

# COVID-19 LEGAL ALERT

April 14, 2020

## Maintaining Compliance with R-1, Religious Worker, Federal Regulations in a COVID-19 World

As we are all well aware, the various COVID-19 social distancing guidance and states' Stay-at-Home Orders have changed the way most of us interact with the world on a daily basis. This is especially true for religious organizations.

The Stay-at-Home Orders vary from state to state, with differences in what is or what is not an essential business. For example, Ohio, which has been a leader and a model for other states as an early adopter to a Stay-at-Home Order, does define "essential businesses and operations" to include religious entities, defined as "Religious facilities, entities and groups and religious gatherings, including weddings and funerals." Nevertheless, many religious organizations have opted to suspend their in-person gatherings in order to keep their congregants safe and healthy. Instead, they have opted for live-streaming or pre-recorded videos of religious services and creative options such as parking-lot prayer gatherings, drive-up Communion and even a socially distant "drive-up Easter" preparation which included Communion, kids' crafts, and candy in lieu of a traditional Easter egg hunt.

During this time, it is important to remember that foreign R-1 religious workers and the organizations which employ them remain bound by federal immigration regulations. (See: [R-1 Temporary Nonimmigration Religious Worker](#).) Thus far, federal immigration agencies have not eased these requirements for R-1 employees.

R-1 religious workers include individuals who have come to the U.S. to work solely as a minister (e.g., rabbi, pastor, priest) or to perform a religious vocation (e.g., nun, monk, religious brother and sister) or occupation in either a professional or nonprofessional capacity. The individual must work at least in a part-time position (average of at least 20 hours per week).

### What Does This Mean for Religious Organizations and R-1 Temporary Religious Workers?

If you employ an R-1 religious worker, you have attested that all criteria of a nonimmigrant R classification have been met. This means, among other things, that the individual has come to the United States to work at least in a part-time position (that is, an average of at least 20 hours per week), will work solely as a minister or in a religious vocation or occupation, and will not work in the U.S. in any capacity not approved in the approved petition.

Therefore, notwithstanding the pandemic, R-1 religious workers must continue to work an average of at least 20 hours per week in the capacity approved pursuant to their petition. As mentioned above, many religious organizations are re-defining how to minister to their congregations. For R-1 religious workers, it is particularly important to do this with an eye toward maintaining

legal R-1 status, so that the U.S. Department of Homeland Security and its constituent agencies do not later consider the individual to have violated their status.

If you anticipate any changes to the average number of hours or duties of anyone in your organization who is an R-1 visa holder or in R-1 status, please reach out to your primary contact at Hahn Loeser, or contact one of the attorneys listed below so that we can evaluate your individual circumstances.

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