

FROM THE EDITOR'S DESK

Hello and welcome to the August 2012 Immigration Newsletter!

As we continue to get closer to the 2012 Presidential elections in November, August witnessed significant action in the field of immigration. Most notably, as of August 15, 2012, USCIS began accepting requests for consideration of Deferred Action for Childhood Arrivals, announced earlier this year by President Obama and Department of Homeland Security Secretary Napolitano. Under the program referred to as "DACA", certain young people, who came to the U.S. as children and meet other key guidelines (commonly referred to as "DREAMERS"), may request consideration for deferred action. The deferred action will offer relief from removal from the U.S. or from entering removal proceedings for a period of two years and will be subject to renewal. They will also be eligible to apply for a work permit ([EAD](#)).

USCIS has announced that individuals requesting consideration of deferred action for childhood arrivals must submit the newly created Form I-821D, Consideration of Deferred Action for Childhood Arrivals, Form I-765, Application for Employment Authorization (with accompanying fees); and an I-765WS, Worksheet. USCIS will review requests and make decisions on a case-by-case basis. USCIS has also cautioned individuals, who believe they are eligible, should be aware of immigration scams as unauthorized practitioners of immigration law may try to take advantage of individuals by charging them exorbitant fees to submit forms to USCIS on their behalf or by giving them incorrect legal advice.

Meanwhile the Court of Appeals for the Eleventh Circuit released two very important opinions regarding controversial provisions of the Georgia and Alabama anti-immigration Laws.

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On Georgia's Immigration Enforcement Law HB 87, the Court of Appeals issued a split decision regarding the Northern District of Georgia's preliminary injunction against two provisions of the law. The preliminary injunction was upheld for Section 7, which made certain acts like transporting or moving an illegal alien, concealing or harboring an illegal alien or inducing an illegal alien to enter into Georgia, an offense. On the other hand, it overturned the injunction against for Section 8, which authorized law enforcement officers to investigate the immigration status of an individual if the officer had probable cause to believe the individual has committed another crime and the individual cannot provide one of the pieces of identification listed in the statute - a provision that is popularly referred to as the 'Papers Please' law. It is important to note here that the Appeal only considered the preliminary injunctions and the matter has been remanded to the district court for further proceedings. It therefore remains to be seen which way the final outcome of the proceedings will go, especially in light of the recent Supreme Court decision regarding Arizona's immigration laws.

The Court of Appeals for the Eleventh Circuit also gave its verdict on the appeal filed against the preliminary injunction granted by the District Court of Northern District of Alabama wherein nearly 10 sections of the controversial Alabama Immigration Law HB 56 were blocked. In its verdict, the appellate court upheld the preliminary injunction granted blocking at least 6 sections while overturning the injunction granted against 3 sections. Notably, the court reversed the injunction granted blocking the 'Papers Please' provision, which authorized law enforcement officers to officers to determine a lawfully seized individual's immigration status when he or she has reasonable suspicion that the seized individual is unlawfully present in the U.S., even while upholding the injunction against provisions that made certain acts like concealment, harboring, or shielding from detection of any alien; encouraging or inducing an alien to come to or reside in Alabama an offense.

In other news, in the recently published DOS Visa Bulletin for September 2012, the EB-3 priority dates advanced marginally in respect of all countries, even as the EB-1, EB-4 and EB-5 numbers continued to remain current for all countries. As announced earlier by the DOS, EB-2 priority dates remained at 01 January 2009 in respect of all countries other than India and mainland China which are unavailable. Priority dates for EB-2 will remain unchanged for the remainder of FY-2012.

YOUR OPINION

Do you welcome the Administration's decision to consider granting Deferred Action for certain qualified childhood arrivals?

- a. Yes
- b. No
- c. Not Sure

[Cast Your Vote](#)

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IMMIGRATION QUIZ

Win a FREE Online Consultation!

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of September 2012.

I have been in the U.S. in L-1B status for the past one year. I came on an L-1 Blanket and not through the regular L-1 petition process. I have now received a job offer from another company. Can I change jobs and take up the new employment without having to go outside the U.S.?

