

Agency Acts to Reduce 'Extraordinary Ability' Visa Fraud (1)

By Laura D. Francis

Posted Sept. 14, 2018, 9:17 AM Updated Sept. 14, 2018, 11:07 AM

- Direct agency receipt prevents fraud by visa applicants
- Visas generally require letter from union or peer group

Labor unions can now communicate directly with the federal immigration agency when they believe an applicant isn't deserving of a temporary visa for individuals with "extraordinary ability."

The move by U.S. Citizenship and Immigration Services is intended to cut down on instances in which the visa applicants falsify a union's recommendation to make it look more favorable than it is, the agency said Sept. 14.

O-1 and O-2 visas go to individuals with extraordinary ability in science, education, business, athletics, or the arts, and individuals with extraordinary achievement in the motion picture or television industry, as well as certain support personnel. The visas generally require that the foreign national obtain a consultation letter from a peer group, labor organization, or management organization within the U.S.

Some labor unions expressed to USCIS Director L. Francis Cissna that the prior process allowed for fraud by O visa applicants. Previously, consultation letters were provided to the visa applicant, who would include it in the package sent to the USCIS.

Now, negative letters from labor unions can be sent directly to UnionConsultationMailbox@uscis.dhs.gov.

The issue of labor unions' involvement in the O visa process has been a point of contention in the past.

The House in 2016 passed a measure that would have required the USCIS to provide labor unions with the results of O visa petitions for which they submit a recommendation. The bill later died in the Senate.

Immigration Attorney 'Cautiously Optimistic'

"I'm cautiously optimistic that it's not going to make a big difference" in the filing of O-1 visa petitions, Rita Sostrin of Sostrin Immigration Lawyers in Woodland Hills, Calif., told Bloomberg Law Sept. 14.

O-1 seekers with negative letters from unions are supposed to include them in their applications but can submit arguments objecting to the union's position, said Sostrin, a member of the American Immigration Lawyers Association's Arts, Culture, Entertainment & Science Committee.

Sostrin said she's only received a negative union letter once, in response to an O-1 petition for an assistant director. In that instance, the union wasn't objecting to the visa candidate's credentials but rather believed that an O-2 visa for support personnel was more appropriate for the position, she said.

The applicant eventually got the visa after Sostrin explained that assistant directors do qualify for O-1 visas under the law, she said.

"My sincere hope" is that unions with negative recommendations send them both to the USCIS and the O visa applicant or his or her attorney, Sostrin said. Otherwise "we'll have no opportunity to object," she said.

(Story updated to include comments from Rita Sostrin.)

To contact the reporter on this story: Laura D. Francis in Washington at lfrancis@bloomberglaw.com

To contact the editor responsible for this story: Terence Hyland at thyland@bloomberglaw.com

Related Articles

[House Passes Bill to Give Unions Notice of O Visa Decisions](#) (June 13, 2016, 3:41 PM)

© 2018 The Bureau of National Affairs, Inc. All Rights Reserved