



2022 Brings 3 Welcome Changes for Workplace Visa Issuances

Insights

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As the new year begins, federal immigration officials are implementing rules to help the over 500,000 backlogged visa appointments – three of which will be quite welcome news to employers across the country. Most of these changes announced by the Department of State (DOS) involve the waiver of in-person interview requirement for some nonimmigrant visa applicants through December 31, 2022. What do employers need to know about these critical developments?

Changes to H-1, H-3, H-4, L, O, P, and Q Visas

Consular officers have the discretion to waive the visa interview requirement for individual petition-based H-1, H-3, H-4, L, O, P, and Q applicants who were previously issued any type of visa, who have never been refused a visa unless such refusal was overcome or waived, and who have no apparent ineligibility or potential ineligibility.

In addition, citizens or nationals of countries who participate in the Visa Waiver Program first-time individual petition-based H-1, H-3, H-4, L, O, P, and Q applicants who are citizens or nationals of a country that participates in the Visa Waiver Program (VWP) fall into the same category. However, in order to qualify they must have no apparent ineligibility or potential ineligibility, and must have previously traveled to the United States using an authorization obtained via the Electronic System for Travel Authorization (ESTA). Applicants under these visa categories must be applying for a visa in their country of nationality or residence.

It is important to note that this only applies to individual visa applications which involve pre-approval by US Citizenship and Immigration Services (USCIS). Therefore, this does not apply to applicants of Blanket L visa.

Extension of Visa Waiver for H-2, F, M and Academic J Visas

In addition to the visa categories references above, DOS has extended the previously approved policies to waive visa interviews for certain students, professors, research scholars, short-term scholars, or specialists under F, M, and academic J visa applicants. The rules for DOS flexibility are similar to those for H-1, H-3, H-4, L, O, P and Q visas.

Visa Renewals

Finally, in addition to first time applicants, consular officers have authorization to waive the in-person interview for applicants renewing a visa in the same visa class within 48 months of the prior visa's expiration. This authorization has been extended indefinitely and might even apply to applicants for visitor visas (B-1/B-2).

Policy Changes Announced...But Details Still to Follow

These changes are welcome news for the thousands of applicants who have been waiting months for appointments worldwide – and their employers anxiously awaiting their clearance. However, the DOS has not yet provided clear guidance on procedures that should be followed by applicants who qualify for the visa interview waiver or already have appointments scheduled. Based upon previous consulate behavior, it could be different at each consulate as each country's conditions can vary.

We will update readers once clearer procedures are announced and consulates begin to act on this guidance, so make sure you are subscribed to [Fisher Phillips' Insight system](#) to get the most up-to-date information. If you have further questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney on our [Immigration Practice Group](#).

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