

Siskind's Immigration Bulletin – May 27, 2010

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Siskind Susser serves immigration clients throughout the world from its offices in the US and its affiliate offices across the world. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>

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1. Openers
2. ABCs of Immigration Law: U Visas for Victims of Specific Crimes
3. Ask Visalaw.com
4. Border and Enforcement News (This edition, focusing on Arizona)
  - Democratic senator asks GOP governor to hold off on Ariz. immigration law, wait for Congress
  - Mexico's Calderon to protest Arizona law to Obama
  - Austin cuts off business and travel ties with Arizona
  - Phoenix mayor looks to Obama on Arizona law
  - Dallas council members urge consideration of Arizona boycott
  - ACLU, NAACP among those fighting Arizona immigration law
  - Palin joins Arizona Governor to defend immigration law
  - AFL-CIO wants DHS to stop working with Arizona state cops
5. News from the Courts
  - Judge deports former Nazi guard
6. News Bytes
  - Legal status extended for Central Americans
7. Washington Watch
  - Schumer Tries to Raise Holy Help on Immigration Overhaul
  - Bersin Unlikely to Receive Senate Confirmation
  - Fla. Gov. Crist says path to citizenship for illegally present immigrants can help keep Social Security solvent
  - In U.S. visit, Mexican president to discuss drug war, immigration
  - Hispanics: All sides to blame for immigration stalemate
  - Illegally Present Immigrant Students Protest at McCain Office

8. Notes from the Visalaw.com Blogs

9. State Department Visa Bulletin: June 2010

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## 1. Openers

Dear Readers:

Fallout continues from the Arizona immigration law. Various boycotts are ongoing, city councils have been passing resolutions condemning the law, and the White House is weighing various options that may include not cooperating with Arizona police and suing the state. There has also been a push in the other direction. Many states have accelerated consideration of laws aimed at further cracking down on illegal immigration.

Public opinion polls show that a majority of Americans support the Arizona law. Anti-immigrant groups are touting the polls to back their aims to halt all immigration to the US and deport as many immigrants as possible. But pro-immigration groups have several recent polls that tell a different story. Yes, Americans support the Arizona law. But it is out of an overwhelming frustration regarding Washington's failure to address the country's badly broken immigration system.

When asked in these same polls whether they support the so called "amnesty" that anti-immigrant groups loathe, even larger numbers say yes. At the end of the day, Americans simply want a system based on the rule of law where we know who is in the country and we have control of our borders. They are less focused on seeking revenge against illegally present immigrants and simply want an appropriate punishment that will deter future illegal immigration and also will result in integrating the millions of illegally present immigrants in to US society.

Will we see any sort of comprehensive immigration reform that achieves these goals soon? Right now, the answer seems no as the extremist anti-immigrant groups will accept no solution that includes a legalization program and too many members of Congress fear the wrath of these groups.

We could see a few piecemeal measures pass this year, however. The DREAM Act which would legalize young people who entered the country as children and AgJobs, a bill aimed at legalizing agricultural workers, both have bipartisan support and could be passed as a "down payment" on a comprehensive immigration bill. Many Republicans are calling on tougher border enforcement provisions – including sending thousands of US troops to the border – to be included in the military appropriations bill which is now being debated in Congress. DREAM and AgJobs could be included as well for a "lite" version of immigration reform.

Pro-immigration groups will have a tough decision to make regarding such an effort. Many believe that support for broader reform depends on having all constituencies in the pro-immigration community working together to get their individual bills passed in one big bill. There is a fear that support will be lessened if some parts of immigration reform pass on their own.

I have drawn some criticism for supporting an alternate strategy. Pass immigration measures on a piecemeal basis rather than on a comprehensive one. The major problem with comprehensive reform is that it creates a single target for anti-immigration groups and if there is one controversial aspect of the bill that a member of Congress doesn't like, they have the excuse to walk away.

It has now been six years since President Bush introduced the concept of comprehensive immigration reform and it has been about that long since any significant immigration legislation has passed. Bringing bills up one at a time may not be as effective as addressing all of the major immigration system problems at once, but it probably is the best solution given the politics of today. A famous politician once said the perfect is the enemy of the good and that seems to be the case here.

