

Major Change Permits Interview Waivers for Many Nonimmigrants



By Elizabeth M. Klarin

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Recognizing “the positive impact of temporary work visa holders on the U.S. economy,” the U.S. Department of State (DOS) has announced an expansion of its previous policy permitting [waivers of the interview requirement](#) for certain nonimmigrant visa applicants. Through December 31, 2022, Consular officers at U.S. diplomatic posts around the world are now authorized to waive in-person interviews for certain nonimmigrant work visa applicants and their qualifying dependents, as follows:

H-1B, H-3, L, O, P, Q visa applicants

Under this authority, consular officers have discretion (but are not required) to waive the visa interview for applicants in the following categories—provided that they either (a) were previously issued any type of visa, and who have never been refused a visa unless such refusal was overcome or waived, and who have no apparent ineligibility or potential ineligibility; or (b) are first-time individual petition-based applicants who are citizens or nationals of a country that participates in the Visa Waiver Program (VWP), provided they have no apparent ineligibility or potential ineligibility and have previously traveled to the United States using an authorization obtained via the Electronic System for Travel

Authorization (ESTA) :

1. Persons in Specialty Occupations (H-1B visas);
2. Trainee or Special Education Visitors (H-3 visas);
3. Intracompany Transferees (L visas);
4. Individuals with Extraordinary Ability or Achievement (O visas);
5. Athletes, Artists, and Entertainers (P visas);
6. Participants in International Cultural Exchange Programs (Q visas);

F, M and academic J visa applicants

In addition, DOS has extended previously approved policies to waive the visa interview for certain students, professors, research scholars, short-term scholars, or specialists (F, M, and academic J visa applicants) through the end of 2022. Requirements under the new, extended policy require that applicants:

1. are citizens or nationals of a VWP participating country;
2. must have previously traveled to the United States using an authorization obtained via ESTA to qualify;
3. must apply for a visa in their country of nationality or residence; and
4. must either:
 - have been previously issued any type of visa, and who have never been refused a visa unless such refusal was overcome or waived, and who have no apparent ineligibility or potential ineligibility; or
 - first-time F, M, and academic J visa applicants who are citizens or nationals of a country that participates in VWP and who have previously traveled to the United States via an ESTA authorization, provided they have no apparent ineligibility or potential ineligibility.

H-2 visa applicants

The previous authority allowing for waiver of interview of certain H-2 (temporary agricultural and non-agricultural workers) applicants has also been extended through the end of 2022. Applicants renewing any visa within 48 months of expiration are also eligible for interview waiver.

Applications for other current/recent visa holders

In addition, the 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 has been extended indefinitely.

Why the change?

While the DOS is selling these changes as being made in recognition of the positive impact of these types of visa holders on the U.S., it is far more likely that the changes come as the Department struggles to recover from the fallout of its policies and practices at the height of the COVID-19 pandemic worldwide, and since. Many diplomatic posts effectively or completely stopped processing visa applications for a period of time, or have only sporadically provided services since the onset of the pandemic in March 2020. As a result, backlogged visa requests have become mountainous, and the agency is buried in so many requests that it is likely having a hard time seeing any light at the end of the tunnel (which is blocked with paperwork). Compounding the issue is the fact that many posts are dealing with significantly reduced staff availability to process visas, and are struggling to replace these valuable resources in order to wade through the piles of cases waiting for adjudication.

How to know if you are eligible/process

Most applicants who are eligible for these waivers should be identified during the visa payment and scheduling process, based on their answers to various questions. If you are identified as visa interview waiver eligible, instructions will be provided by the DOS during the normal online scheduling process.

Please reach out to your Lippes Mathias [immigration team](#) or check back on this blog for additional information as it becomes available.

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