

The Honorable Rena Bitter
Assistant Secretary
Bureau of Consular Affairs
Department of State

The Honorable Ur Jaddou
Director
U.S. Citizenship & Immigration Services
Department of Homeland Security

March 4, 2024

Re: Current Issues and Recommendations for the Visa Bulletin Retrogression – EB-4 Preference Visa Category, Religious Workers

Dear Assistant Secretary Bitter and Director Jaddou:

The undersigned 195 religious organizations and advocates for religious workers write to express our concerns about the effects of recent changes that negatively impact religious workers, who are essential to America's wellbeing and the religious organizations they serve. We recognize that elimination of the EB-4 immigrant visa backlog requires significant Congressional action; however, we also know that there are changes that can be made to regulations and practices that could reduce the damage caused by this change. While a future proposed rule has been listed in the most recent regulatory agenda that may make some improvement in this situation, the public rulemaking process is not estimated to begin until October 2024,¹ so any improvement would likely not occur until 2025. Many religious workers and religious institutions would continue to struggle for far too long during this timeline. We appreciate your careful consideration of our concerns and suggestions in an effort to minimize the current challenges religious workers face.

I. Religious workers are essential workers

Foreign-born religious workers provide crucial services and spiritual support to our communities throughout the United States. These workers come to the United States to work in underserved communities and provide essential services to faith-based organizations and communities at large. Besides performing duties reserved to members of the clergy, these services also include: providing support to the most needy; caring for and ministering to the sick, aged, and dying in hospitals and special facilities; assisting religious leaders as they lead their congregations and communities in worship; counseling those who have suffered trauma or hardship; supporting families in crisis, helping refugees and immigrants in the United States adjust to a new way of life and so much more. Despite their contributions, many foreign-born religious workers, who we wish to continue working with us permanently, are forced to stop work. Recently, the changes involving the visa bulletin retrogression are forcing religious workers to depart the United States before a visa becomes available to obtain a green card. If religious workers are forced to depart the United States, because of these policies, religious organizations will lose their support, resulting in the loss of services for the neediest and reduced religious activities due to understaffed places of worship.

¹ See Modernizing Regulations Governing Nonimmigrant Workers, RIN 1615-AC88, OFF. OF INFO. & REG. AFF., <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202310&RIN=1615-AC88>.

II. Changes to the visa bulletin significantly affect religious workers

The changes to the visa bulletin in March 2023, have significantly impacted religious workers. We were given essentially no time to prepare for the impact this would have on our foreign-born religious workers and our organizations. The community and our organizations rely on the services that they provide. In previous years when religious workers applied to adjust their status to obtain a green card, the wait time was about one to two years. Today, a minimum wait time of more than five years will become the new normal for religious workers. The heavy consequence of this change is that religious workers who seek to adjust their status will now have to make a choice to depart the United States for a minimum of one year or hastily find another lawful path to remain until their wait time becomes current. But for most religious workers, any alternate paths to remain in the United States are either unavailable or would require the applicant to leave their employer, and thereby leave their religious community with insufficient support. The retrogression leaves thousands of religious workers on the path to adjust their status in a troubling predicament. Religious organizations will be left short-staffed, possibly for an extended period, and the people they serve will suffer the consequences.

III. Administrative recommendations to help minimize the consequences of the visa retrogression

We urge the Department of State (DOS) and the U.S. Citizenship and Immigration Services (USCIS) to reconsider the recent changes to the visa bulletin to minimize the harm done to religious workers and their communities. To ensure that our communities' and social needs are met, the Agencies must act to reduce the harm and disruption caused by this policy change. We make the following recommendations:

One of the most significant changes the Agencies can make in a shorter time frame is to shorten the length of time that religious workers are required to remain outside the United States once their time in religious worker status expires. The prospective regulation listed in the regulatory agenda may implement such a change; but as mentioned above, it is not scheduled to begin the public commenting process until October 2024 and, if successful, would not take effect until 2025. We recommend that USCIS and DOS issue an interim final rule which could be implemented much faster to shorten the one-year physical presence requirement outside the United States before re-entry in a new five-year period, to no more than thirty days. This reduction in the requirement for physical presence outside the United States would help to ensure that our organizations are not short-staffed for a length of time that will cause harm to our congregations and communities.

We also recommend that the DOS provide training to their officers to ensure that religious workers are not unfairly delayed or denied upon requesting a new visa for religious worker status. Under current regulations, religious workers may demonstrate what the Agencies recognize as "dual intent."² Such intent allows religious workers to enter the United States on a nonimmigrant R-1 visa to work on a temporary basis under that status and simultaneously express intent to stay permanently in the United States. In the past, some religious workers have reported experiencing delays being readmitted in R-1 status while their petition to obtain an immigrant visa is pending. Due to the new delays in the immigrant visa process, more religious workers will appear for nonimmigrant visa interviews where dual intent could be a factor. Without proper preparation and training of officers for this change, they may face delays, additional questions, and potentially wrongfully denied R-1 visas. Legal practitioners want to know that their client's request for a new five-year period in R-1 status is not going to be delayed or denied simply because they have a pending immigrant petition.

² 9 DEP'T ST., FOREIGN AFF. MANUAL §402.16, *available at* <https://fam.state.gov/fam/09FAM/09FAM040216.html>.

