



2022 AILA H-1B CONFERENCE & WEBCAST: RIDING THE ECONOMIC WAVE

The H-1B visa has long been an essential tool for business-immigration practitioners, and it remains so to this day. In recognition of this, for the first time in many years, AILA is hosting a conference dedicated exclusively to H-1Bs. Join us at the beautiful Broadmoor Resort in Colorado Springs, where nationally recognized panelists will discuss the latest H-1B hot topics and provide expert guidance on the complex issues facing practitioners in 2022 and beyond. Topics to be covered include difficult Requests for Evidence (RFEs), addressing post-pandemic work conditions, worksite enforcement, and preparing for a potential economic downturn. The conference begins on the evening of Friday, October 21, and continues with a full day of sessions on Saturday, October 22.

Viewing Options: These sessions can be attended in-person or via webcast from the convenience of your home or office. Either way, the program is live and interactive! All registrants will be given a link to the conference recordings, so any sessions missed (particularly helpful for those in different time zones) can be listened to later.

**October 21-22, 2022
Broadmoor Resort, Colorado Springs, CO**

All Times Indicated Below Are Mountain Time

**Session times may be subject to minor changes and will be confirmed closer to the event.*

FRIDAY, OCTOBER 21, 2022

5:15 pm–6:15 pm

AILA H-1B and PERM Conference Joint Happy Hour

6:15 pm–6:25 pm

Welcome Address

*Matthew D. Stump, AILA H-1B Conference Committee Chair,
Oklahoma City, OK*

(DL) = Discussion Leader

** = invited, not confirmed*

Note: All sessions and events are subject to change without notice.

6:25 pm–7:45 pm

ETHICAL DUAL REPRESENTATION IN EMPLOYMENT-BASED CASES

When representing employers and foreign nationals in employment-based cases, an immigration attorney must consider the ethical implications of their actions and advice, as the interests of the employer and employee are often adverse. Panelists will discuss the ethical challenges involved in representing both employer and employee, and they will advise on possible courses of action when conflicts arise at each phase.

- To tell or not to tell: Confidentiality between the employer, the employee, and the lawyer
- Addressing conflicts of interests when a former employee retains the employer's attorney
- Yikes! I represent both the current H-1B employer and the H-1B transfer employer!
- Ethical considerations when completing H-1B cap registrations
- Employee counseling after the termination

Faculty:

Sarah Kommineni (DL), Melrose, MA

Cyrus D. Mehta, AILA Ethics Committee Vice Chair, New York, NY

Sonal Sharma, New York, NY

SATURDAY, OCTOBER 22, 2022

7:30 am–8:30 am

H-1B VISAS OVERVIEW: WITHIN OUR GRASP, BUT OFTEN OUT OF REACH

On its face, the H-1B visa looks like the obvious choice for many U.S. employers seeking to hire foreign workers. All you need is a job that qualifies as a specialty occupation and a foreign worker with the requisite degree, right? Yet, in practice, this category is fraught with surprises for even the most seasoned practitioners. Panelists will explore the basic contours of the H-1B category to prepare attendees newer to H-1B practice for the intermediate-to-advanced sessions that follow.

- Key H-1B definitions: “Specialty occupation,” etc.
- Labor condition applications
- Basics of degree equivalence
- The H-1B cap
- Work authorization for H-4 spouses

Faculty:

*Petula Natasha McShiras (DL), AILA Colorado Chapter Chair,
Lakewood, CO*

*Aziza Adil Abduragimova, AILA H-1B Conference Committee,
San Francisco, CA*

Olsi Vrapı, Albuquerque, NM

(DL) = Discussion Leader

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9:00 am–10:00 am

H-1B HOT TOPICS

Regardless of the state of the economy, H-1Bs are always a hot topic. When the economy is soaring, H-1Bs are in high demand (480,000+ H-1B lottery registrations alone for FY23!). When the economy is in recession, H-1Bs present challenging issues for employers that are forced to merge or divest and to furlough or lay off employees. Given the large number of H-1B holders inside the United States, USCIS is constantly under pressure to keep the adjudications process running efficiently and properly. Panelists will discuss the latest RFE trends, the status of proposed regulations, and what the agency is doing to address historically long processing times. They also will advise on how attorneys can help to keep the agency in check.

- RFE trends: Maximum period of stay, specialty occupation challenges
- Litigation updates
- Proposed regulations: 50/50 fee, prevailing wage rule, H-1B specialty occupation rule
- H-4 EAD automatic extensions
- Agency delays

Faculty:

*Brian Scott Green (DL), AILA Benefits Litigation Committee Member,
Littleton, CO*

*Matthew D. Stump, AILA H-1B Conference Committee Chair,
Oklahoma City, OK*

*Sharvari (Shev) Dalal-Dheini, AILA Senior Director of Government
Relations, Washington, DC*

10:00 am–10:30 am

NETWORKING BREAK

10:30 am–11:30 am

CONFRONTING NEW CIRCUMSTANCES IN POST-PETITION APPROVAL

Businesses have become proactive in managing their employee populations in a way unprecedented in history. Panelists will examine how this new approach has impacted H-1B visa status. What is a material change? Can H-1B policies and regulations be adapted to, and synchronized with, company policies applicable to the general employee population? These and other issues relating to employee changes will be addressed.

