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Practices: 移民法

GREEN CARD LOTTERY REGISTRTION ENDS NOVEMBER 5TH

As a reminder, persons born in countries other than Bangladesh, Brazil, Canada, The People's Republic of China (including mainland and Hong Kong born), Colombia, Cuba, Dominican Republic, El Salvador, Haiti, Honduras, India, Jamaica, Mexico, Nigeria, Pakistan, Philippines, Republic of Korea (South Korea), Venezuela, and Vietnam, are eligible to complete a registration for the DV-2026 "Green Card" Lottery Program. Registration for the Electronic Diversity Visa Program is online at https://dvprogram.state.gov/. The entry form must be fully completed and submitted before 12:00PM EST (GMT -5) on November 5, 2024 to qualify for selection. Persons who submit a DV-2026 Lottery Program application may check to see if they were selected (a "win") at the Electronic Diversity Visa Program website after 12:00PM (EDT) on May 3, 2025.

If your DV-2026 registration is selected, you must take additional steps to apply for the Green Card/Immigrant Visa and complete this processing before September 30, 2025.

For additional information on the DV-2026 Lottery Program requirements, please see our article Diversity Visa "Green Card" Lottery Program for Fiscal Year 2026 | Masuda Funai.

DOS VISA REVOCATIONS FOR DRIVING UNDER THE INFLUENCE ("DUI"/DWI")

People in the United States on nonimmigrant visas should be extremely cautious when it comes to alcohol and driving. Though not widely known, a single arrest involving driving under the influence/driving while impaired for alcohol, cannabis/marijuana or other controlled substances can result in the revocation of the nonimmigrant visa making future travel on that visa impossible and complicating any future visa applications.

Section 221(i) of the Immigration and Nationality Act gives the Department of State (DOS) discretionary authority to revoke a visa at any time. DOS may revoke a visa upon receipt of derogatory information (such as an arrest) without a conviction and can even revoke the nonimmigrant visa of an individual who is physically present in the United States. The arrest can also impact or delay the visa processing of dependent family members.

According to the DOS' Foreign Affairs Manual (FAM), a consular officer is required to "prudentially revoke" a nonimmigrant visa for any DUI/DWI arrests following issuance of a visa. Driving under the influence/driving while impaired may indicate the person is ineligible for the visa due to a possible physical or mental disorder

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with associated harmful behavior which is a ground of inadmissibility under section 212(a)(1)(A)(iii) of the Immigration and Nationality Act (INA). This does not apply to other alcohol-related arrests such as public intoxication that do not involve the operation of a vehicle.

Unlike other visa revocations, which require screening and review by the Visa Office of Screening, Analysis, and Coordination (CA/VO/SAC) at DOS headquarters, a visa revocation for a DUI/DWI can be done by a consular officer at the consulate.

How are the individuals made aware of the revocation? The consulate is supposed to provide notice of the revocation "if practicable" and receipt of notice is not a precondition for the revocation to become effective. Consulates normally will send a revocation notice to the email address provided on Form DS-160 nonimmigrant visa application, making it extremely important to provide a functioning email address that is regularly checked. Occasionally, a consulate may also attempt to provide notice of revocation by telephone.

Note: There have been reports of individuals being placed into removal proceedings solely due to the prudential revocation of a nonimmigrant visa following a DUI/DWI arrest.

A revoked visa is no longer valid for travel. To return to the US after leaving, the individual must reapply for a new visa at the consulate abroad and attempt to overcome the reasons for the revocation. Consular officers are required to refer applicants with one alcohol-related arrest in the last five years (or two or more in the last ten years) to visit a panel physician for a medical examination before a visa can be issued to determine whether medical ineligibility applies. Note that arrests, regardless of whether a conviction occurred, are sufficient to require referral to a panel physician.

NOVEMBER 2024 VISA BULLETIN UPDATE

For the start of FY2025 (October 1, 2024 to September 30, 2025), DOS recently issued the November 2024 Visa Bulletin. During November, the following foreign nationals approved in an *employment-based* immigrant classification become eligible to apply for permanent resident status through adjustment of status ("AOS").

Please note that there was no movement in priority dates from October 2024.

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researchers/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researchers/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **January 1, 2023**, no change from October 2024.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researchers/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **April 15, 2022**, no change from October 2024.

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Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **August 1, 2023**, no change from October 2024.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **October 1, 2020**, no change from October 2024.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **January 1, 2013**, no change from October 2024.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **March 1, 2023**, no change from October 2024 .
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **November 15, 2020**, no change from October 2024.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **June 8, 2013**, no change from October 2024.

Noncitizens approved for an *employment-based* immigrant classification who either have their AOS application pending or who will complete the Immigrant Visa processing at a U.S. Consular Post become eligible to have their AOS application approved or their interview scheduled in November 2024.

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researchers/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researchers/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **November 8, 2022**, no change from October 2024.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researchers/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **February 1, 2022**, no change from October 2024.

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Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **March 15, 2023**, no change from October 2024.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **March 22, 2020**, no change from October 2024.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **July 15, 2012**, no change from October 2024.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **November 15, 2022**, no change from October 2024.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **April 1, 2020**, no change from October 2024.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **November 1, 2012**, no change from October 2024.

DOS, which manages the Visa Bulletin, notes its intention to keep visa issuance within quarterly limits in accordance with the provisions of the INA. Therefore, DOS is taking a cautious approach to priority date advancement so that it does not have to significantly retrogress categories in the future.

MFEM NEWS

Bob White To Present at the NAFSA Bi-Regional Conference

Bob White, Co-Chair of the Masuda Funai Immigration Group, is currently serving as Chair of Region V of NAFSA: Association of International Educators. NAFSA serves the needs of more than 10,000 members and international educators worldwide and is the leading organization committed to international education and exchange, working to advance policies and practices that build global citizens with the knowledge and skills they need to succeed in today's interconnected world.

NAFSA Regions IV (Iowa, Minnesota, Missouri, North Dakota, South Dakota) and V (Illinois, Michigan, Wisconsin) will be hosting their Bi-Regional Conference from October 29, 2024 to November 1, 2024 at the Schaumburg Convention Center in Schaumburg, Illinois.

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During the Conference, Bob will be a panelist for several sessions, including Government Sessions discussing SAVE, Social Security Numbers and Driver's Licenses; DHS Center for Countering Human Trafficking – Human Trafficking Awareness; updates from Customs and Border Protection (CBP); and speaking on Criminal Immigration Consequences.

Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.

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