

PUBLICATION

National Interest Exception Applications for International Business Travelers on the Rise

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With the COVID-19 pandemic easing, Baker Donelson's Business Immigration Team is seeing an increase in demand for U.S. employer-based employment visas. However, even as we have been obtaining employment visa petition approvals at a record pace for L-1, E-2, H-1B and O-1 employees, at the same time, these and other international business visitors and employees from around the world are facing challenging COVID-19 travel restrictions. Fortunately, it may be possible for an individual otherwise covered by one of the geographic COVID-19 travel restriction proclamations to receive a National Interest Exception (NIE) to allow travel and entry to the U.S.

National Interest Exceptions for Certain Nonimmigrants and Students

On April 26, 2021, the Department of State updated its NIE page to expand certain eligibilities to China, Iran, Brazil, South Africa, Schengen Area, United Kingdom, and Ireland. Most recently, on April 30, 2021, the Department of State included India in its NIE policies.

Key eligibilities for travelers who were present in the above-listed countries include:

1. Travelers who are seeking to provide vital support for critical infrastructure; journalists; students and certain academics covered by exchange visitor programs.

Travelers in these categories who have a valid visa in the appropriate class or who have a valid Electronic System for Travel Authorization (ESTA) for travel under the Visa Waiver Program and seek to travel for purposes consistent with ESTA authorization, should contact the nearest U.S. embassy or consulate before traveling, if they believe they may qualify for an NIE. There are 16 [critical infrastructure sectors](#) whose assets, systems, and networks, whether physical or virtual, are considered vital to the U.S. By letter in support of the NIE application, the U.S. employer is required to describe how its business qualifies under one of the named critical infrastructure sectors, how the individual traveler's activities in the U.S. directly support the business operations, and how his or her presence in the country is essential to the ongoing success of the U.S. employer's business. It is a good idea to include a copy of organization chart that shows the applicant's position and the manager to whom he or she reports, as well as other employees he or she may supervise, if any. Any member of our [Business Immigration](#) Team can assist with questions regarding the application process.

If an NIE is approved, it is valid only for 30 days to be used for a single entry into the U.S. on either a valid visa or ESTA authorization, as appropriate.

2. Qualified travelers seeking to enter the U.S. for purposes related to humanitarian travel, public health response, and national security.

3. F-1 and M-1 Students – The updated NIE policy states, "Students and academics subject to these proclamations due to their presence in China, Iran, Brazil, or South Africa, may qualify for an NIE only if their academic program begins August 1, 2021 or later."

The Department of State (DOS) notes that the pandemic continues to limit the number of visas the U. S. embassies and consulates abroad are able to process. Until the DOS is positioned to process more visa applications, for certain reasons of business necessity, our Baker Donelson team can assist with requests for expedited visa appointments in connection with the NIE application as well. [See the April 27, 2021 Department of State Media Note](#) announcing the policy, titled Uniform Global National Interest Exceptions to COVID-19 Travel Restriction.

If you have any questions about NIE applications, please contact the author or your Baker Donelson attorney.