



GMS Flash Alert

Immigration Edition

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United States – Nonimmigrant Visa Interview Waiver Expanded, Extended Through 2022

On December 23, 2021, the U.S. Secretary of State, Antony Blinken, in consultation with the Department of Homeland Security, announced that consular officers will be authorized to waive the in-person interview requirement for specific individual, nonimmigrant visa applicants whose petitions have been approved by the U.S. Citizenship and Immigration Services (USCIS) through December 31, 2022.¹

The waiver applies to foreign nationals applying for H-1, H-3, H-4, L, O, P, and Q visas on the basis of an individual petition-based application, so long as they meet specific criteria and have no apparent or potential ineligibility.² In addition, the existing policy permitting interview waivers for select F, M, and academic J nonimmigrants has been amended and extended through December 31, 2022. Lastly, authorization to waive the visa interview for applicants renewing a visa in the same category that expired within the last 48 months has been extended indefinitely.

WHY THIS MATTERS

As the existing nonimmigrant interview waiver program was set to expire on December 31, 2021, this expansion and extension is welcomed by foreign nationals applying for the listed visa categories. The U.S. government, recognizing the significant impacts of reduced consular resourcing on visa processing, is attempting to address backlogs caused by its limited capacity to adjudicate visa applications as a result of the coronavirus pandemic.

However, enforcement of the interview waiver policy is discretionary for U.S. consulates and embassies and so the program will likely function on a piecemeal basis. Applicants will need to keep abreast of the services being offered and the requirements for an interview waiver, should it be available, at their country's specific U.S. consulate or embassy via the website.

Interview Waiver Qualifiers and Requirements

First, the interview waiver extension is available to two broad categories of nonimmigrants applying for H-1 (individuals in specialty occupations), H-3 (trainees or special education visitors), H-4 (dependents of the prior categories), L (intracompany transferees), O (individuals with extraordinary ability or achievement), P (athletes, artists, and entertainers), and Q (participants in international cultural exchange programs) visas that meet certain criteria:³

1. **Applicants Previously Issued Any Type of Visa.** These nonimmigrant applicants may have their visa interview waived if they:
 - apply in their country of nationality or residence;
 - have never been refused a visa, *unless* the refusal was overcome or waived; and
 - have no apparent or potential ineligibility to obtaining a visa.
2. **First-Time Applicants.** These nonimmigrant applicants may have their visa interview waived if they:
 - apply in their country of nationality or residence;
 - are citizens or nationals of a country that participates in the Visa Waiver Program (VWP);
 - have previously traveled to the United States under the VWP using the Electronic System for Travel Authorization (ESTA); and
 - have no apparent or potential ineligibility to obtaining a visa.

Second, the ability for consular officers to waive interviews for temporary agricultural and non-agricultural workers (H-2 visas), students (F and M visas), and exchange students (academic J visas) will also remain in place through December 31, 2022. The policy already in place for these particular visa applicants has been amended to require that they have previously travelled to the United States using ESTA in order to qualify for the interview waiver. Moreover, these individuals must apply for a visa in their country of residence or nationality. Thus, individuals visiting a country (in which they do not maintain nationality or residence) and applying for a U.S. visa in that country, will not be eligible for a visa interview waivers.

Thirdly, applicants who are renewing *any* visa type that has expired within the prior 48 months will continue to be eligible for interview waiver. Consular authority to carry out this policy has been extended indefinitely.

Subject to Consular Discretion and Availability

As implemented in the past, the visa interview waiver policy will be subject to the discretion of the consular officers at the specific consulate or embassy in which the foreign national applies for the visa and requests the waiver. In addition, there may be case-specific factors that require a consular officer to carry out an in-person interview after review of the visa application.

KPMG NOTE

It is recommended that applicants consult the website of the consular location in which they will be applying for their visa to inform themselves of the guidelines for applying without an interview and for their general inquiries on the

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KPMG NOTE (cont'd)

location's operations and services. Applicants are also reminded that they should remain in the country in which they applied for their U.S. visa while the adjudication process is being carried out.

KPMG Law LLP in Canada is tracking this matter closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTES:

- 1 See U.S. Department of State, "[Important Announcement on Waivers of the Interview Requirement for Certain Nonimmigrant Visas](#)" (December 23, 2021).
- 2 See U.S. Department of State, "[Expanded Interview Waivers for Certain Nonimmigrant Visa Applicants](#)" (December 23, 2021).
- 3 See National Law Review, "[US DOS Extends and Expands Visa Interview Waiver Eligibility; President Rescinds Latest Covid Travel Ban \(US\)](#)" (December 30, 2021). *Please note that by clicking on this link, are leaving the KPMG website for an external site, that KPMG is not affiliated with nor is KPMG endorsing its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

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