

USCIS policy changes impact New York's employers and immigrant services

■ BENNETT LOUDON

Three experts on immigration issues recently discussed changes in federal government policies affecting employers and non-profit service providers during a Virtual Panel Discussion presented by the Daily Record and the Rochester Business Journal.

The virtual panel was sponsored by Catholic Charities Family and Community Services, Harter Secrest and Emery LLP, and Phillips Lytle LLP.

Panelists included Susanne C. Heubel, senior counsel at Harter Secrest and Emery, Jim Morris, vice president of family prosperity programs for Catholic Charities Family and Community Services, and Danielle Rizzo, partner at Phillips Lytle.

For Rizzo, the most significant change to immigration policy currently affecting employers is the pause on adjudication of applications for immigration benefits for individuals who were born in, or are citizens of, 19 specific countries.

"Individuals who are subject to that adjudication pause can still file benefits applications, but they're just not going to be given a final decision on them until



Danielle Rizzo

the adjudication pause is lifted. And we have no idea when that's going to be," Rizzo said.

U.S. Citizenship and Immigration Services (USCIS) also announced that they are reviewing previously approved benefits applications for those individuals dating back to January of 2021, she said.

"We're seeing a much stronger focus on immigration enforcement," Rizzo said.

There is now an equal focus on enforcement and adjudications delays to the disadvantage of those people fearing that they're going to get deported, Heubel said.

Morris said it's not one policy change that is particularly challenging, "but the totality of these changes."

"It's exceptionally difficult for immigration law professionals to keep up with all the policy changes, executive orders, regulatory changes, directives that were implemented, then challenged in court, and temporarily stayed," he said.

Catholic Charities has been serving the immigrant community more than 100 years.

"Our work focuses on serving refugees and others that are here in our community under humanitarian entry programs. And this includes refugees" Morris said.

"These are immigrants who were forced to flee their country due to



Jim Morris

a well-founded fear of persecution, based on race, religion, nationality, political opinion, or social group," he said.

Afghans with special immigrant visas (SIV) are another large group that Catholic Charities helps. Those Afghans that assisted the U.S. government or the military were in danger of retribution from the Taliban.

Catholic Charities also serves Ukrainians who came to the United States under the U4U (United for Ukraine) program — People fleeing the war in Ukraine who are sponsored by relatives already here.

Catholic Charities also helps asylees and asylum seekers looking to be admitted under the same grounds as refugees.

“The major difference being that refugees have their claim adjudicated through a long overseas vetting process, while asylees make their persecution claim at the border, and then have their claim adjudicated in an immigration court here in the States,” Morris said.

Through all the programs, Catholic Charities serves about 5,000 individuals a year.



Susanne C. Heubel

For businesses, new immigration policies are shaping workforce planning, especially for potential international employees.

“For employers, we’re seeing a slight drop in immigration cases, based on industry,” Heubel said.

Higher education institutions have been “scared away” by funding cuts which has led to a decline in the interest in finding foreign nationals to fill these roles,” she said.

“I haven’t really seen a drop-off in the demand yet, but I have seen a lot of fear,” Rizzo said.

“We are seeing huge backlogs with USCIS (U.S. Citizen and Immigration Services) processing times, and that’s really affecting people,” Rizzo said.

“You combine those lengthy processing times with some of the new policies that have been put into place, and it really makes things difficult for employers to plan,” she said.

When businesses don’t have an option, and they can’t get things resolved for the person they hoped to employ, the foreign national might have to go back to their home country, and the position will be open.

“I’ve been seeing some more job postings where employers are trying to put a little bit of a wall up where they’re saying we’re not going to do any immigration sponsorship,” Rizzo said.

“To me, that’s a sign they are already giving an external indication that if you’re not a U.S. citizen, or a green card holder, or a U.S. worker in general, you shouldn’t even apply, which is really a scary development,” she said.

Rizzo said a growing trend is for employers to employ people working remotely overseas.

“If there isn’t a solution for them, and they’ve already been doing the job, and they’re a known quantity to the employer, they’re just sending them to Mexico or India, or wherever they came from, and they’re working from there,” Rizzo said.

But that leads to other problems. Employers must be aware of tax and payroll implications. Many countries have rules that

the U.S. employer might become subject to foreign tax and employment laws, Heubel pointed out.

Morris said he’s starting to see vacancies have an impact on certain industries – agriculture, health care, elder care facilities, and trucking.

“I think there’s been something like 9,500 truckers that have been pulled off of the roads over the last couple months as DHS cracks down on immigrant drivers,” Morris said.

“And I think 17% of the overall trucking labor force is foreign-born,” he said.

The new policies demand focus on compliance issues. Employers with workers who may have crossed the border illegally, but now have some kind of refugee status, might not show up to work because it’s very possible that they get picked up by ICE, Heubel said.

“Before you hire somebody, you have to make sure that they’re work authorized, and you have to track that, going forward in the future,” Heubel said.

“And you constantly have to re-verify their employment authorization, you have to make a much larger effort than in the past to keep on top of whether the person even remains work authorized, precisely because the government is constantly changing, what programs remain in place,” she said.