



March 12, 2025

Travel Advisory for Visa Holders Seeking to Travel and Return to the United States

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As the Trump administration continues to implement changes to immigration policies affecting adjudications within the U.S. and at consular posts abroad, the following recommendations are provided to Human Resources professionals and employees/travelers to consider before making travel plans.

Travel out of the U.S.: At this time, employers are advised to caution their employees who are not U.S. citizens or lawful permanent residents against traveling abroad. Given multiple uncertainties in the immediate future, it is best to avoid unnecessary international travel. Employees should only travel in cases of emergency or other urgent and compelling circumstances.

1. **Extreme Vetting at Consulates:** The Trump administration has reintroduced "Extreme Vetting" policies from 2016-2020. This means that USCIS and the Consulates are NOT required to abide by/agree with decisions made on petitions by other officers. If USCIS has approved an H-1B, the consular officer has the right to refuse the visa and send the petition back to USCIS for re-adjudication. In a situation like this, any employees outside the country would be stuck for several months (4-6 months minimum) before they can return to the U.S.
 - a. **Removal of Dropbox Rule and wait times for an interview:** The U.S. consulates have revoked the "dropbox rule" for issuing visas. Under the new rules, dropbox now ONLY applies and is available only for applicants renewing a visa in the same nonimmigrant category that expired within the past 12 months. i.e.
 - i. If you have an F-1 visa and now need an H-1B: You MUST wait for a visa interview slot;
 - ii. If you have an H-1B visa and need an extension, but your earlier visa was issued more than 12 months ago, you also MUST wait for a visa interview slot.
 - b. **Possible Travel Bans expected to be announced:** The other biggest reason to avoid travel outside the U.S. at this time is that there are reports in the press about a new Travel Ban classification that is due to be unveiled sometime soon.

Some countries may be "blacklisted" from ALL visa types so if employees leave and are abroad when this is announced, they may very well be stuck there for several months.

- c. **Expect policy-changing executive orders to affect international travel.** Other visa/travel hurdles may be put in place via executive order, making it more challenging or creating more steps for those needing visas. For example, some visa stamping applicants are currently able to mail-in or drop off



their visa stamping applications to U.S. embassies and consulates and avoid a consular interview. This policy could change in the future.

2. **“Remote work” from outside the U.S.:** Employers should update their policies regarding employees working internationally. Employees on visas may travel internationally fully intentioned on returning by a specific date, but due to unexpected circumstances, such as a new policy affecting international travel, may be unable to return on that date.

Employers should have a consistent policy in place for employees asking to work abroad which considers situations where the employee is unable to return due to circumstances beyond their control.

Recommendations for employees on employer-sponsored visas:

- Employees should still notify the appropriate Human Resources representative or immigration contact at their employer well in advance of international travel to ensure they have the appropriate documents.
 - Employers should check with immigration counsel to ensure there are no additional steps that need to be taken in advance of travel.
- Employees needing a new visa stamp in their passport should schedule their consular visa appointments no later than four months in advance of planned travel, preferably six to eight months in advance, if possible.
 - Employees should be prepared for the unavailability of mail-in or drop box visa stamping.
 - Employees should have a back-up travel plan in place should their passports not be returned within two weeks’ time (e.g., their visa stamping application is placed in administrative processing with an unknown date of resolution).
- Employees and employers should not rely on the 15-business day premium processing timeline.
 - Requests for additional evidence on H-1B petitions may increase, meaning the timeline for approval may be extended for both new hires and extensions for existing employees.
 - Premium processing is sometimes paused by USCIS at its discretion.

As always, please do not hesitate to contact me or any member of the Buchalter Immigration/Global Mobility Team for assistance and insights to help employers navigate the evolving immigration landscape.



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