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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - JANUARY 05, 2026

Posted on January 5, 2026 by Cyrus Mehta

Headlines:

OFLC Reminds Stakeholders of H-2B Filing Timeline for 2026 Peak Filing Season – The Department of Labor's Office of Foreign Labor Certification reminded employers and other interested stakeholders that the filing window to submit an H-2B application requesting work start dates of April 1, 2026, or later, opened on January 1, 2026.

DOS Issues Updated Diversity Visa Guidance – The Department of State (DOS) released updated guidance on diversity visa issuance. The guidance notes that effective immediately, DOS has paused all visa issuances to diversity immigrant visa applicants. Applicants may still submit applications and attend interviews.

District Court Rules Against Plaintiffs in $100,000 H-1B Fee Lawsuit – In *Chamber of Commerce v. Department of Homeland Security*, a district court has ruled in favor of the Department of Homeland Security (DHS), finding that imposition of a $100,000 fee for new H-1B applications and related actions were legal under a Presidential Proclamation.

Details:

OFLC Reminds Stakeholders of H-2B Filing Timeline for 2026 Peak Filing Season

On December 29, 2025, the Department of Labor's Office of Foreign Labor Certification (OFLC) reminded employers and other interested stakeholders that the filing window to submit an H-2B Application for Temporary Employment Certification (Form ETA-9142B and appendices) requesting work start dates of April 1, 2026, or later, opened on January 1, 2026. H-2B applications requesting an April 1, 2026, work start date will be denied if they were filed before that date.

OFLC will randomly order for processing all H-2B applications requesting a work start date of April 1, 2026, that were filed during the initial three calendar days (January 1-3, 2026) using the randomization procedures published in the Federal Register on March 4, 2019.

If OFLC identifies multiple applications that appear to have been filed for the same job opportunity, OFLC will issue a Notice of Deficiency. If multiple filings were submitted during the three-day filing window, all applications will receive a Notice of Deficiency requesting that the employer demonstrate that the job opportunities are not the same. Employers that fail to establish a bona fide need for each application will receive a non-acceptance denial for each application.

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DOS Issues Updated Diversity Visa Guidance

On December 23, 2025, the Department of State (DOS) released updated guidance on diversity visa (DV) issuance. The guidance notes that effective immediately, DOS has paused all visa issuances to diversity immigrant visa applicants.

DV applicants may submit visa applications and attend interviews, and DOS will continue to schedule applicants for appointments, but no DVs will be issued. Existing DV appointments generally will not be rescheduled or canceled, DOS said. No diversity or other visas have been revoked as part of this guidance.

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District Court Rules Against Plaintiffs in $100,000 H-1B Fee Lawsuit

In *Chamber of Commerce v. Department of Homeland Security*, a district court has ruled in favor of the Department of Homeland Security (DHS), finding that imposition of a $100,000 fee for new H-1B applications and related actions were legal under a Presidential Proclamation. "Defendants have the stronger position," U.S. District Judge Beryl Howell said. "The lawfulness of the Proclamation and its implementation rests on a straightforward reading of congressional statutes giving the President broad authority to regulate entry into the United States for immigrants and nonimmigrants alike."

Judge Howell noted, "To be clear, this decision in favor of defendants is not to

dismiss or discount the past and ongoing contributions of H-1B workers to the American economy that plaintiffs highlight. Important as those contributions may be, the effects of the H-1B program on the American economy or national security, whether positive or negative, are simply not at issue in this case. The Supreme Court has long maintained that matters of economic and foreign policy are generally entrusted to the political branches of government and 'rarely proper subjects for judicial intervention.' "

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