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In firm news, last week we held a seminar for the Memphis employer community on compliance issues. Thanks to all those who participated.

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Readers are reminded that they are welcome to contact my law office if they would like to schedule a telephone or in person consultation with me or one of my colleagues. If you are interested, please call my office at 901-682-6455.

Regards,

Greg Siskind

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## **2. ABCs of Immigration Law: U Visas for Victims of Specific Crimes**

The U Visa allows temporary immigration benefits to crime victims willing to assist law enforcement with criminal investigations.

In 2002, Congress passed the Victims of Trafficking and Violence Protection Act (VTVPA). The VTVPA created a special nonimmigrant classification designated as the U visa for victims of specific crimes. This article addresses the requirements and issues for potential U visa applicants.

### **Is the U visa currently available?**

On September 5, 2007, the U.S. Citizenship and Immigration Services announced it would grant the temporary immigration benefits to certain victims of crimes who assist government officials in investigating or prosecuting the criminal activity.

The interim final rule establishes procedures for applicants seeking U nonimmigrant status and will take effect 30 days after publication in the Federal Register. The "U" classification was created by Congress in the Victims of Trafficking and Violence Protection Act and offers not only protection and temporary benefits to alien victims

but also bolsters law enforcement capabilities to investigate and prosecute criminal activity.

### **Who is eligible for the U Visa?**

Currently, the U visa is available to those who meet all four basic requirements as follows:

1. Aliens who can show substantial suffering as the result of physical or mental abuse as a result of being the victim of certain criminal activity;
2. Aliens who possess information about that criminal activity;
3. Aliens who have been, or is being, or will be helpful or is likely to be helpful to Federal, State, or local authorities.
4. The criminal activity described violated the laws of the

US and occurred in the US or in territories of the US. Criminal activity in violation of Federal, State, or local criminal law includes rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; being held hostage, female genital mutilation; sexual exploitation; prostitution; peonage; unlawful criminal restraint; abduction; kidnapping; slave trade; involuntary servitude; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice perjury and any attempt to commit any of these crimes.

### **What forms are required by the USCIS VSC for filing a U visa application?**

Although no particular form is required for the U visa application, each application will require certain documentation depending on the nature of the case. Application cover letters should clearly state the applicant's basis for requesting the U visa and explain why each submitted document is relevant. The application should include a declaration by the applicant describing the abuse or criminal activity suffered by the applicant relevant to the U visa eligibility. The applicant must give all personal information such as personal identification, copies of passports, birth certificates (translated) and I-94 documents for all persons applying for both the U visa and the derivative U visa.

### **What forms of evidence are required by the USCIS VSC for determination of the U visa application?**

The application must include law enforcement certification which can be obtained during the investigation or prosecution of the criminal activity. The certification must come from a Federal, State, or local law enforcement official, prosecutor, judge investigating or prosecuting the criminal activity. Since no official certification form exists, a letter or other form created by the applicant's representative will be sufficient, but must be signed by the law enforcement official within the past six months and must include the following statements by the certifying official:

- The person was a victim of a crime as listed in the VTVPA (listed above).
- The crime must be identified.
- Verification that the person is useful or likely to be useful in the investigation or the prosecution of the criminal activity.

In cases involving substantial physical and/or mental abuse, the applicant include a personal declaration describing the abuse, photos documenting the abuse, medical reports, declarations by witnesses, law enforcement officials or medical officials, or any other evidence that documents the stated abuses suffered by the applicant.

### **Which USCIS field office accepts the U visa applications?**

Due to prior inconsistencies in the determination of the U Visa, the USCIS Vermont Service Center (USCIS VSC) is the designated "clearing house" for U visa applications. For more information on the USCIS VSC, please visit <http://uscis.gov/graphics/fieldoffices/stalbans/aboutus.htm#anchor1618781>.

### **Can aliens who have been granted the U visa apply for work authorization?**

Even though the U visa is not an immigrant status, the alien who has received deferred action may apply for work authorization by filing Form I-765, Application for Employment Authorization. Such authorization is subject to yearly review.

