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Immigration

New Guidance on Immigrant Visa Prioritization

Legal Update

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By Immigration Group

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.

The Department of State (DOS) released guidance on how its embassies and consulates are prioritizing immigrant visa applications and making “difficult decisions” as they work to reduce the backlog “resulting from travel restrictions and operational constraints caused by the global COVID pandemic.”

DOS said the guiding principle is family reunification: “Specifically, the Department’s prioritization relie[s] on clear direction from Congress that the Department must adopt a policy of prioritizing immediate relative visa applicants and K-1 [fiancé(e)s] of U.S. citizens, followed by family preference immigrant visa applicants.”

Immigrant visas are prioritized over nonimmigrant visas. U.S. embassies and consulates are using a “tiered approach to triage immigrant visa applications based on the category of immigrant visa as they resume and expand processing.” Consular sections are scheduling some appointments within all four priority tiers every month. The following lists the main categories of immigrant visas in priority order:

Tier One:

Immediate relative intercountry adoption visas, age-out cases (cases where the applicant will soon no longer qualify due to their age), certain Special Immigrant Visas (SQ and SI for Afghan and Iraqi nationals working with the U.S. government), and emergency cases as determined on a case-by-case basis.

Tier Two:

Immediate relative visas; fiancé(e) visas; and returning resident visas

Tier Three:

Family preference immigrant visas and SE Special Immigrant Visas for certain employees of the U.S. government abroad

Tier Four:

All other immigrant visas, including employment preference and diversity visas

Also, U.S. embassies and consulates were instructed that they may “prioritize as emergencies on a case-by-case basis the immigrant visa cases of certain healthcare professionals who will work at a facility engaged in pandemic response.”