Lastly, we recommend that USCIS and DOS reimplement the visa bulletin retrogression with the consideration that religious workers and the organizations relied on the previous policy for many years. The sudden impact left both parties with insufficient time to prepare for their future plans and was overly burdensome to religious workers and others in the EB-4 visa category. Implementing the policy with a phased approach would allow for sufficient planning for the religious workers and the organizations that employ them. We also want to acknowledge and thank DHS for their recent announcement that they will extend the validity of employment authorization documents issued to religious workers with pending applications for permanent residence from two years to five years.³

IV. Conclusion

DOS's announcement did not provide adequate time for religious workers or their employers to make sure that the needs of religious communities can be met. We urge you to consider the solutions listed above that are available to USCIS and to DOS without congressional action.

Sincerely,

National/International

Ananda Marga Yoga Society
Arabic Baptist Church - Washington DC
Association of Organizations for Christian Science Nursing (AOCSN)
Campus Evangelistic Fellowship
Carmelite Monastery in Monastery California
Catholic Legal Immigration Network, Inc.
Center for Migration Studies of New York
Conference of Major Superiors of Men
Congregation of the Mission
Congregation of the Mother of the Redeemer
Congregation of Sisters of St. Agnes
Continuing Evangelical Episcopal Communion
Crosier Fathers and Brothers
Daughters of Wisdom
Dominican Nuns of the Perpetual Rosary
Franciscan Missionary Sisters of Assisi
Friars Minor of the Order of St. Francis
Glenmary Home Missioners
Haitian Connection
Jesuit Conference of Canada and the United States
Leadership Conference of Women Religious
Leadership Team of the Felician Sisters of North America

³ Fact Sheet: The Biden-Harris Administration Takes New Actions to Increase Border Enforcement and Accelerate Processing for Work Authorizations, While Continuing to Call on Congress to Act, DEPARTMENT OF HOMELAND SECURITY, <https://www.dhs.gov/news/2023/09/20/fact-sheet-biden-harris-administration-takes-new-actions-increase-border> (Sept. 20, 2023).

L3 International
Madonna House Apostolate
Maryknoll Office for Global Concerns
Medical Mission Sisters, Unit North America
Metropolitan District of the CMA
Missionaries of St. Charles - Scalabrinians
Missionaries of the Precious Blood
Missionary Gospel Fellowship
Oblate Sisters of Providence
Order of St. Paul First Hermit American Province
Pacific Justice Institute
Passionist Solidarity Network
Province Leadership Team of the Edmund Rice Christian Brothers North America
Schoenstatt Fathers
Schoenstatt Sisters of Mary
Sisters of Charity of Nazareth Congregational Leadership
Sisters of Charity of Seton Hill
Sisters of St. Joseph of Carondelet
Sisters of the Most Precious Blood Leadership Team
Sisters of the Precious Blood, Dayton, OH
Society of St. Teresa of Jesus
Sovereign Grace Churches
Strait Paths Foundation
The First Church of Christ, Scientist
Victorious Living Ministry International
Xaverian Brothers, Baltimore, MD

State/Local

Archdiocese of Chicago
Archdiocese of Denver
Archdiocese of Oklahoma City
Archdiocese of Portland in Oregon
Bethel Baptist Church, Greenfield, IN
Bismarck Diocese
Calvary Bible Church, Texas
Calvary Chin Baptist Church
Calvary Church
Camp Sonshine International
Catholic Diocese of Sacramento
Christ Chapel Church – Woodbridge, VA
Christ Episcopal Church, Covington, LA
Christ Is The Answer Ministries Inc.
Christ's Covenant Church, Indiana
Church Communities International
Church Women United in New York State
Conklin Immigration Law, LLC
Congregation of the Mother of the Redeemer
Cornerstone Fellowship
Diocese of Biloxi, MS

Diocese of Colorado Springs
Diocese of Fairbanks
Diocese of Fargo
Diocese of Gallup
Diocese of San Jose
Felician Sisters of North America
First Chinese Presbyterian Church
Franciscan Justice Circle-Mid Hudson Valley, NY
Harvest Fellowship Church - Sauk Rapids, MN
Holy Virgin Mary & St Macarius Orthodox Sisterhood
Hope International Baptist Church
Iglesia Misionera Bethesda
Island Breeze Ministries Missouri
JB Foundation
Jemaat Kristen Indonesia Synod
Jesus the Light of the World Arabic Church
Kindred Community Church
La Casa de Nuestra Senora/ Madonna House
Law Office of John C Visher
Leading The Way/ Kingdom Sat
Maryknoll Fathers and Brothers
Mountain View Mennonite Church
New Creation Chinese Church
Northwest Chinese Baptist Church
Our Lady of the Holy Spirit Catholic Church, Mount Zion, IL
Pax Christi Pittsburgh Area
Peace and Justice Committee St. Catharine's RC Church
River of Life Community Church
Roman Catholic Archdiocese of Boston
Saint John's Abbey
School Sisters of Notre Dame – Minnesota
Sisters of Perpetual Adoration of the Blessed Sacrament
Sisters of St. Joseph of Carondelet Albany
Sisters of St. Joseph of Chambery/West Hartford
Sisters of the Presentation
Sisters of the Presentation of Mary
The Navigators
The Society for the Greater Community Way of Knowledge
The Theatine Fathers
Transfiguration Hermitage
Tri-City Chinese Baptist Church
Youth With A Mission Boston
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Youth With A Mission-Las Vegas

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