### **What is the duration of U status once eligibility for deferred action is found?**

VSC officers will conduct interim reviews of the deferred action cases to determine if there has been any change in the circumstances of the case. Upon these reviews, VSC officers will determine whether U status should be continued or terminated.

### **What are the grounds for termination of the U status?**

U status can be terminated for changes of circumstances in the case so that it no longer warrants deferred action. Furthermore, U status can be terminated for conduct or a condition that was not disclosed prior to issuance of relief.

### **What happens if the U status is terminated?**

Determinations of termination of the U Status cannot be appealed. Termination cancels the deferred action and revokes related work authorization.

### **Can aliens in removal proceedings and with final removal orders apply for the U visa?**

The VSC does not have jurisdiction to assess deferred action for individuals who in removal proceedings or who have final orders of removal.

## Who is eligible for the derivative classification of the U visa?

To avoid extreme hardship, the VTVPA allows interim relief U status for applicants' spouses, children and parents of those U visa applicants under the age of 16. Applicants for the derivative status must provide certification from a government official that an investigation or prosecution would be harmed without the assistance of the derivative applicant. Those family members eligible for interim relief U status who are present in the United States must also demonstrate extreme hardship if removed.

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### 3. Ask Visalaw.com

In our Ask Visalaw.com section of the SIB, attorney [Ari Sauer](#) answers immigration law questions sent in by our readers. If you enjoy reading this section, we encourage you to visit Ari's blog, [The Immigration Answer Man](#), where he provides more answers to your immigration questions. You can also follow The Immigration Answer Man on [Facebook](#) and [Twitter](#).

If you have a question on immigration matters, write [Ask-visalaw@visalaw.com](mailto:Ask-visalaw@visalaw.com). We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

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#### 1) QUESTION:

I am a permanent resident. Can I sponsor my brother to move to the U.S.?

#### ANSWER:

No. A U.S. Permanent Resident can only file an immigrant petition for their spouse and unmarried children. You must become a U.S. citizen before you can file a petition for your brother. U.S. citizens can petition for their spouses, children (both married and unmarried), parents and siblings.

#### 2) QUESTION:

I am a permanent resident. I was charged with a petty theft misdemeanor in 2006. My green card expires next year. Is this going to create an issue when I apply to renew my card?

#### ANSWER:

Most likely not, but you should consult with an immigration law attorney before you file your renewal application. This is because certain crimes can have an effect on a person's immigration status. You mentioned that you were charged with the crime, but did not mention whether you were convicted. If the charges were dismissed, then you have nothing to worry about. This is not the same as having the charges expunged. Having the charges expunged means nothing to immigration.

If you were convicted of the charge, you may still be OK under the Petty Offense Exception. If you have only one conviction, for which the maximum possible jail time is less than one year, and the actual jail time to which you were sentenced is less than 6 months, then the conviction may fall within this exception and be forgiven. However you should consult with an attorney before assuming your conviction falls within this exception.

If your conviction does not qualify under the Petty Offense Exception, then an experienced attorney may be able to have your conviction amended to a charge that would fall within this category.

### **3) QUESTION:**

I would like to know when my country will be eligible for the DV lottery program again.

### **ANSWER:**

The Diversity Visa Lottery is a program which allows immigrant visas to be issued to nationals of those countries that have been underrepresented among those that have received immigrant visas. No more than 50,000 DV Lottery visas are granted each year.

Each year the Department of State issues the list of countries whose nationals are eligible to apply for the DV Lottery. This year, the countries of Pakistan, Columbia, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, India, Jamaica, Mexico, Peru, the Philippines, Poland, South Korea, the U.K (except North Ireland) and Vietnam, were excluded from eligibility under the DV lottery because more than 50,000 immigrant visas to the U.S. were issued to nationals of these countries within the previous five years.

Your country should be reinstated to eligibility for the DV Lottery when they are no longer issued more than 50,000 immigrant visas in a 5-year period.

