority date advancement from December in the employment-based dates for filing although there was some forward movement in final action dates. No measurable movement in dates for filing is predicted until Summer 2025.

H-1B Modernization Rule

U.S. Citizenship & Immigration Services (USCIS) published a final rule implementing significant changes to the H-1B nonimmigrant visa category in order “to modernize and improve the efficiency of the H-1B program, add benefits and flexibilities, and improve integrity measures.” While the changes primarily affect H-1B specialty occupation workers, the final rule includes provisions impacting other visa classifications, including the H-2, H-3, F-1, L-1, O, P, Q-1, R-1, E-3, and TN categories. *Continued on Page 2.*

Welcome to the January 2025 issue of our monthly newsletter, *The Immigration Sentinel*. As we monitor immigration benefits and compliance developments, we hope that this medium will be a valuable resource in helping you stay informed and prepared for potential changes that may impact you corporately and individually.

Automatic EAD Extensions

The U.S. Department of Homeland Security (DHS) published a final rule to permanently increase the automatic extension of EAD renewals from 180 days to 540 days for certain individuals who timely file a Form I-765. This rule becomes effective on January 13, 2025.



Jeffrey Widdison, Senior Counsel

Please contact us at CoryImmigrationTeam@FisherBroyles.com or 1.833.4FB.VISA with questions. We stand ready to support!

J-1 Exchange Visitor Skills List Updated

U.S. Department of State (DOS) published public notice of [an update](#) of the Exchange Visitor Skills List, which is used to determine whether an individual who has been admitted into the United States as a “J-visa” nonimmigrant exchange visitor, or who acquired such status, is subject to the two-year foreign residence requirement.

FY2025 H-1B Visa Quota Met

USCIS [announced](#) that it received enough H-1B petitions to reach the congressionally mandated FY2025 H-1B cap and no further selections will be made.

New Form I-129 & I-485 Released

USCIS will release a revised Form I-129, Petition for a Nonimmigrant Worker, on 1/17/25, aligning with the H-1B and H-2 modernization rules. The new form will replace the 4/01/24 edition, which will be rejected after 1/17/25. No grace period is provided. USCIS has also [released](#) a revised edition of Form I-485, effective 2/10/25. Key updates include requiring Form I-693 submission with I-485, discontinuation of Form I-864W, clarification on public charge questions, and streamlined instructions.

Electronic Device Searches at Ports of Entry

U.S. Customs & Border Protection (CB) [inspects electronic devices](#) at ports of entry to safeguard national security, combat criminal activity, and assess the admissibility of travelers. Make sure you understand your rights and prepare accordingly.

H-1B Modernization, *continued*

- Effective date January 17, 2025.
- If a petitioner requires attainment of a general degree without further specialization for entry into an occupation, that occupation is not eligible for H-1B “specialty occupation” classification.
- A position can only be classified as an H-1B “specialty occupation” if it requires the theoretical and practical application of a body of highly specialized knowledge and requires at least a bachelor’s degree in a “directly related” specific specialty, or its equivalent.
- When a petitioner indicates a range of qualifying degree fields is acceptable, the petitioner must establish that each acceptable field of study is “directly related” to the duties of the offered position.
- Research must be a “fundamental activity” of the organization to qualify as a nonprofit research organization or a governmental research organization for cap exemption purposes.
- Work performed “at” a qualifying institution may include work performed via telework, remotely, or off-site.

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H-1B Modernization, *continued*

- The definition of U.S. employer is revised to eliminate the employer-employee relationship requirement. USCIS now requires that the petitioner have a bona fide job offer for the beneficiary to work (including telework, remote work, or other off-site work within the U.S.).
- Petitioners are no longer required to submit specific day-to-day itineraries for the full validity period but must demonstrate that the position will exist by the start date.
- If a beneficiary is “staffed” to a third party, USCIS will look to the requirements of the third party, not petitioner, when determining whether the position is a specialty occupation. A beneficiary “providing services” works on discrete projects for third-party clients without integrating into the third party’s operations.
- Contracts, statements of work, and client letters are now required to confirm bona fide job offers in third-party work locations. Contracts, work orders, or similar evidence may also be required to demonstrate the bona fide nature of a position and its educational requirements.
- USCIS site visits can occur at the petitioner’s worksite, neutral locations, and other places where H-1B work will be performed, including third-party customer locations and the beneficiary’s private residence if s/he works from home.
- Deference will generally be granted to prior determinations involving the same parties and underlying facts unless there is a material error, material change in circumstances or eligibility requirements, or new material information adversely impacting eligibility.
- H-1B Cap-Gap extensions may run to April 1 of the fiscal year for which the non-frivolous petition was filed, or the start date of the H-1B petition if approved, whichever is earlier.
- If the petition is approved before the start date requested, the petition will be valid starting on the date requested.
- If the petition is approved after the start date requested, the petition will be valid starting on date of decision until the end date requested.

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