

NEWSFLASH

October 1, 2025

Update: Presidential Proclamation Restricting Entry of H-1B Workers & Updated Guidance on Implementation

We are sharing an update on the Presidential Proclamation announced on September 19, 2025, which restricts the entry of anyone seeking to enter or reenter the U.S. in H-1B status without payment of a new \$100,000 fee, effective as of 12:01 a.m. EDT Sunday, September 21, 2025.

<https://www.whitehouse.gov/presidential-actions/2025/09/restriction-on-entry-of-certain-nonimmigrant-workers/>

In response to reports of confusion and varying interpretations of the proclamation, U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), the Department of State (DOS) and White House have issued clarifying guidance. However, there remains ambiguity about the full impact and scope of the proclamation, as well as how the restriction will be implemented.

What We Know:

- The restriction went into effect at 12:01 a.m. EDT September 21, 2025. It expires in 12 months but may be extended.
- It restricts entry only to H-1B beneficiaries of new petitions filed after the effective date who are outside of the United States.
- It does not:
 - Impact H-1B beneficiaries in the United States as of the effective date or those who are beneficiaries of pending or approved H-1B petitions filed prior to the effective date.
 - Apply to H-1B extensions of stay, change of employer, or amended H-1B petitions.
 - Apply to H-1B nonimmigrants currently holding validly issued H-1B visas. DOS has confirmed that it has not revoked existing H-1B visas.
- Apply to H-1B1 or E-3 petitions or visa holders.
- Current H-1B nonimmigrants are not restricted from traveling internationally.
- In addition, there is nothing in the proclamation that explicitly prevents H-1B workers with valid unexpired I-797 approved H-1B petitions from applying for and obtaining visa stamps at U.S. consulates abroad.
- There may be exceptions for an individual, a company, or an industry, if DHS determines that it is in the national interest of the U.S. and does not pose a threat to the security or welfare of the United States. Individuals currently holding validly issued H-1B visas.
- Directs the Department of Labor and Homeland Security to update rules on prevailing wages and prioritize high-skilled, high-paid nonimmigrants.

What Remains Unclear:

- Due to inconsistent language in the clarifying statements from government agencies, it is unclear if the restriction applies only to new petitions in the upcoming H-1B lottery cycle leaving or if it also applies to new petitions filed by cap-exempt employers.
- It also is not clear if the impact extends to initial H-1B petitions requesting a change of status to H-1B for beneficiaries within the United States. While the plain language of the proclamation applies to individuals outside the U.S., petitions for a change of status could be treated as new petitions and petition and considered subject.

Recommended Guidance for H-1B Employers:

- H-1B employee currently outside of the U.S. should be fine to return to the U.S. and be admitted in H-1B status with proper documentation.
- H-1B nonimmigrants with scheduled visa appointments at U.S. embassies and consular posts should attend scheduled visa appointments.
- H-1B employees in the United States, while not restricted from traveling and seeking entry into the U.S., are cautioned against non-urgent international travel as the situation is evolving and the

current environment is unpredictable.

We will continue to monitor and provide updates on any new developments.

Please note that this Newsflash is provided for informational purposes only. It does not constitute legal advice and is not a substitute for consulting with an attorney.

Sincerely,
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