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### **4. Border and Enforcement News (This edition, focusing on Arizona):**

#### **Democratic senator asks GOP governor to hold off on Ariz. immigration law, wait for Congress**

*The Associated Press* reports that New York Senator Chuck Schumer is asking Governor Jan Brewer of Arizona to delay the implementation of the controversial new immigration enforcement bill, SB 1070, by a year to allow Congress time to address and enact comprehensive immigration overhaul. However, leaders of both parties have acknowledged that an immigration bill is unlikely to pass during the current election year, especially without bipartisan support, which seems unlikely at present. Brewer has indicated she will not delay the implementation of the Arizona law.

<http://www.washingtonexaminer.com/breaking/democratic-senator-asks-gop-governor-to-hold-off-on-ariz-immigration-law-waitfor-congress-92969024.html>

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### **Mexico's Calderon to protest Arizona law to Obama**

*The Washington Post* reports that Mexican President Felipe Calderon will protest Arizona's crackdown on illegal immigrants when he meets with President Obama. Calderon described elements of the law as 'frankly discriminatory, terribly backward,' and said the law is already affecting US-Mexican bilateral relations.

President Obama has said he believes the law to be 'misguided' and is pushing for comprehensive immigration overhaul, including a push for better immigrant rights.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/05/14/AR2010051401866.html>

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### **Austin cuts off business and travel ties with Arizona**

*The Austin American Statesman* is reporting that the Austin City Council has decided to end business and travel ties with the state of Arizona in protest over the new state law there that will allow law enforcement officials to detain people they suspect are in the country illegally. The resolution for the proposal passed unanimously. The total amount of money spent by the city of Austin last year in Arizona came to a total of \$47,908.

<http://www.chron.com/disp/story.mpl/metropolitan/7004482.html>

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### **Phoenix mayor looks to Obama on Arizona law**

*The Associated Press* reports that the Mayor of Phoenix, Phil Gordon, recently told an audience that his goal is to get Arizona's new law cracking down on illegal immigration 'revoked as soon as possible.'

The mayor went on to call the law 'criminal,' 'wrong,' and 'racist.' Gordon says he hopes that President Obama will step in and take strides to address the situation, by passing comprehensive immigration reform, or in the meantime, send extra Border Patrol agents to the border.

<http://www.washingtonexaminer.com/breaking/phoenix-mayor-looks-to-obama-on-arizona-law-93804004.html>

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### **Dallas council members urge consideration of Arizona boycott**

*WFAA News* out of Dallas, is reporting that Dallas may join Austin, Los Angeles, El Paso, and St. Paul, Minnesota, in boycotting business ties Arizona after the passage of the new immigration enforcement law.

Thousands of citizens demonstrated on May 1, in protest to the law at Dallas City Hall Plaza. If it passes the boycott, Dallas will follow Austin and El Paso, to become the third Texan city to do so. However, more than 30 city councils in small towns across North Texas are also considering invoking a boycott in protest.

<http://www.wfaa.com/news/politics/Dallas-council-members-urge-consideration-of-Arizona-boycott-93825759.html>

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## **ACLU, NAACP among those fighting Arizona immigration law**

*The Arizona Republic* reports that the ACLU and other national civil rights organizations have sued in federal court, filing a class action lawsuit, questioning the constitutionality of Arizona's new immigration law. The groups, including the NAACP, have alleged that the law 'encourages racial profiling, endangers public safety, and betrays American values.' This is the fifth lawsuit challenging the new law, which is scheduled to take effect July 29<sup>th</sup>. The Tucson, Flagstaff, and San Luis city councils have voted to sue as well.

<http://www.azcentral.com/community/ahwatukee/articles/2010/05/16/20100516arizona-immigration-law-aclu-naacp.html>

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## **Palin joins Arizona Governor to defend immigration law**

*The Associated Press* reports that Sarah Palin has come to the defense of Arizona Governor Jan Brewer and the new law cracking down on illegal immigration. The Governor and Ms. Palin held a brief press conference, during which they blamed President Obama for the new state law, saying it was Arizona's attempt to enforce immigration laws since the federal government won't. Palin also said that "We're all Arizonans now" during her speech, invoking similar language to that used about New York after the 9/11 attacks.