[Submit Your Answer](#)

Other Developments in Immigration Law:

[New E Visa Processing Instructions for Mission Italy](#)

The US Embassy in Italy has published new E visa processing instructions for Mission Italy and has announced that effective August 15, 2012 all E visa submissions must comply with the new procedures. The Embassy has also announced that the maximum E visa packet size is 40 pages, and all documents submitted must be in English or Italian, and must be germane to the case. Review of applications will begin only upon receipt of a complete application and applications that are not complete, including the original receipt of the processing fee, will be returned via Mailboxes Etc. Companies submitting applications for multiple employees have also been advised to submit only one E visa packet for all applicants.

[Employers to continue using current Form I-9 for Employment Eligibility Verification](#)

USCIS has announced that until further notice, employers should continue using the Form [I-9](#), Employment Eligibility Verification Form that is currently available on the forms section of its website. This form should continue to be used even after the OMB control number expiration date of August 31, 2012 has passed. USCIS has announced that it will provide updated information about the new version of the Form I-9 as it becomes available.

Immigration Articles and Other Fun Stuff

Our '**Featured Video**' for this month titled, "[EB1, Employment-based Green Card for Multinational Managers & Executives on L1 Visa](#)", showcases the many advantages EB-1C has over other Green Card categories and the requirements that help establish a strong case for the [EB1](#) Green Card. Please check out and subscribe to our YouTube channel to take advantage of another great service provided to you by VisaPro.

Also check out our **In Focus** article for this month titled "[The P-3 Visa: An Overview](#)" in which we present an overview of the [P-3](#) visa requirements and the P-3 visa process, along with a few important concepts that are related to the P-3 visa.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that a majority of respondents (**80%**) welcome USCIS' decision

Immigration
Question?

Consult Our
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Attorneys



Winner of the Immigration Quiz - July 2012:

Sumit

The Question:

I have recently been granted a [P-3](#) visa and I will be coming to the U.S. soon. Can I bring along my wife and 8 year old child to the U.S.? Will my wife be able work in the US? Will my son be able to attend school in the US? Or, will we be required to obtain any additional permission for that?

The Winning Response:

Your wife and son can obtain a [P-4](#) visa to come to the US. Your wife will not be able to work in the U.S. on a P-4 visa, but your son can attend school in U.S. He will not need a student visa to attend school, he can attend school on a P-4.

Sumit receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of August 2012.

to create a new office dedicated solely to the administration of the [EB-5](#) Immigrant Investor program. We continue to appreciate that people take interest in the opinion question and cast their votes to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We also congratulate **Sumit** for winning last month's Immigration Quiz. **Sumit** gave the best answer and won a free online consultation to discuss the concerned Immigration issues. It's time to get ready for this month's quiz. If you know the correct answer your name might be featured in next month's newsletter. **All the Best!!!**

To ensure you receive your Immigration Newsletter, please add Immigration-Monitor@VisaPro.com to your address book or safe list.

See you next month with a lot more noise from the Immigration World!

Christine

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Mr. Thomas Joy at
NOVA SHRM Seminar



VisaPro Team at
NOVA SHRM Seminar



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NEW TO VisaPro?

Do you have questions regarding the [H-1](#), [L-1](#), [E-1](#), other work visas or Green Cards? VisaPro has answers to commonly asked immigration questions. [Click here](#) to find out more.

FEATURED VIDEO

EB1, Employment-based Green Card for Multinational Managers & Executives on L1 Visa



The EB-1.3 employment-based Green Card category for multinational executives and managers is advantageous and faster because no labor certification is required. Learn the many advantages EB-1C has over other Green Card categories and the requirements that help establish a strong case for the EB1 Green Card.

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LATEST NEWS [XML](#)

[H2B Cap Count Update](#)

USCIS has updated the count of H2B visa petitions received and counted towards the H2B cap for the 2nd half of fiscal year 2012 employment and the 1st half of fiscal year 2013 employment. As of August 3, 2012, USCIS has approved approximately, 27, 232 [H2B](#) beneficiaries for the 2nd half of FY 2012 and 550 H2B beneficiaries for the 1st half of FY 2013.

