

60 Days or Less: H-1B Workers Face Deportation Despite Legal Status

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A growing number of laid-off H-1B visa holders in the United States are receiving Notices to Appear (NTAs) which is a formal initiation of deportation proceedings, despite being within the legally protected 60-day grace period. Immigration attorneys are now accusing U.S. Citizenship and Immigration Services (USCIS) of violating its own policy guidelines and placing compliant individuals at risk of unlawful presence and deportation.

According to Rajiv S. Khanna, managing attorney at Immigration.com, USCIS is disregarding a policy memo dated February 28, which clearly states that NTAs should only be issued after an unfavorable decision on a visa-related application and when the individual is no longer lawfully present.

‘This contradicts USCIS’s own guidance,’ Khanna said. ‘If a person has a properly filed, non-frivolous application pending such as a change of status to a visitor visa, they should legally be considered in ‘authorized stay’ and not subject to removal.’

Pending Applications, Yet NTAs Issued

Khanna cited a recent example that underscores this policy breach: an H-1B worker, laid off but still within the 60-day grace period, filed a timely I-539 application to switch to a B-2 visitor visa. Before USCIS had issued any decision on that request, the worker received

an NTA. This action, attorneys say, treats the individual as unlawfully present despite full legal compliance.

‘The notice points to the date the employer withdrew the H-1B sponsorship and claims the worker overstayed,’ said Khanna. ‘But this completely ignores the fact that a pending status change application puts them in authorized stay.’

NTAs Surge Under the Radar

Recent disclosures from USCIS indicate that the agency is issuing roughly 1,840 NTAs per week since February 2025. While DHS claims this is part of enhanced ‘screening and vetting,’ immigration attorneys argue that many of these NTAs are being issued prematurely and improperly, often targeting those who are actively complying with immigration protocols.

‘These cases aren’t about people breaking the law. They’re about a system that’s breaking its own rules,’ said another immigration lawyer familiar with the cases.

Outdated Guidance, Aggressive Action

During the Biden administration, USCIS had previously offered clear options for laid-off workers within the 60-day window, advising them to change their [visa](#) status. Suggested alternatives included switching to H-4 or L-2 dependent status (if a spouse holds valid visa) or converting to F-1 student or B-1/B-2 visitor status.

However, no updated guidance has been issued in recent months, even as enforcement appears to have quietly intensified. This disconnect between policy and enforcement has left thousands of laid-off H-1B workers in a state of anxiety and legal limbo.

Legal Fallout: From Job Loss to Deportation

Once an NTA is filed, the individual is considered to be in removal proceedings, triggering a classification of unlawful presence. This not only brings the threat of deportation but can have long-term consequences, including visa ineligibility and multi-year reentry bans.

For those who entered the country legally and followed every rule, the stakes could not be higher.

‘We’re seeing compliant visa holders, many of whom have lived and worked in the U.S. for years; suddenly face the threat of removal, simply because USCIS is misapplying its own framework,’ Khanna warned.

Immigration attorneys and advocacy groups are now urging USCIS to halt the issuance of NTAs during authorized stay periods and to issue updated, public-facing guidance that clarifies current procedures for laid-off foreign workers.

Until then, legal uncertainty looms for thousands navigating an already fragile transition after job loss, only now, with the added threat of forced departure hanging over their heads.

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