[http://www.boston.com/news/nation/articles/2010/05/15/palin\\_to\\_join\\_arizona\\_governor\\_at\\_campaign\\_event/](http://www.boston.com/news/nation/articles/2010/05/15/palin_to_join_arizona_governor_at_campaign_event/)

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## **AFL-CIO wants DHS to stop working with Arizona state cops**

*The Hill* reports that the AFL-CIO, one of the most influential labor groups and civil rights organization, urged Homeland Security Secretary Janet Napolitano to end programs with Arizona law enforcement agencies over the state's new controversial immigration enforcement law.

In their letter, they wrote, 'Unless DHS terminates all 287(g) program agreements in Arizona, the federal government will be complicit in the racial profiling that lies at the heart of the Arizona law.' The 287(g) program is a federal initiative that trains local officials to enforce immigration law.

<http://thehill.com/blogs/blog-briefing-room/news/97913-groups-want-dhs-to-end-relations-with-arizona-law-enforcement>

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## **5. News from the Courts:**

### **Judge deports former Nazi guard**

*The Pittsburgh Post-Gazette* reports that Anton Geiser, 85, a retired steel worker, served as an armed SS Death's Head guard at two Nazi concentration camps, and has been ordered out of the country by a federal judge.

Mr. Geiser came to the United States in 1956, and was naturalized in 1962, having lied about his military service on his paperwork. Mr. Geiser is today arguing that his

participation at the concentration camps Sachsenhausen, and Arolsen, a sub-camp of Buchenwald, was not voluntary, and that he only served under threat of death.

Mr. Geiser was originally targeted for deportation in 2004, but has filed a series of appeals. His removal has been ordered by a district court, the 3<sup>rd</sup> US Circuit Court of Appeals, and now a US Immigration Court. Mr. Geiser can still appeal the decision at two additional levels, plus the Supreme Court.

<http://www.post-gazette.com/pg/10139/1059117-455.stm>

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## 6. News Bytes:

### Legal status extended for Central Americans

*The Boston Globe* is reporting that the federal government has extended the Temporary Protected Status (TPS) of people from Nicaragua, El Salvador, and Honduras, by 18 months. The original TPS was granted in December of 1998, following the devastation wrought by Hurricane Mitch.

The new extension allows refugees from these countries to remain legally present until January 5, 2012. The Department of Homeland Security estimates that 66,000 people from Honduras and 3,000 people from Nicaragua are eligible for TPS. More than 200,000 Salvadorans were given temporary protected status following a series of earthquakes that devastated the country in 2001.

[http://www.boston.com/news/nation/washington/articles/2010/05/05/legal\\_status\\_extended\\_for\\_central\\_americans/](http://www.boston.com/news/nation/washington/articles/2010/05/05/legal_status_extended_for_central_americans/)

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## 7. Washington Watch:

### Schumer Tries to Raise Holy Help on Immigration Overhaul

*The Wall Street Journal* reports that Senator Charles Schumer is trying to enlist the help of Evangelical Christian groups to bring Republicans back to the table to discuss immigration reform.

Schumer participated in a conference call with Christian religious leaders who are supportive of immigration reform. He told them that without at least some Republican support, the legislation won't be able to move forward. The President of the National Association of Evangelicals said that current immigration policy 'is not pro-family, and evangelicals at their heart are pro-family.'

<http://blogs.wsj.com/metropolis/2010/05/12/schumer-tries-to-raise-holy-help-on-immigrationoverhaul/?KEYWORDS=immigration+OR+immigrant+OR+migrant>

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### Bersin Unlikely to Receive Senate Confirmation

*HS Today* reports that the leaders of the Senate Finance Committee have made it clear that they will not support Alan Bersin for Senate confirmation as the next

commissioner of US Customs and Border Patrol (CPB). Bersin's interim appointment expires at the end of 2011.

A chief complaint centered around Bersin's failure to obtain federal I-9 Employment Eligibility Verification forms for 10 domestic employees at his home over the past 20 years. This issue was addressed as a concern by lawmakers in both parties.

