



H-1B Proposal Modernizes H-1B Requirements And Oversight, Provides Limited Flexibility For F-1 Student Visa Program

October 30, 2023 | [Labor And Employment](#)



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The White House Office of Management and Budget (OMB) has reviewed and approved a Department of Homeland Security (DHS) proposal to bring [oversight of the H-1B visa program](#) to the modern era. This proposal also creates flexibility in the F-1 student visa program for students who are the beneficiaries of timely filed H-1B cap-subject petitions.

Based upon the information published by the Department of Homeland Security, the proposed rule will:

- Revise the regulations relating to the "employer-employee relationship"
- Provide flexibility for start-up entrepreneurs
- Implement new requirements and guidelines for site visits, including those conducted in connection with petitions filed by H-1B dependent employers whose basic business information cannot be validated through commercially available data
- Provide limited flexibility on the employment start date listed on the petition

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- Address "cap-gap" concerns
- Bolster the H-1B registration process to reduce the possibility of misuse and fraud in the H-1B registration system
- Clarify the requirement that an amended or new petition must be filed where there are material changes, including the streamlining notification requirements related to certain worksite changes

Written public comments must be submitted by Dec. 22, 2023, online at [regulations.gov](https://www.regulations.gov). The proposal, particularly the component aimed at reducing fraud and misuse in the H-1B registration system, is expected to be welcomed by H-1B petitioners and employee beneficiaries who have [faced extreme challenges in the lottery](#) in recent years.

Following DHS precedent, the proposed rule is expected to have a delayed effective date should it proceed.

With the fiscal year 2025 H-1B registration season fast approaching, employers and potential H-1B registrants should consider this new proposed rule when solidifying plans for the upcoming registration period.

This article was co-authored by Tieranny Cutler, independent contract attorney.