



Immigration Practice

Dykema

Ranked as a nationwide top tier firm by *The Legal 500 US*, clients note that Dykema's Immigration team is "a one-stop shop of incredibly knowledgeable attorneys."

Dykema's Immigration Practice Group assists large and small employers and businesses, organizations, entrepreneurs, and individuals in obtaining temporary work authorization and permanent residence in the U.S. Our team identifies the best options for clients to obtain these benefits, develops strategies to achieve them and works closely with our clients throughout the application process. We advocate on behalf of clients before an assortment of government agencies, including the U.S. Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), U.S. Department of Labor (DOL), Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), the U.S. Department of State (DOS), and U.S. Consulates and Embassies around the world.

Our group has extensive experience in the preparation and filing of business, training, education, and family based nonimmigrant and immigrant visas. The group daily monitors and addresses the constantly evolving challenges of immigration practice. For example, we assist clients on issues such as cap-gap for H-1B purposes, STEM extensions of optional practical training, the challenges tied to the paperless I-94 implemented by U.S. Customs and Border Protection (CBP), the challenges of maintenance of status for eventual

green card issuance due to immigrant visa backlogs, Fraud Detection and National Security division (FDNS) audits and site visits, worksite compliance issues with Homeland Security Investigations (HSI), E-Verify and Image programs, inadmissibility waivers, administrative processing delays, frequent traveler programs (e.g. Nexus, Sentri, Global Entry), PERM filings and Department of Labor audits, nonimmigrant petition appeals, national interest waivers, outstanding professor and researcher permanent residence petitions, as well as extraordinary ability cases.

NON-IMMIGRANT AND TEMPORARY U.S. VISAS

We represent clients who employ foreign nationals to fill temporary and permanent positions in the United States, prepare petitions and supporting documentation necessary for virtually every temporary U.S. work authorization including:

- B-1 Business Visitors
- B-2 Tourists
- E-1 and E-2 Treaty Traders and Investors
- E-3 Australian Professional Workers
- F-1 Students
- H-1B Specialty Occupation Workers
- H-2B Temporary Workers
- H-3 Trainees
- J-1 Exchange Visitors
- K-1 Fiancés of U.S. citizens
- L-1 Intra-Company Transferees
- O-1 Extraordinary Ability Aliens
- Q-1 Cultural Exchange Visitors
- R-1 Religious Workers
- USMCA / TN Visas for Canadian and Mexican Professionals

IMMIGRANTS (PERMANENT RESIDENCE/"GREEN CARDS")

Dykema assists clients with all issues pertaining to permanent residence including applications for:

- EB-1 First Preference Employment-Based Multi-National Managers and those with Extraordinary Ability
- EB-2 Second Preference Employment-Based National Interest Waivers (NIW)
- EB-2 and EB-3 Second and Third Preference PERM labor certifications
- EEB-5 Fifth Preference Immigrant Investors

LABOR CERTIFICATION

Labor certification requires an employer to demonstrate to the US Department of Labor (DOL) that it was not able to identify any qualified, willing and able US workers for the position supporting the green card application. An employer is required to take the following steps in this process:

1. Obtain a Prevailing Wage Determination from the DOL that includes the job duties, worksite location and the minimum requirements for the position;
2. Conduct a recruiting campaign per DOL regulations;
3. Assuming no qualified US workers are identified, submit an Application for Permanent Employment Certification with the DOL;
4. Upon approval of the labor certification application, submit an I-140 Immigrant Petition for Alien Worker to the USCIS.

Certain foreign nationals are exempt from the Labor Certification requirement and can submit their I-140 applications without first taking this step.

NATURALIZATION/CITIZENSHIP

We represent clients seeking US citizenship through naturalization applications. This includes spotting any issues that might prevent a successful application and preparing clients for and attending naturalization interviews with them.

EMPLOYER COMPLIANCE WORKSITE AND INVESTIGATIONS

Employers must verify the identity and employment eligibility of all employees and federal authorities have significantly stepped up efforts to enforce these laws. Business owners and managers can be subject to substantial fines for failing to confirm this eligibility and criminal charges for knowingly employing those who are not authorized to work in the US.

H-1B employers must also maintain a Public Access File and provide notice of applying to employ foreign nationals in that status. Those who do not comply can be ordered to pay back wages and prohibited from filing applications with the USCIS and DOL.

Our team has detailed experience assisting clients in matters before the Department of Labor (DOL), Immigration and Customs Enforcement (ICE), and related administrative enforcement proceedings. We represent employers who encounter social security no-match letters, I-9 audits and related investigations and have successfully negotiated the reduction of proposed fines.

This includes providing training and in-house seminars on employment verification compliance and guidance on registering for and using the E-Verify system.

CORPORATE ASPECTS OF OUR IMMIGRATION PRACTICE

No area of law exists in a vacuum and our immigration practice overlaps with several aspects of our corporate practice. We audit corporate records and due diligence documentation regarding workforce compliance produced during M&A negotiations, corporate reorganizations and spin-offs. In addition, we offer guidance on the immigration consequences of mergers, acquisitions, reductions-in-force and other corporate transactions, with the goal of reducing the risk of potential immigration-related liabilities. In addition, we are used to dealing with related issues tied to immigration status such as: driver's licenses, social security number applications and tax withholding issues among others.

TECHNOLOGY

We use the Law Logix case management system for information and documentation intake and tracking case processing. This system includes access levels for both the employee applicant and the company manager(s) and provides for periodic status reports on all pending matters. We leverage technology to assist in the reduction of redundant questions and concerns and improving efficiency. We also use Zoom, Microsoft Teams, etc. for communications and have conducted trainings / briefings using our videoconference resources as well as on site presentations, if preferred.

Dykema's Labor & Employment Law Blog discusses important immigration and labor and employment-related legal developments, reviews practical implications, and provides valuable insight for employers of all types.

Visit www.laboremployment-lawblog.com for updates and analysis on significant developments and trends impacting employers' day-to-day business operations.

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