<http://www.hstoday.us/content/view/13278/128/>

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**Fla. Gov. Crist says path to citizenship for illegally present immigrants can help keep Social Security solvent**

*The Associated Press* reports that Florida Governor Charlie Crist, who's running for Senate as an independent, has said that providing a path to citizenship for illegally present immigrants will help keep Social Security solvent.

Crist says that he supports a path to citizenship for those illegally present, and noted that with over 14 million illegally present immigrants in the country, if they paid into Social Security, it would help increase the worker-to-retiree ratio.

[http://www.latimes.com/news/nationworld/politics/wire/sns-ap-us-florida-senateimmigration\\_0,2849359.story](http://www.latimes.com/news/nationworld/politics/wire/sns-ap-us-florida-senateimmigration_0,2849359.story)

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**In U.S. visit, Mexican president to discuss drug war, immigration**

*The Washington Post* reports that Mexican President Felipe Calderon plans to speak out against the new anti-immigrant legislation in Arizona during a trip to the USA to celebrate US-Mexican cooperation with the drug war. However, Calderon and other Mexican officials also have voiced frustration with the US and their role in the drug war.

Calderon has been frank in his condemnation of the Arizona law, and has asserted that the law is creating tensions between the two countries. Mexican officials have also voiced complaints over the fact that they feel the US is not doing enough in the drug war.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/05/16/AR2010051602295.html?hpid=sec-world>

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**Hispanics: All sides to blame for immigration stalemate**

*The Politico* reports that in a recent poll, Hispanics split the blame for not yet passing a comprehensive immigration reform bill between Republicans, Democrats, and President Obama.

Forty-five percent of Hispanics polled blamed Republicans, while forty-nine percent blamed either the Democrats or President Obama.

<http://www.politico.com/news/stories/0510/37281.html>

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**Illegally Present Immigrant Students Protest at McCain Office**

*The New York Times* reports that five immigrant students protested and held a sit-in at the office of Arizona Sen. John McCain, in an effort to get him to help sponsor legislation that grants a path to citizenship for illegally present immigrants.

Four of the five protesters were arrested, and three of them are illegally present. The three will likely face deportation proceedings in the coming weeks. McCain has in past years sponsored the DREAM Act, which would grant a path to legal status for illegal immigrant students, who came to the country as young children. This year, however, McCain has not sponsored the bill, as he is in a tight primary race with an opponent who is vocally anti-immigration.

<http://www.nytimes.com/2010/05/18/us/18dream.html?partner=rss&emc=rss>

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## 8. Updates from the Visalaw.com Blogs

[Greg Siskind's Blog on ILW.com](#)

- [IMMIGRATION ADVOCATES WARY OF RAHM EMMANUEL](#)
- [IMMIGRATION HUMOR: DORA THE LAW BREAKER](#)
- [BUT MY MOM HAS NO PAPERS](#)
- [MEXICAN PRESIDENT EXPECTED TO MAKE IMMIGRATION KEY ISSUE DURING DC VISIT](#)
- [THE IMMIGRATION DEBATE GENERATION GAP](#)
- [THE LAWSUIT TEXT](#)
- [EOIR CREATES PROCESS TO COMPLAIN ABOUT BAD IMMIGRATION JUDGES](#)
- [OBAMA'S AUNT WINS ASYLUM CASE](#)
- [IMMIGRANT OF THE DAY: RIMA FAKIH - MISS USA](#)
- [RIGHTS GROUPS FILE CLASS ACTION CHALLENGING ARIZONA LAW](#)
- [ARIZONA IMMIGRATION LAW COULD COST US WORLD CUP](#)
- [ARIZONA LAW COMES UP IN MISS USA PAGEANT](#)
- [FROM THE DEPARTMENT OF "DO YOU FEEL SAFER?"](#)
- [SIX QUESTIONS FOR SUPPORTERS OF THE ARIZONA LAW](#)
- [CBP COMMISSIONER IN HOT WATER OVER MISSING I-9 FORMS FOR NANNIES](#)
- [THE GOP'S DAMAGED BRAND](#)
- [LOS ANGELES APPROVES ARIZONA BOYCOTT](#)
- [JUNE VISA BULLETIN OUT](#)
- [AILA BOARD OF GOVERNORS](#)
- [GOP SLAPS ARIZONA BY AWARDING NATIONAL CONVENTION TO TAMPA](#)
- [WAR WIDOW FORCED TO LEAVE](#)
- [A SOLUTION IN SEARCH OF A PROBLEM](#)
- [SENATOR MENENDEZ URGES BASEBALL PLAYERS TO BOYCOTT PHOENIX ALL STAR GAME](#)

