November 10, 2026

Submitted via Regulations.gov

Business and Foreign Workers Division
Office of Policy & Strategy
US Citizenship and Immigration Services
US Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: **Proposed Rule Eliminating the Discretionary 60-Day Grace Period**
DHS Docket No. USCIS-2026-0364
RIN 1615-AD22

Dear Office of Policy & Strategy,

We appreciate the opportunity to comment on your agency's proposed rule to eliminate the discretionary 60-day grace period across the H-1B, H-1B1, L-1, O-1, TN, E-1, E-2, and E-3 visa programs. The Institute for Progress is a nonpartisan think tank focused on accelerating American scientific, technological, and industrial progress. We believe that our country's ability to attract and retain top talent from abroad is essential to continued U.S. leadership in critical and emerging fields. Unfortunately, we believe this rule will undercut that objective while simultaneously harming the standing of American workers.

Abolishing the 60-day grace period would increase employer control over visa-dependent employees, reducing the bargaining power of both visa holders and native workers.

Eliminating the 60-day grace period will increase employers' leverage over their visa-dependent employees, creating greater opportunity for abuse and mistreatment. Handing employers even greater control over their visa-dependent employees' (and their families') immigration status, as the agency's proposal will do, will likely deter some visa holders from bargaining for higher wages, better working conditions, or promotions. This effect will not necessarily be limited to abusive employers who can knowingly leverage their control over employees' legal status— the elimination of the grace period could create a chilling effect across many kinds of companies.

Ultimately, this change would be unfair not only to visa holders, but also to their American colleagues, who would have to compete against a class of workers unable to bargain as effectively on their own behalf. The agency's proposal would create a new incentive for employers to hire foreign workers over natives with greater flexibility to bargain for better pay or threaten to leave for better opportunities.[1]

[1] In an interview with the Center for Immigration Studies, Senator Tom Cotton said, "I understand that some employers would rather have an H-1B worker than they would an American citizen, because the

One of the most significant problems with our employment-based immigration system is the extent to which visa holders are tied to their particular employer.[2] A growing body of economic research finds that worker mobility is an important driver of wage growth, startup formation, and innovation.[3] Impediments to job mobility are therefore costly, both for less-mobile workers themselves and others across the economy.

Grace periods for foreign workers on H-1B, H-1B1, O-1, L-1, TN, E-1, E-2, and E-3 visas give workers some leeway to pursue better employment opportunities. Visa holders who are mistreated or underpaid commensurate with their education and experience can resign without immediately needing to leave the country, whether they have a new opportunity lined up or not. Further, the grace period protects foreign workers who are job searching from retaliation by their current employer. This dynamic leads to higher quality employee-employer matches and a more efficient labor market.

The agency's proposal to eliminate the grace period will thus further incentivize employers to hire visa-dependent workers over natives, reduce the mobility of skilled visa holders working in the United States, and lead to a less efficient labor market. Before finalizing a rule changing the grace period, the agency must account for these costs.

Pro-worker organizations have long been in favor of maintaining or broadening the 60-day grace period.

A number of pro-worker organizations, including those otherwise skeptical or critical of temporary work visas, have expressed support for maintaining or expanding the 60-day grace period.

In 2015, DHS proposed codifying into 8 CFR 214 a 60-day grace period for workers on H-1B, H-1B1, O-1, L-1, TN, E-1, E-2, and E-3 visas. The proposal earned support from both organized labor and major employers. The AFL-CIO wrote:

> "We also support the 60-day grace period that would make it more feasible for H-1B and L-1 workers to sever abusive or unsatisfactory employment ties and reduce, at least to some degree, the power and impact of employer threats of termination against workers who assert their rights on the job."[4]

H-1B worker is almost an indentured servant in terms of their bargaining power, their ability to ask for more and higher wages and benefits, or just to leave and go to another company."

[2] "Mobility Matters: Why Worker Portability Should Drive Reform of Employment-Based Visas," (Cornell Immigration Law and Policy Program, July 2026).

[3] Andrey Stoyanov and Nikolay Zubanov, "Productivity Spillovers across Firms through Worker Mobility." *American Economic Journal: Applied Economics* 4(2), 2012: 168-198.; Evan Starr, "The Economics of Noncompete Clauses," *Journal of Economic Perspectives* 40, no. 1 (2026): 139-166.

[4] AFL-CIO, Comment on Department of Homeland Security Proposed Rule Modernizing H–1B Requirements, Providing Flexibility in the F–1 Program, and Program Improvements Affecting Other Nonimmigrant Workers (Dec. 22, 2015), DHS Docket No. USCIS-2015-0008, available at https://www.regulations.gov/comment/USCIS-2015-0008-18097.

In subsequent comment periods, other groups have continued to call for further grace period reforms to give visa holders greater ability to change employers. The Economic Policy Institute (EPI) has called for lengthening the grace period, writing that "USCIS should consider increasing the grace period to 90 days for all temporary work visas and nonimmigrant statuses."[5]

More broadly, voices across the political spectrum have criticized the H-1B visa program in particular as one in which employers have too much leverage over employees. In an October town hall, Vice President Vance said of workers on H-1B visas, "if they complain, if they have a disagreement with their boss, they could just lose their job… They can be shipped back, which I think gives way too much power to their employer."[6] The agency's proposed rule worsens this predicament.

Conclusion

We urge DHS to withdraw the proposed rule, which will undermine job mobility among skilled visa holders, grant additional leverage to employers over such workers, and ultimately harm American workers.

Sincerely,

Connor O'Brien
Fellow
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Jeremy Neufeld
Director, Immigration Policy
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[5] Economic Policy Institute (EPI), Comments on DHS and DOL Temporary Rule to Increase the Fiscal Year 2023 Numerical Limitation for the H-2B Visa Program and Portability for H-2B Workers, available at https://www.epi.org/publication/epi-comments-on-dhs-and-dol-temporary-rule-to-increase-the-fiscal-year-2023-numerical-limitation-for-the-h-2b-visa-program-and-portability-for-h-2b-workers/.
[6] https://x.com/CBSNews/status/2111618982847426634