

Mobility: immigration alert

January 2022

United States

Authorization to waive in-person interview requirement for certain nonimmigrant visa applicants in effect through 31 December 2022

Executive summary

On 23 December 2021, the U.S. Department of State (DOS) announced that consular officers are now authorized to waive the in-person interview requirement for certain temporary employment nonimmigrant visa applicants who have a petition approved by U.S. Citizenship and Immigration Services (USCIS).

Analysis

Generally, nonimmigrant visa applicants aged 14-79 are required to appear at a U.S. consular post for an in-person interview unless seeking to renew an existing visa under certain circumstances. The recent announcement specifically authorizes DOS consular officers the discretion to waive the interview requirement for applicants in the H-1, H-3, H-4, non-Blanket L, O, P, and Q visa categories who:

- ▶ Have an approved petition from USCIS;
- ▶ Were previously issued any type of visa OR who are citizens or nationals of a country that participates in the [Visa Waiver Program](#) (VWP) and have previously traveled to the U.S. under the VWP using an authorization obtained via the Electronic System for Travel Authorization (ESTA);
- ▶ Have no apparent ineligibility or potential ineligibility;
- ▶ Have never been refused a visa unless such refusal was overcome or waived; and
- ▶ Are applying for the visa in their country of nationality or residence.

DOS also extended the policy already in effect to waive the visa interview requirement for the F, M, and academic J visa categories through the end of 2022. The same criteria outlined above also apply to these applicants, including the prior travel to the U.S. using ESTA for citizens and nationals of a VWP participating country, a change to the previous policy.

What this means

U.S. consular sections around the world have begun updating their websites with details of how the new policy will be implemented in their jurisdictions. While nonimmigrants who receive a waiver of the in-person interview requirement must still travel abroad in order to apply for a visa, the stress and anxiety caused by frequent appointment cancellations and rescheduling will be removed from the process, thus reducing the impact of visa-related delays on international travel. This is an important step toward reducing DOS's significant backlogs and is expected to provide U.S. employers as well as certain nonimmigrant visa applicants and their families with much-needed peace of mind in this space.

We will continue to monitor and review future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional.



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ey.com/en_ca

George Reis, Managing Partner
+1 416 943 2535
george.reis@ca.ey.com

Batia Stein, Partner
+1 416 943 3593
batia.j.stein@ca.ey.com

Roxanne Israel, Partner
+1 403 206 5086
roxanne.n.israel@ca.ey.com

Marwah Serag, Partner
+1 416 943 2944
marwah.serag@ca.ey.com

Authored by:
Martika Yorke, Articling Student
+1 416 943 5250
martika.yorke@ca.ey.com

Alex Israel, Partner
+1 416 943 2698
alex.d.israel@ca.ey.com

Christopher Gordon, Partner
+1 416 943 2544
christopher.d.gordon@ca.ey.com

Jonathan Leebosh, Partner
+1 604 899 3560
jonathan.e.leebosh@ca.ey.com