

Hogan and Vandenberg LLC

Immigration News

Time for H-1B Applicants and Students to Think Ahead

By W. John Yahya Vandenberg, Esq.

It's March, and that means two things in Immigration Law: it's time to prepare the H-1B applications, and time for graduating F-1 Students to prepare for jobs. Both issues are related, and require more planning this year than in previous years. The U.S. Citizenship & Immigration Service ("USCIS") is less forgiving than in the past.



First, for H-1B's, employers and applicants should know that it's not "business as usual." In previous years, obtaining a Labor Condition Application ("LCA") was easy: submit the information and you automatically received a certified LCA to print and sign. With the advent of iCert, however, LCA's are neither quick nor sure. If the Department of Labor doesn't pre-verify the Petitioner's Federal Employer Identification Number ("FEIN"), they could deny the LCA – a process taking up to two weeks. But even a pre-verification doesn't guarantee an approval.

To make matters more complicated, USCIS is taking a very hard look at the third-party employer-employee relationships. A new USCIS Memorandum will make it very difficult for thousands of persons to obtain H-1B visas or extend H-1B visas they already have, especially consultants. It may even affect persons who already have H-1B's. While the American Immigration Lawyer Association will likely challenge the legality of this memorandum, for the time being it is in effect, and USCIS will grant or

deny H-1B visas based on its guidance.

For students, it is time to consider where they will be employed during their Optional Practical Training ("OPT"), and how their work will allow them to remain in the United States, if they so wish. Students earning 4 year or graduate degrees are generally entitled to one year of OPT to gain experience in their profession, provided they apply before graduation. Students who study Science, Technology, Engineering, or Mathematics ("STEM") are eligible for up to 17 additional months in most circumstances. Students should ensure that their OPT time is spent productively and leads to H-1B or greencard sponsorship. You don't want to end up like the brilliant biosciences PhD who spent his entire year of OPT working for an employer who later refused to give him a job, leaving him or her with few options to remain. Remember also that students who are not employed for over 60 days can lose their OPT. And whenever someone in OPT travels, they should always carry a letter from their employer confirming their employment.

In sum, it's more important than ever to plan your immigration matters and utilize our skills of as experienced attorneys. I hope you enjoy our below articles about U.S. citizenship, dealing with police when driving, and TPS for Haiti. If you or a friend require our assistance, contact us to schedule a consultation in any of our three offices. We are pleased to serve, and want to help you to achieve your goals.

Dedicated to serving the immigrant community

Hogan & Vandenberg LLC is a medium-sized immigration firm with three locations, one serving Philadelphia in Bala Cynwyd, PA, one in Wilmington, DE and a new office in Allentown, PA. The firm consists of four attorneys and a team of paralegals and is led by two partners, John Yahya Vandenberg (Philadelphia & Allentown) and Rick Hogan (Wilmington). Our legal team has helped thousands of individuals, institutions and businesses strategize, address and resolve issues regarding immigration as well as other areas of law, including commercial, criminal, discrimination, and landlord-tenant. The consultation fees are reasonable and will be credited to the client if the firm is hired. The firm's diverse and highly qualified legal team is dedicated to serving our clients and earning their trust.

We speak: Spanish, Urdu, Arabic, Farsi, Creole, French, Bosnian/Serbian/Croatian

Temporary Protected Status for the Haitian Community

All Haitian nationals who have resided in the United States since the date of the tragic earthquake, January 12, 2010, are now eligible for Temporary Protected Status ("TPS").

- ◆ TPS allows for eligible Haitian nationals in the United States to continue living and working in this country for the next 18 months;
- ◆ Haitians in the U.S. will now receive favorable consideration for extensions of stay, student work cards, and expedited petitions for parents, spouses and children still in Haiti.
- ◆ The registration process will last for 180 days and will run from January 21, 2010 until July 7, 2010.

If you or anyone you know may be eligible for TPS, please contact our office to begin the application process as soon as possible.

