Explainer: Recent Administration Policies Will Undermine the H-1B Visa Program

Introduction

Since taking office in January 2025, the Trump administration has pursued a series of policies that will have a significant negative impact on the H-1B visa program. The H-1B program, one of the most widely used pathways for high-skilled foreign professionals to work in the United States, has long been a lifeline for industries facing talent shortages. However, the administration argues that employers have abused it to replace American workers with foreign-born labor and suppress wages, and has utilized agency action, presidential proclamations, and formal rulemaking to make it more difficult to obtain H-1B visas, while increasing scrutiny of H-1B employers..

In proposing significantly higher H-1B application fees, changing how H-1B workers are selected, and proposing additional restrictions on prospective H-1B workers' and their family members' ability to live and work in the United States, the visa program is likely to be much less appealing to both qualified applicants and employers needing skilled talent. If these measures are fully implemented, the resulting reduced uptake of H-1B visas is likely to affect nearly every sector of the economy.

The H-1B visa program allows U.S. employers to hire noncitizen workers for "specialty occupations" requiring a bachelor's degree in a wide variety of professional fields. The administration's actions, therefore, could have implications beyond prospective H-1B workers and their employers: they could undermine America's ability to attract and retain the international talent that contributes to innovation, scientific research, economic growth, and national security.

All of these measures — even those that have not yet been implemented — may already be having a deterrent effect on H-1B demand. According to statistics released by the Trump administration, U.S. consulates received 91% fewer H-1B petitions between September 2025 and May 2026 than during the same period the previous year. Despite this decline, USCIS still received enough petitions to reach the congressionally mandated 65,000 regular H-1B cap and the 20,000 advanced-degree exemption for fiscal year 2027. The fact that H-1B demand reached the cap despite the significant decline in applications highlights the continued importance of the H-1B program to U.S. employers and the broader economy.

This explainer provides an overview of the administrative actions affecting the H-1B program since January 2025, with a focus on their implications for the U.S. economy and America's global competitiveness. Below is the list of proclamations, rules, and policies that are analyzed in this paper:

1. The presidential proclamation creating a $100,000 H-1B visa fee;
2. The proposed rule creating a $103,265 H-1B application fee;
3. The biometric entry-exit fee for H-1B employers;
4. The new H-1B weighted selection system;
5. The proposed elimination of the 60-day grace period for H-1B workers who lose their jobs;
6. Potential employment restrictions on spouses of H-1B visa holders;
7. Proposed $100,000 fee for Optional Practical Training (OPT); and
8. The new restrictions on Curricular Practical Training (CPT).

Presidential Proclamation Creating a $100,000 H-1B Visa Fee

On September 19, 2025, President Trump signed a Presidential Proclamation titled "Restriction on Entry of Certain Nonimmigrant Workers." The proclamation required employers sponsoring H-1B workers to pay a $100,000 "visa integrity fee" per application. Under the proclamation and accompanying USCIS guidance, new visa applicants located outside the United States would be subject to the fee, while individuals already residing in the U.S. (including international students) and those with currently valid H-1B visas (including those who are traveling in and out of the United States) would not be subject to the fee.

The $100,000 fee, however, was challenged in federal court. In June 2026, a federal district court vacated the government's implementation of the fee, concluding that the administration had exceeded its statutory authority. The government appealed, but the U.S. Court of Appeals for the First Circuit declined the government's request to stay the district court's decision while the appeal proceeds. As a result, the $100,000 fee is currently not being collected.

Proposed Rule Creating a $103,265 H-1B Application Fee

On August 25, 2026, DHS published a proposed rule that would establish a $103,265 fee for each H-1B cap-subject petition. The proposal differs from the September 2025 $100,000 fee in several important respects. Rather than relying on presidential authority to impose the fee, DHS is proposing the $103,265 charge through the federal regulatory process. The fee would apply only to cap-subject petitions, meaning certain cap-exempt employers — including institutions of higher education, nonprofit research organizations, and governmental research organizations — would not be subject to it. This proposed fee would apply to cap-subject petitions regardless of whether the visa applicants were located within the United States.

The proposal would make hiring H-1B workers too expensive for many employers, particularly small and midsize businesses that cannot absorb such a substantial additional cost. The proposal is subject to a public comment period and has not yet become final. In issuing the proposed rule, DHS frames the rule as being intended to raise revenues to cover costs associated with the legal immigration system, rather than to discourage the use of the H-1B visa program, unlike the September 2025 $100,000 fee. Analysts have challenged this contention.

