



# Rona M. Lum, P.C.

## Attorneys at Law

Immigration Law Updates

February 17, 2010

### H-1B Admissions at Newark, NJ Airport Subject to Heightened Level of Security

The American Immigration Lawyers Association (AILA) has been informed of a new policy instituted at the Newark, New Jersey airport, involving random checks for returning H-1B, L-1, and other employment-based visa holders. Custom and Border Protection (CBP) Officers will conduct an initial check. Based upon the initial check, those with questionable admissibility will be sent to secondary inspection for further interview. In some cases, if the CBP Officer discovers discrepancies in previously filed petitions, the applicant may be asked to withdraw his/her application for admission into the U.S. or be subject to expedited removal.

The CBP inspectors at the Newark, New Jersey airport are apparently assisting in an investigation involving certain H-1B visa holders from India and certain H-1B petitioning companies. The inspectors' questions focused on who the individuals worked for, how their pay was computed, who paid their salary, their job duties, and what they were paid. In some cases, the individuals were subjected to expedited removal and visa cancellation.

To avoid any confusion, please be aware that all persons seeking entry into the U.S. on any type of visa is subject to appropriate inspection by CBP Officers at ports of entry.

For more information on this topic, please contact our law firm.

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### DOS Plans Worldwide Deployment of Form DS-160 by April 30, 2010

In its ongoing goal to modernize the visa application process, the Department of State will deploy the DS-160, a fully web-based nonimmigrant visa application form worldwide. The target date for worldwide implementation is April 30, 2010.

The State Department reports that the new DS-160 has been used with great success at 24 Consulates to date, and will be expanded in phases with the goal of complete global usage for all non-immigrant visa applications, with the exception of *fiancée (K) visas*, by April 30, 2010.

The web-based DS-160 application form combines all information previously collected on the DS-156, 157, and 158 for appropriate applicants, and the DS-3052. Applicants for "E" class treaty trader non-immigrant visas will have to complete the DS-160 and have to fill out a hard copy DS-156E until the DS-160E electronic form is released in the near future. Until further notice, *K visa applicants should continue to use the DS-156 and DS-156K instead of the DS-160.*

For more information on this topic, please contact our law firm.

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### H-1B Visa Update for Upcoming Fiscal Year 2011

The USCIS will begin accepting H-1B petitions for cap-subject petitions for Fiscal Year 2011 (start date of October 1, 2010) as of Thursday, April 1, 2010.

There have been no legislative changes in the H-1B visa program from the prior fiscal year. Congress has established an annual H-1B cap of 65,000. Of that number, 6,800 are set aside for the H-1B1 program under the terms of the U.S.-Chile and U.S.-Singapore Free Trade Agreements. The total H-1B cap number available for FY2011 is therefore 58,200 (65,000 minus 6,800). The law provides that any of the unused Chile/Singapore numbers from a fiscal year be reallocated for use in the subsequent fiscal year.

Persons who have been awarded a Master's or higher degree from a U.S. university or college will not be counted as part of the cap until 20,000 visas are reached and will be counted towards the cap thereafter.

For more information on this topic, please contact our law firm.

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The information contained in this e-newsletter is intended as information only, and is not to be construed as legal advice.



Rona M. Lum

**Rona M. Lum, P.C.**  
Attorneys at Law  
691 N. Squirrel Rd, Suite 185  
Auburn Hills, MI 48326  
248.340.1854

[rlum@corpimmigration.us](mailto:rlum@corpimmigration.us)  
[www.corpimmigration.us](http://www.corpimmigration.us)

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