



Written by [Luis Miguel](#) on December 2, 2020

Judge Blocks Trump H1-B Visa Rules in Yet Another Immigration Setback

A federal judge this week blocked President Donald Trump's reforms of the H1-B visa worker program, which allows large corporations to import foreign white-collar laborers instead of hiring college-educated American citizens.

Judge Jeffrey White of the U.S. District Court for the Northern District of California struck down rules by the administration to curtail the number of H1-B visas issued, which included imposing salary requirements on companies employing skilled overseas workers and limits on specialty occupations.



Evgenia Parajanian/iStock/Getty Images Plus

Officials with the Department of Homeland Security said the reforms were a priority due to coronavirus-related job losses; DHS projected that under the new rules, as many as a third of H1-B visa applicants in recent years would be denied.

But Judge White said the government failed to follow transparency procedures and that its contention that the changes were an emergency response to pandemic job losses didn't hold up because the administration had talked about the idea for some time but only put out the rules in October.

"The COVID-19 pandemic is an event beyond defendants' control, yet it was within defendants' control to take action earlier than they did," White wrote.

The United States issues up to 85,000 H-1B visas each year in sectors that include technology, engineering, and medicine. Usually, they're issued for three years and are renewable. Most of the nearly 600,000 H-1B visa holders in the United States are from either India or China.

AP News [reported](#):

The U.S. Chamber of Commerce and universities including the California Institute of Technology sued in California, arguing there wasn't adequate notice or time for the public to comment on the changes. They also said the rules, particularly related to requiring a prevailing wage for visa-holders, would have a drastic impact on new hires and "sever the employment relationship of hundreds of thousands of existing employees in the United States."

The University of Utah cited an example where an H-1B employee seeking renewal was paid an \$80,000 salary but would have to be paid \$208,000 under the new rule.

The judge agreed that the federal government didn't make a case for implementing the rules under the Administrative Procedure Act, which makes agencies accountable to the public by requiring a detailed process for enacting regulations.



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“Defendants failed to show there was good cause to dispense with the rational and thoughtful discourse that is provided by the APA’s notice and comment requirements,” White wrote.

The wage rule, proposed by the Labor Department, became effective in October, while Homeland Security’s rule on occupations and other issues was scheduled to go into effect Monday.

“This is an incredibly important decision to preserve the H-1B program,” said attorney Paul Hughes, who represented the plaintiffs. “This ruling enables those individuals to maintain their jobs and their families in the United States.”

The Chamber of Commerce said in a statement that the ruling “has many companies across various industries breathing a huge sigh of relief,” with the visa changes having “the potential to be incredibly disruptive to the operations of many businesses.”

As usual, the Chamber of Commerce is more interested in helping large corporations increase their bottom line than it is helping actual hard-working American citizens, especially at a time when so many have been economically hard-hit due to the government’s own insane coronavirus policies.

Curiously, the Left is cheering the news about the momentary preservation of the H1-B visa status quo, putting them on the side of the big businesses they supposedly are against.

The administration can appeal the decision, but is unlikely to get a positive answer before January 20, [according](#) to John Miano, a lawyer with the Immigration Reform Law Institute.

Miano said Joe Biden’s deputies are unlikely to appeal the judge’s decision if he should become president next month. After all, Biden has received the full support of the Silicon Valley companies who want him to preserve the H1-B program they so heavily depend on. As part of the symbiotic relationship between Biden and Big Tech, a Biden administration would be [lined with industry figures](#) such as former Google CEO Eric Schmidt.

The resident population of foreign H-1B workers in the United States is at least 580,000, but that total may reach one million due to the fact that many H-1B workers are allowed to stay and work for many years.



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