To make a humanitarian donation to Haiti, please visit :

doctorswithoutborders.org/donate

Lynda Jean-Gilles, our Haitian paralegal, speaks fluent French and Creole



Tous les Haitiens vivant aux Etats-Unis avant ou au 12 Janvier 2010 et qui n'ont pas commis un crime grave sont qualifiés pour bénéficier du programme TPS/Statut de Protection Temporaire. Le cabinet Hogan & Vandenberg, LLC peut vous aider à s'inscrire pour rester légalement dans le territoire des Etats-Unis et pour avoir la permission d'obtenir d'emploi pour la durée spécifique de votre statut de protection temporaire. Pour toutes vos consultations composez le 610-664-6271. Nous parlons aussi le créole.

Take Advantage of Our Nation's Inclusive Citizenship Laws



By Umar Abdur-Rahman, Esq.

Up to a million people every year become citizens of our country. The benefit that results from being a U.S. Citizen is huge. It behooves one to see if

he or she is eligible for citizenship and begin the naturalization process as soon as possible.

Anyone who knows me well knows that I adore the Middle East. Yet, in Saudi Arabia in 2007 for the annual hajj I couldn't help but notice that much of the work for pilgrims was done by South Asian and African teens. I discovered that they spoke the Saudi dialect of Arabic, considered themselves Saudi, and were born in Saudi Arabia. Yet, the chances of these youth

ever becoming Saudi citizens are slim. Unless your parents are Saudi, only in rare cases does Saudi Arabia grant citizenship.

In America, though, once an individual obtains U.S. Lawful Permanent Residence, our naturalization laws are quite liberal. As long as one has resided continuously as a green card holder for five years (or three years if one is married to a U.S. Citizen), half of the time physically being spent in the U.S., an individual who has good moral character and can pass an English and History exam is generally eligible for naturalization.

There are a few important points to remember. First, yes, you need an attorney. Second, there is a requirement that one show Good Moral Character. A potential applicant should consult us any time he or she has had any type of encounter with law enforcement. There are times when it is wise to avoid applying for naturalization because of the potential consequences, such as deportation.

The third area of concern is lengthy travel outside the U.S. Travel more than 180 days but less than a year can result in a denial. However, this can be overcome by demonstrating exigent circumstances and maintenance of U.S. residence. Travel longer than one full year disqualifies one from using that time period for naturalization. It can also pose a serious threat to keeping the green-card.

Finally, prepare for the English and History exam. Some people are exempt from the language requirement, such as people of advanced age or individuals with a learning disability. If your English is weak, start taking classes. If you have a disability, we can help you waive it in many cases.

While the U.S. system isn't perfect, once you are naturalized, you are as American as someone born in America. You can vote, travel, and petition for your parents, spouse, children and even brothers and sisters. If you're eligible, now is the time!

The Traffic Stop: Protecting Your Rights

By Antonio J. Gil, Esq.

Being pulled over or questioned by the police is one of the more stressful situations we deal with. Below are a few tips that can help you get through this scenario while protecting your rights and helping us to help you.



First, when you are stopped by the police, you should comply with their instructions on where to pull over. Do not get out unless instructed. The initial step is a high-pressure period, so do not make this situation more tense.

Second, once you're pulled over, listen to what the police officers ask you to do. This is the stage where you must be vigilant to protect your rights. Present them with your name and identification, insurance and registration. If asked for more, pay attention to

what the police say and always be polite.

If the police ask you why they pulled you over, you are not required to give a response. The easiest thing is to say "no." If they ask to search your vehicle, you should tell them that they do not have your permission. If they ask why, you need not give more reason than that.

If you are under investigation for Driving Under the Influence ("DUI"), the officer may ask if you've been drinking. You are not required to answer. If the officer believes you're intoxicated, they may ask you to take a field sobriety test on the side of the road. You should politely decline these tests.

If the officer believes you're intoxicated, they will take you into custody for a breath or blood test. If you do not consent to take these tests once in custody, you will lose your license for at least one year, and will be

charged with the highest level of DUI. The police must get your consent before administering the tests, and your refusal to answer will be treated as a choice to not take the tests.

On the other hand, if you allow a breathe or blood sample, you will generally be released with a citation if this is your first offense. Once released, you should contact us immediately. You will receive court documents that will tell you the details of your preliminary hearing.

Following all these tips will not necessarily prevent you from receiving a ticket or being charged with DUI, but it will prevent you from giving the police additional evidence to use against you. Being compliant initially, and being polite but firm later, will help you protect your rights and keep you and your passengers safe by not escalating a police encounter.

To learn more, visit www.dmv.state.pa.us/legislation/dui.html.

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