[The SSB I-9, E-Verify, & Employer Immigration Compliance Blog](#)

- CASE HOLDS FAILING TO COMPLETE I-9'S CANNOT BE CORRECTED DURING 10 DAY CURE PERIOD
- FREEMONT, NE VOTERS TO DECIDE ON EMPLOYER MANDATE
- UTAH GOVERNOR BACKS OFF PLANS TO MODIFY E-VERIFY MANDATE

- CBP COMMISSIONER IN HOT WATER OVER MISSING I-9 FORMS FOR NANNIES
- FLORIDA COUNTY MANDATES CONTRACTORS USE E-VERIFY
- 200 FIRED AFTER I-9 AUDIT
- UPDATED E-VERIFY CONTRACTOR FAQ RELEASED

#### [Visalaw Healthcare Immigration Blog](#)

- PRIMARY CARE MD SHORTAGE LOOMING

#### [Visalaw Investor Immigration Blog](#)

- START UP VISA SEEN AS HELPING SW FLORIDA

#### [Visalaw Fashion, Sports, & Entertainment Blog](#)

- ARIZONA IMMIGRATION LAW COULD COST US WORLD CUP
- USCIS PROPOSES NEW O VISA REGS
- MEXICAN PRO SOCCER TEAMS CANCEL MATCH IN ARIZONA
- SENATOR MENENDEZ URGES BASEBALL PLAYERS TO BOYCOTT PHOENIX ALL STAR GAME

#### [Visalaw International Blog](#)

- CANADA: DISTURBING STUDY SHOWS HIGH RATES OF DIABETES IN IMMIGRANTS

#### [The Immigration Law Firm Management Blog](#)

- LENOVO MORPHS NOTEBOOK AND TABLET

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## 9. State Department Visa Bulletin: June 2010

### VISA BULLETIN FOR JUNE 2010

#### A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during **June**. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by May **10th** in the chronological order of the reported priority dates. If the demand could not be satisfied within the statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for

numbers will be honored only if the priority date falls within the new cut-off date which has been announced in this bulletin.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

### **FAMILY-SPONSORED PREFERENCES**

**First:** Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

**Second:** Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. Spouses and Children: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

**Third:** Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

**Fourth:** Brothers and Sisters of Adult Citizens: 65,000, plus any numbers not required by first three preferences.

### **EMPLOYMENT-BASED PREFERENCES**

**First:** Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

**Second:** Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

**Third:** Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

**Fourth:** Certain Special Immigrants: 7.1% of the worldwide level.

**Fifth:** Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, DOMINICAN REPUBLIC, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are available only for applicants whose priority date is **earlier** than the cut-off date listed below.)

Family	All Chargeability Areas Except Those Listed	CHINA-mainland born	DOMINICAN REPUBLIC	INDIA	MEXICO	PHILIPPINES
1st	08NOV04	08NOV04	08NOV04	08NOV04	22OCT92	15MAR95
2A	01JAN08	01JAN08	01DEC06	01JAN08	01DEC06	01JAN08
2B	15NOV02	15NOV02	01JUL02	15NOV02	15JUN92	08MAR99
3rd	22JUN01	22JUN01	22JUN01	22JUN01	22OCT92	22MAY92
4th	01SEP00	01SEP00	01SEP00	01SEP00	08DEC95	01APR88

\*NOTE: For June, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01DEC06. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT the DOMINICAN REPUBLIC and MEXICO** with priority dates beginning 01DEC06 and earlier than 01JAN08. (All 2A numbers provided for the DOMINICAN REPUBLIC and MEXICO are exempt from the per-country limit; there are no 2A numbers for the DOMINICAN REPUBLIC and MEXICO subject to the per-country limit.)

