

With US Easing Travel Restrictions, Foreign National Visa Holders Ask: Can I Go Home?

Labor & Employment Law Update

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As soon as the Biden administration announced it would ease travel restrictions in early November, my phone began ringing non-stop and email notifications started pinging like popcorn. If you work in Human Resources, you may know what I mean because it is likely your phone and email were ringing first.

HR clients were sending the messages on behalf of their foreign national workers and students who were asking if they could travel. Questions like “Can I go home for Christmas?” and “Is it safe to travel home in late November?”

Unfortunately, while the easing of restrictions is welcome, it is not a universal green light for foreign national travel.

How US Travel Restrictions Are Easing

The Biden administration announced that beginning in early November, they would lift the travel bans on international travelers from 33 countries: the Schengen area which includes 26 European countries, as well as China, Iran, India, Brazil, the U.K., Ireland, and South Africa. The bans have been in place since March 2020.

Instead, international travelers will be required to show proof they are fully vaccinated against COVID-19 and they tested negative for the virus within three days of boarding their flight to the US. The Center for Disease Control (CDC) will issue guidelines on which vaccines will be accepted.

This is welcome news. The change replaces country bans with travel consideration on an individual basis, with guidelines designed to deter the spread of COVID-19.

Questions That Remain Unanswered

While the country bans have been in effect, individuals traveling to the US have needed to demonstrate a national interest exemption. Some qualifying exemptions have included researchers for the COVID-19 vaccine, medical workers, essential services, supply services, and spouses of U.S. citizens. The administration has not said whether visa holders will still need to show a national interest exemption.

Many embassies and consulates closed during the pandemic. Some, like the embassy in Norway, have limited visa appointments for residents of Norway with emergency humanitarian cases and national interest exemptions. Collectively, US embassies and consulates have a backlog of at least half a million nonimmigrant visa petitions.

The Department of State, which runs US embassies and consulates, has not said when all of them will reopen nor have they addressed how they will process the backlog.

What We Can Say Now

The ban-lifting announcement signals that casual travel – like trips for holiday gatherings and vacations, for example – will return for vaccinated international travelers. The silence on reopening embassies and consulates and processing the visa-petition backlog indicates that visa appointments may be hard to get. Everyone who has applied for a visa while embassies and consulates were closed has a place in line before the casual traveler. In addition to the backlog, the Department of State said worldwide resources have been prioritized to help Afghani refugees relocate.

If you are a foreign national looking to travel in November and December – or even further out – you should not expect a quick response or visa appointment. You may not get an appointment within your desired timeframe.

Being apart from family and friends for so long takes a toll. I can understand the rush to visit home. But it is not worth risking being stuck outside the US, unable to return when you need to. If you can't secure an appointment and get the travel approved, don't go.

Given the administration's early November timeline, I expect they will issue more information soon.

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