[DOL announcement on change in Chicago National Processing Center address](#)

DOL has announced a change in the address of the Chicago National Processing Center (CNPC). Applicants have been advised to, beginning August 2, 2012, direct their hard copy filings for the D-1, [H-2A](#) and [H-2B](#) programs to the CNPC's new addresses. DOL has reminded applicants to

direct payments of H-2A labor certification fees to the new P.O. Box address, and has announced that the CNPC move does not affect the electronic filing of LCAs, but any employer with permission to file by hard copy should direct its LCA filings to the new address above.

IN FOCUS

XML

P-3 Visa for Artists and Entertainers: An Overview

The P-3 visa classification is available to foreign national artists or entertainers who are coming temporarily to the United States to perform, teach, or coach under a program that is culturally unique; it is also available to essential support personnel who are an integral part of the performance of such principal artists or entertainers, and who perform support services that cannot be readily performed by a U.S. worker. The P-3 visa offers various advantages and benefits to foreign national artists and entertainers who perform a culturally unique art form, and who would like to come to the U.S. The spouse and unmarried minor children of the P-3 visa holder can stay in the U.S. with the P-3 foreign national as long as he or she maintains his or her P-3 status, and there are no travel restrictions on the P-3 visa. For the benefit of our readers, we present in this article an introduction to the P-3 visa and an overview of the P-3 visa requirements and process along with a few important concepts that are related to the P-3 visa.

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QUESTIONS AND ANSWERS

Q1. How can I get a Green Card via my older brother who is a citizen and lives in the U.S.? How much time does it take?

Ans. U.S. citizens who are at least 21 years of age can sponsor their brothers and sisters for a Green Card under the Family Fourth Preference ([F4](#)) category. The sibling's spouse and unmarried children under 21 can be included in the petition. If your brother is a U.S. Citizen and above 21 years of age, then he can petition for a Green Card for you, your spouse and your minor children. To begin the Green Card process for you, your U.S. Citizen brother must file a Form I-130, Petition for Alien Relative, with the USCIS on your behalf. Your brother must maintain his domicile in the U.S. There are annual numerical caps on the number of Green Cards that can be issued under the F4 category. The filing date of the petition becomes your priority date. Because the number of qualified applicants for a category generally exceeds the available immigrant visas, visas will be issued in the chronological order in which the petitions were filed using the priority date, and an immigrant visa cannot be issued to you until your priority date is reached or becomes "current". As per the latest September 2012 Visa Bulletin, the F4 numbers are backed up to 02/01/89 in respect of applicants chargeable to Philippines; 06/15/96 in respect of applicants chargeable to Mexico; 01/22/01 in respect of applicants chargeable to mainland China; 03/08/01 in respect of applicants chargeable to all other countries. The country where you are born is the country you are chargeable to. You may consult an Immigration Attorney to discuss your situation and understand what steps your brother can take to file the Immigration Visa Petition for you under the F4 category.

Q2. We are exploring the possibility of setting up a vocational school in the U.S. which also provides training to overseas students on an H-3 visa. Please let us know how to go about it.

Ans. An [H-3](#) visa is a Training visa. The purpose of the H-3 is to come to the U.S. to get training in a job. For an H-3 visa, there has to be a very formal, structured training program and you need to show that the training provided in the U.S. is not available in their native country and that when they leave the training program they will go back to their country to use their training there. From what you have mentioned, it appears that an H-3 visa is not the right visa for your prospective students. The H-3 visa is generally not the type of visa one would obtain to attend a school. The H-3 visa is generally for people to come over to the U.S. as employees of a business. They generally get paid and don't pay for the training. Instead, the [M-1](#) visa is the more appropriate visa for foreign students attending vocational schools in the U.S. You should get in touch with an Immigration Attorney and thoroughly discuss your situation to identify what visa options may be suitable for your students, to help you accomplish your goals in your situation.

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in every issue.

Note: Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

[Ask Your Question](#)

SUCCESS STORIES

"Panatda Chotison and Myself would like to thank you directly for your help in processing our [L-1] visa and be able to work for Procon in US. We just received the VISA yesterday morning and are now almost ready to leave.

Thanks again for your outstanding services."

Best Regards,

Jean-Marc Genouvrier, Director of Technology
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