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Immigration

DOS Announces Reconsideration of Visa Denials Based on Travel Bans

Legal Update

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This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

On January 22, 2021, the Department of State (DOS) announced that it will undertake a review "to ensure that individuals whose immigrant visa applications were denied on the basis of the suspension and restriction on entry imposed by P.P. [Presidential Proclamations] 9645 or 9983 may have their applications reconsidered." In addition to considering whether to reopen such applications, the agency will consider whether to charge an additional fee for processing them and will develop a plan to expedite their consideration. The review is taking place in response to President Biden's proclamation signed on January 20, 2021, ending travel restrictions under earlier Trump administration proclamations that suspended entry into the United States of certain nationals, based on visa type, from Burma, Eritrea, Iran, Kyrgyzstan, Libya, Nigeria, North Korea, Somalia, Sudan, Syria, Tanzania, Venezuela and Yemen.

The DOS announcement also noted:

Pending the Department's review, under current Department regulations Immigrant visa (IV) applicants who were previously refused due to either P.P. 9645 or 9983 and were determined not to qualify for a waiver before January 20, 2020, must submit a new visa application (DS-260) and pay a new visa application processing fee. IV applicants refused due to either P.P. 9645 or 9983 and whose eligibility for a waiver was still being evaluated, or who were determined not to qualify for a waiver within one year of January 20, 2021, and who also request their local embassy or consulate to resume processing on their case within one year of January 20, 2021 may be able to resume processing of their case without submitting a new application or paying a new visa application processing fee. Embassies and consulates will prioritize the adjudication of applications for those individuals who remain in the waiver process.

Nonimmigrant visa applicants who were previously refused due to either P.P. 9645 or 9983 and did not qualify for a waiver will need to submit a new visa application (DS-160) and pay a new visa application processing fee if they wish to reapply for a

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visa.

The announcement warns that processing may be affected by COVID-19 pandemic-related restrictions at U.S. embassies and consulates on a post-by-post basis.