Biometric Entry-Exit Fee

On August 10, 2026, DHS published a final rule that doubled the fee for the 9/11 Response and Biometric Entry-Exit Form for H-1B extensions from $2,000 to $4,000. The fee applies to employers with at least 50 U.S. employees whose workforce is more than 50 percent H-1B or L-1 workers. Beginning September 9, 2026, these employers must pay the fee not only for new H-1B employment and changes of employer, but also for extensions that do not involve a change of employer.

Adding this fee to the already high cost of hiring specialized foreign workers could further discourage employers from sponsoring H-1B employees and make it harder for U.S. businesses to access the talent they need to remain competitive.

The fee is scheduled to remain in effect through September 30, 2027.

H-1B Weighted Selection System

On December 29, 2025, DHS published a final rule replacing the random H-1B selection process with a weighted selection system. Under the previous system, USCIS generally selected registrations through a random lottery when the number of registrations exceeded the annual H-1B cap. The new system gives registrants different probabilities of selection based on the Department of Labor's prevailing wage levels for the offered position in question. Workers offered positions corresponding to higher wage levels receive greater weight in the selection process. The final rule generally assigns four entries to wage Level IV, three to Level III, two to Level II, and one to Level I.

The administration argues that the weighted system prioritizes highly skilled and highly paid workers while still providing opportunities at all wage levels. Critics have raised concerns about the mechanics of the new weighted system, including how the rule treats jobs at different locations and different levels of experience. It is likely that the new weighted system could disadvantage entry-level workers, recent graduates, and smaller employers, while failing to account for higher costs of living in major urban areas.

Proposed Elimination of the 60-Day Grace Period for H-1B Workers Who Lose Their Jobs

In August 2026, DHS submitted a proposed rule to the White House Office of Information and Regulatory Affairs that would eliminate the 60-day grace period for H-1B workers who lose their jobs.

Since 2017, DHS regulations have generally allowed certain H-1B workers who lose their jobs to remain in the United States for up to 60 days, or until the end of their authorized stay, whichever comes first. The period gives H-1B workers who lose their jobs time to find another employer willing to sponsor them, transfer their H-1B status, or pursue another lawful immigration status.

Eliminating the grace period would significantly increase the consequences of job loss. Workers affected by layoffs could have little or no time to find a new employer, potentially forcing them to leave the United States before they can transfer their H-1B status.

Potential Employment Restrictions on Spouses of H-1B Visa Holders

DHS has added a proposal to its regulatory agenda that could remove certain H-4 dependent spouses of H-1B workers from the categories of noncitizens eligible to apply for employment authorization. H-4 spouses currently may qualify for work authorization if they meet certain conditions, including that the H-1B spouse is pursuing permanent residence. If adopted, the proposal could limit the ability of some H-1B families to have two working spouses, potentially making the United States a less attractive destination for highly skilled workers with families. The proposal remains under review, and DHS has not announced when it will publish a proposed rule.

Possible $100,000 Fee for Optional Practical Training (OPT)

The administration has also considered restricting the pathway that brings many international students into the U.S. high-skilled workforce.

Optional Practical Training, or OPT, allows eligible F-1 international students and graduates to obtain temporary employment authorization related to their fields of study for up to twelve months. STEM graduates can generally receive up to three years of employment authorization through regular OPT and the STEM OPT extension.

While DHS has not yet published a rule, in August 2026 it submitted a proposed rule on "Optional Practical Training Fees" to the White House Office of Information and Regulatory Affairs. Although the text has not yet been released, reports indicate that the administration is considering a fee of approximately $100,000 to participate in OPT.

A $100,000 fee would fundamentally alter the economics of OPT. International students and recent graduates are generally at the beginning of their careers, meaning that such a fee could prevent many employers from hiring them. Because OPT frequently provides international graduates with the opportunity to gain U.S. work experience before obtaining H-1B visas, restrictions on OPT could also reduce the future pool of H-1B candidates.

The proposal remains under review, and its precise scope and fee structure are not yet public.

New Restrictions on Curricular Practical Training (CPT)

The administration has also tightened guidance concerning Curricular Practical Training, or CPT, which allows F-1 student visa holders to participate in internships and other work-study programs that are integral to their academic programs.

