



April 2023 Change Impacting Special Immigrant Religious Workers

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The U.S. Department of State published the [April 2023 Visa Bulletin](#) on March 22 and a [notice in the Federal Register](#) on March 28, [announcing](#) a sudden change in how visas will be allocated for those utilizing the [employment-based, fourth preference \(EB-4\) category](#), which impacts a number of groups, including foreign-born religious workers. Consequently, the amount of time it will take to qualify for an EB-4 visa has been significantly lengthened for most applicants.

What has changed?

Under U.S. law, applicants for immigrant visas are subject to numerical limitations provided by sections 201–203 of the Immigration and Nationality Act (INA). Essentially, these provisions impose a “per-country” limit of seven percent of the total number of available family-based and employment-based immigrant visas issued each fiscal year. If the Department of State determines that visa issuances to nationals of a particular country will exceed the per-country limit, that country is identified in the Visa Bulletin as “oversubscribed”, and visas must be prorated to ensure distribution across all preference categories. Visa categories can also be “oversubscribed” when worldwide demand exceeds the number of immigrant visas allocated to a particular category.

In May 2016, following extremely high demand for EB-4 visas from El Salvador, Guatemala, and Honduras, the State Department established a separate EB-4 action date for those three countries. At the time, the State Department was interpreting sections 201–203 of the INA to permit this prorated allocation for applications from these countries. However, the State Department has revised its interpretation, such that prorated allocation requires *both* family-sponsored and employment-based visa demand (rather than demand for a single category) from a particular country to exceed the per-country limit.

What is the impact of this change?

EB-4 visas are no longer being prorated for applicants from El Salvador, Guatemala, and Honduras. As a result of combining their demand with the rest of the world, the EB-4 final action date for most applicants has [retrogressed](#), meaning visas for those who fall under that classification were being issued for those who properly filed a [Form I-360, Petition for Amerasian, Widow\(er\), or Special Immigrant](#), by September 1, 2018; before the change, as of the [March 2023 Visa Bulletin](#), this final action date was February 1, 2022. This equates to a retrogression of nearly four years. Meanwhile, EB-4 applicants from El Salvador, Guatemala, and Honduras now enjoy a slightly shorter wait time for a visa to become available to them.

Today, because there are [over 150,000 people in line for an EB-4 visa](#) and only about 10,000 available each year, an applicant will face a waiting period of about 15 years. This is likely to grow ever further over time, assuming the number of applicants continues to rise at a rate disproportionate to the number of EB-4 visas issued annually.

One indirect impact of this change is that many more religious workers on a [nonimmigrant religious worker \(R-1\) visa](#), who might otherwise have sought adjustment of status under the EB-4 category, will be forced to leave the United States upon reaching the maximum five-year period of stay allowed for an R-1 visa. Processing delays within U.S. Citizenship and Immigration Services, exacerbated by the COVID-19 pandemic, were already causing this to occur in some cases.

In addition to religious workers, other special immigrants rely on EB-4 visas and will similarly be impacted by this change, including special immigrant juveniles (SIJ), certain employees of the U.S. government who are abroad and their family members, and members of the U.S. armed forces, among others. The current majority of those in line for an EB-4 visa are SIJ applicants (about 70%), with most of the remaining applicants being religious workers.

What has been the response to this change?

Bishop Mark J. Seitz of El Paso, chairman of the U.S. Conference of Catholic Bishops' (USCCB) Committee on Migration, [wrote to Congress last July](#), underscoring these issues and conveying the USCCB's support for the Protect Vulnerable Immigrant Youth Act (S. 1885/H.R. 4285), given the shared reliance on EB-4 visas by special immigrant juveniles. As with our broken immigration system generally, only Congress is empowered to address this situation fully and sustainably.

In a May 2023 [interfaith letter led by the USCCB](#), several other recommendations were made, including two that could be taken unilaterally by the executive branch. A [forthcoming rule](#) would implement one such recommendation, shortening the length of time that a religious worker is required to be outside of the United States before being able to return on a subsequent R-1 visa. In addition to the May interfaith letter, this was discussed at greater length in a [more recent letter to the Administration from the USCCB](#).