

## Frequently Asked Questions

### H-2 Visa Operations in Mexico During COVID-19

**Q: Is Mission Mexico processing H-2 visa applications?**

**A:** While only emergency and mission critical visa cases are currently being processed, H-2 has been designated as a mission critical category. The H-2 processing posts in Mission Mexico are still accepting H-2 applications, but our ability to process them is limited by several factors and our operational posture may change at any time given the current health pandemic. Appointments will be made available through the normal website and process as long as a post remains operational. We will prioritize the processing of returning H-2 workers who are eligible for an interview waiver.

**Q: What are the criteria for an interview waiver?**

**A:** Certain H-2 applicants qualify for an interview waiver under the INA. That includes applicants who had a visa in the same category which expired in the last 48 months (this is a temporary extension of the normal 12 months). Applicants with prior immigration violations or criminal issues will generally not qualify for an interview waiver.

Normally, all applicants who did not have a previous visa that meets the requirements above would have needed an interview. However, we will temporarily be able to grant interview waivers to some applicants who have not had held an H-2 visa in the past 48 months. For this category, only applicants who do not have previous immigration or law enforcement issues, and who have not been refused a visa before may be processed at this time.

**Q: How can I determine which workers will require an interview?**

**A:** As a general practice, we encourage H-2 petitioners, agents, and recruiters to have frank conversations with their workers to understand their situation and past immigration history in order to produce more consistent results and reduce processing times. Even if a worker's situation conforms with the interview waiver criteria noted above, they generally will not be granted an interview waiver if they:

- Have been unlawfully present inside the United States after April 1, 1997.
- Have been arrested or convicted of a crime involving moral turpitude.  
(Note: Traffic infractions and fines that did not involve an arrest would not meet this definition.)
- Have been arrested for an alcohol-related offense (such as DUI) within the past 5 years, unless they have received clearance from a panel physician since the arrest.
- Have been granted a waiver of ineligibility under 212(d)(3)(A) in the past.

**Q: I only see appointments for Interview Waiver cases. Will you accept applications from non-interview waiver eligible applicants?**

**A:** Yes, we are accepting applications from applicants who do not meet the interview waiver criteria. However, our capacity is significantly reduced, and this will impact how many appointments we can offer.

Do not bring any applicants to the ASC/CAS or the Consulate. Due to health concerns, we cannot have them come in physically to either location. Instead, Agents and Representatives should bring the barcode sheet, passport, and a **current** photo of each first-time/interview application to the CAS. This package should look exactly like a returning-worker/IW application, but please keep applications bundles physically separated into IW and first-timer groups.

We will keep you informed of the status of these applications. You should not expect visas for these cases to be issued on the normal schedule. If we are able to issue a visa, they will be picked up by the responsible agent according to the normal process. If we are unable to issue a visa, the passport will be returned as a refusal under 221(g).

**Q: My worker meets the criteria for an interview waiver but was refused 221(g) and needs an interview. How do I schedule that appointment?**

**A:** Consular Officers retain the discretion to call any applicant for a consular interview to address the applicant's eligibility for a visa. We cannot offer interviews at this time and will be working on rescheduling applicants who need one at a later date.

**Q: What will happen to people with security issues/people who need a waiver of an ineligibility?**

**A:** In light of the current drawdown in services and the inability to interview these applicants in person, cases with associated derogatory information will be suspended and refused under INA 221(g) until the resumption of visa interviews.

Employers seeking workers should anticipate that applicants with visa ineligibilities will not be issued even if they were previously issued after an in-person interview or granted a waiver of an ineligibility.

Petitioners, employers, and recruiters are encouraged to closely vet workers to ensure they are likely to be issued without a need for an interview.

**Q: What if the original visa holder is no longer available to work?**

**A:** In some instances, U.S. employers may substitute a worker with an individual who may ultimately qualify for an H-2 visa.

To substitute a worker who has not been admitted into the United States, the petitioning employer must provide written notification to the consular section. This notification must name both the worker who was originally issued the visa (or named on the petition) and the worker who will be replacing him or her.

Consulates in Mexico that regularly process H-2 visas will notify its petitioners and agents of the new procedures to implement these changes.

**Q: How long will this be in effect?**

**A:** This is a **temporary** action due to the COVID-19 pandemic. These measures will end no later than December 31, 2020.