On August 24, 2026, the Student and Exchange Visitor Program issued guidance concerning CPT authorizations. The guidance reflects a stricter interpretation of when CPT may qualify as an integral part of a student's curriculum. Under the new interpretation, CPT can be authorized only if it is required for all students in an established curriculum in which the academic degree cannot be completed without it.

The change could reduce the number of internships available to international students before graduation. Several major universities, including Harvard, MIT, the University of Washington, and the University of Pennsylvania, have already paused certain CPT authorizations in response to the new guidance. Because practical training is an important bridge between education and employment, these restrictions could make it more difficult for international students to gain U.S. work experience and make the United States a less attractive destination for students considering where to pursue their education.

What Do These Restrictions Mean for the U.S. Economy?

The cumulative effect of these policies is greater than any individual rule or fee. Taken together, they make it more expensive, uncertain, and difficult for U.S. employers to recruit and retain highly specialized foreign workers.

Higher Costs for Employers

Employers already face thousands of dollars in government fees and legal expenses when sponsoring H-1B workers. The various new and proposed fees, if finalized, would represent a dramatic increase in the cost of hiring through the H-1B cap. The new costs will make the H-1B visa economically unviable for many employers. Higher costs could also reduce firms' ability to expand, invest, and produce goods and services, potentially weighing on productivity, profits, and broader economic growth.

These expenses could be particularly challenging for smaller businesses, startups, universities, hospitals, and research institutions that compete with large corporations for specialized talent.

Fewer Opportunities for Highly Skilled Workers

The policies could also narrow opportunities for foreign-born professionals at multiple stages of their careers. The weighted H-1B selection system makes higher-paid positions more likely to be selected, while the proposed elimination of the 60-day grace period would make it more difficult for existing H-1B workers to remain in the United States after losing a job.

Restrictions on CPT and OPT could affect international students before they even become eligible for H-1B status. Together, these policies create a more difficult pathway from international education to temporary employment and, for some workers, long-term careers in the United States.

Of note, research suggests that restricting H-1B workers does not necessarily result in more employment for U.S.-born workers.

Threats to Innovation and Competitiveness

Foreign-born workers play a significant role in America's competitiveness. In 2024, they accounted for 22% of all U.S. STEM workers and 28% of workers in science and engineering occupations. Temporary visa holders also earned a substantial share of advanced science and engineering degrees awarded by U.S. institutions, accounting for 42% of master's degrees and 38% of doctoral degrees in science and engineering. According to the National Science Foundation, roughly three-quarters of temporary visa holders who earned science and engineering doctorates remained in the United States five years after graduation, making U.S.-trained international graduates an important source of talent for the country's science, research, and innovation ecosystem.

Restricting these workers' and students' ability to remain in the United States could therefore weaken the country's research and innovation capacity. Employers unable to recruit needed workers may delay projects, leave positions vacant, or move operations to countries where they can hire highly skilled workers more easily.

Other Countries Are Competing for Talent

The United States is not competing for highly skilled workers in isolation. Other countries have increasingly developed policies specifically designed to attract international researchers, STEM professionals, and workers already employed in the United States.

Canada provides a notable example. Its 2025 federal budget announced plans for an accelerated pathway to recruit and hire H-1B visa holders to strengthen Canada's innovation ecosystem and address labor shortages in key sectors.

This competition creates a strategic risk for the United States. Highly skilled workers can increasingly choose where to build their careers, and countries that offer more predictable immigration pathways may become more attractive. When workers who have studied or worked in the United States decide to move elsewhere, the United States can lose not only their labor but also the research, entrepreneurship, tax revenue, and economic activity associated with their presence.

Conclusion

The Trump administration has pursued major administrative changes to the H-1B system since January 2025, including higher fees, changes to the visa selection process, and limiting existing employment pathways. The administration argues that these measures are necessary to protect U.S. workers, prevent abuse, and ensure that the program serves highly skilled workers. However, their cumulative effect could make it more difficult for U.S. employers to recruit and retain specialized talent and could discourage international students and researchers from choosing the United States.

The United States has long benefited from its ability to attract talent from around the world, particularly in STEM, higher education, research, and innovation. As countries increasingly compete for highly skilled workers, policies that make the United States less attractive could strengthen global competitors. The challenge for policymakers is therefore to address abuse and protect U.S. workers while preserving the ability of American employers, universities, and research institutions to compete for the talent needed to support economic growth and national security.