- Promotions, changes in duties, and changes in pay
- Employee resignations and liquidated damages clauses
- Employer layoffs and furloughs
 - Termination
 - Leaves of absence
 - Benching
 - Employee inside vs. outside the United States
 - Effects on employee benefits

(DL) = Discussion Leader

** = invited, not confirmed*

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Faculty:

*Olivia Serene Lee (DL), AILA Board of Governors, AILA H-1B
Conference Committee, San Francisco, CA*

Cyrus D. Mehta, AILA Ethics Committee Vice Chair, New York, NY

*Catherine Olson Brown, CBP Liaison Committee Member,
Lafayette, CO*

11:30 am–12:10 pm

LUNCH BREAK

12:10 pm–1:10 pm

WORK LIFE POST-COVID: CONSIDERATIONS IN THE NEW WORLD OF REMOTE WORK

The COVID-19 worldwide pandemic created a profound and lasting impact on work life in the United States. Employees now have greater freedom than ever to work remotely, whether fully or as part of a hybrid employment model. Unfortunately, H-1B employees are not always free to take advantage of these newfound freedoms, and immigration attorneys must advise clients more carefully than ever about the potential drawbacks of working remotely. Panelists will discuss the impact of remote work on U.S. employers and their H-1B employees.

- Best practices in the new era of remote employment
 - Planning for possibilities: Include home address on every labor condition application (LCA)? Should beneficiary share intent to move during the next year?
 - Advising HR: Discussing employment worksite changes
- Change of work location within vs. outside Metropolitan Statistical Area (MSA)
 - Discovering location change after it has occurred
 - MSA definition: Moving between counties within larger metro area
- Broad remote work policy and H-1B prevailing wage issues
 - Potential discrimination if H-1B employees are limited or excluded from broad remote work policy
- LCA posting requirements and remote work
 - Physical vs. electronic posting methods
- Company HQ Address Changes
 - Fully remote: No company HQ office

Faculty:

Vincent W. Lau (DL), AILA DOL Liaison Committee Chair, Boston, MA

*Maggie M. Murphy, AILA Board of Governors, AILA PERM
Conference Committee Vice Chair, Austin, TX*

*Gregory Howard Siskind, AILA Board of Governors, AILA Author,
AILA's Immigration Law Practice & Procedure Manual: A
"Cookbook" of Essential Practice Materials, Memphis, TN*

1:10 pm–1:40 pm

NETWORKING BREAK

*(DL) = Discussion Leader
* = invited, not confirmed*

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1:40 pm–2:40 pm

**SURVIVING YOUR CORPORATE CLIENTS' BULL AND BEAR PHASES:
THE IMPACT OF CORPORATE REORGANIZATIONS ON H-1Bs**

With prices on the rise, more businesses are confronting the possibility that record inflation rates will persist well into 2022. Your business clients are likely planning how they will move forward as a business entity and may even consider reorganizing. Panelists will explore the impact on H-1Bs when businesses are considering corporate restructure, merger, acquisition, or divestiture.

- Types of corporate reorganizations
 - Wording on immigration liability in corporate purchase agreements
 - What happens if it is not in purchase agreement? MOU?
- Whether to file a new H-1B petition, considerations when filing H-1B extensions
- DOL Compliance: LCA public access files
- Travel and visa applications/renewals after a corporate reorganization

Faculty:

*Lisa Helen York (DL), AILA H-1B Conference Committee Vice Chair,
Aurora, CO*

Ruth Clark, Houston, TX

*Ceridwen Johanna Koski, Distance Learning Committee Member,
Denver, CO*

2:40 pm–3:00 pm

NETWORKING BREAK

3:00 pm–4:00 pm

WORKSITE ENFORCEMENT IN THE PANDEMIC WORLD

Panelists will delve into worksite enforcement issues in the immigration environment as it has evolved with the COVID-19 pandemic. They will discuss I-9 preparation and the evolution of COVID exceptions, E-Verify strategies, ICE and DOL Wage and Hour investigations, and FDNS site visits.

- Completion, retention, reverification, and acceptable support documents for I-9s
- Incorporating E-Verify into a pandemic-affected compliance strategy
- Navigating ICE audits: Lifecycle, timelines, and key strategies to mediate and mitigate
- Navigating DOL Wage and Hour Investigations: Lifecycle, timelines, and key strategies to mediate and mitigate
- Identifying challenges and proactively addressing remote work or hybrid work environment: Current issues, FDNS site visits

Faculty:

*Kimberley Best Robidoux (DL), AILA Verification & Documentation
Liaison Committee Vice Chair, San Diego, CA*

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Jeff Joseph, AILA Second Vice President, Aurora, CO
Amy L. Peck, AILA Verification & Documentation Liaison Committee
Chair, Omaha, NE

4:00 pm

CONFERENCE CONCLUDES

CONFERENCE PROGRAM COMMITTEE

Matthew D. Stump, AILA H-1B Conference Committee Chair, Oklahoma City, OK

Lisa Helen York, AILA H-1B Conference Committee Vice Chair, Aurora, CO

Aziza Adil Abduragimova, San Francisco, CA

David Garabedian, Toronto, Canada

David Grunblatt, New York, NY

Ellen Freeman, Pittsburgh, PA

Olivia Serene Lee, AILA Board of Governors, San Francisco, CA

Khorzad Adi Mehta, Ellicott City, MD

Farshad Owji, AILA President-Elect, San Francisco, CA

Sarah Kra, e-Learning Associate, Washington, DC

Emmie R. Smith, AILA Director of Professional Development, Washington, DC

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