Employment-Based	All Chargeability Areas Except Those Listed	CHINA-mainland born	DOMINICAN REPUBLIC	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C	C
2nd	C	22NOV05	C	01FEB05	C	C

3rd	22JUN03	22JUN03	22JUN03	22OCTO 1	U	22JUN03
Other Workers	01JUN01	01JUN01	01JUN01	01JUN0 1	U	01JUN01
4th	C	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C	C
5th	C	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C	C
5th Pilot Programs	C	C	C	C	C	C

The Department of State has available a recorded message with visa availability information which can be heard at: (area code 202) 663-1541. This recording will be updated in the middle of each month with information on cut-off dates for the following month.

Employment Third Preference Other Workers Category: Section 203(e) of the NACARA, as amended by Section 1(e) of Pub. L. 105-139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW cut-off date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002.

## **B. DIVERSITY IMMIGRANT (DV) CATEGORY**

Section 203(c) of the Immigration and Nationality Act provides a maximum of up to 55,000 immigrant visas each fiscal year to permit immigration opportunities for persons from countries other than the principal sources of current immigration to the United States. The Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. **This reduction has resulted in the DV-2010 annual limit being reduced to 50,000.** DV visas are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For **June**, immigrant numbers in the DV category are available to qualified DV-2010 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	45,600	Except: Egypt: 24,200 Ethiopia: 25,100 Nigeria: 17,500
ASIA	19,550	
EUROPE	31,000	
NORTH AMERICA (BAHAMAS)	4	
OCEANIA	1,175	
SOUTH AMERICA, and the CARIBBEAN	1,300	

Entitlement to immigrant status in the DV category lasts only through the end of the fiscal (visa) year for which the applicant is selected in the lottery. The year of entitlement for all applicants registered for the DV-2010 program ends as of September 30, 2010. DV visas may not be issued to DV-2010 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2010 principals are only entitled to derivative DV status until September 30, 2010. DV visa availability through the very end of FY-2010 cannot be taken for granted. Numbers could be exhausted prior to September 30.

### C. ADVANCE NOTIFICATION OF THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN JULY

For **July**, immigrant numbers in the DV category are available to qualified DV-2010 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	54,100	Except: Egypt: 24,500 Ethiopia: 25,100 Nigeria: 18,850
ASIA	23,500	
EUROPE	32,000	
NORTH AMERICA (BAHAMAS)	5	

<b>OCEANIA</b>	1,300	
<b>SOUTH AMERICA, and the CARIBBEAN</b>	1,500	

#### **D. OVERSUBSCRIPTION OF THE DOMINICAN REPUBLIC CHARGEABILITY**

Continued heavy applicant demand for Family preference numbers has required the oversubscription of the DOMINICAN REPUBLIC chargeability for June, to hold issuances within the annual numerical limitation. The result has been the establishment of cut-off dates in the Family Second preference categories which are earlier than the Worldwide dates.

#### **E. OBTAINING THE MONTHLY VISA BULLETIN**

The Department of State's Bureau of Consular Affairs offers the monthly "Visa Bulletin" on the INTERNET'S WORLDWIDE WEB. The INTERNET Web address to access the Bulletin is:

<http://travel.state.gov>

From the home page, select the VISA section which contains the Visa Bulletin.

To be **placed on** the Department of State's E-mail subscription list for the "Visa Bulletin", please send an E-mail to the following E-mail address:

**listserv@calist.state.gov**

and in the message body type: **Subscribe Visa-Bulletin *First name/Last name***  
**(example: *Subscribe Visa-Bulletin Sally Doe*)**

To be **removed from** the Department of State's E-mail subscription list for the "Visa Bulletin", **send an e-mail message to the following E-mail address:**

**listserv@calist.state.gov**

and in the message body type: **Signoff Visa-Bulletin**

The Department of State also has available a recorded message with visa cut-off dates which can be heard at: (area code 202) 663-1541. The recording is normally updated by the middle of each month with information on cut-off dates for the following month.

Readers may submit questions regarding Visa Bulletin related items by E-mail at the following address:

**VISABULLETIN@STATE.GOV**