CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - NOVEMBER 12, 2026

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Headlines:

Following Historic Midterms, President Trump Appoints Stephen Miller as Chief of Staff – On November 6, President Trump appointed Stephen Miller—widely seen as the architect of mass deportations and responsible for the administration's hardline immigration crackdowns—as his new chief of staff. Reaction was swift.

Advocates Oppose OPT Fee Proposed Rule – The American Immigration Lawyers Association and the American Immigration Council submitted a joint comment opposing a Department of Homeland Security proposed rule that would impose a $70,000 fee for an initial period of Optional Practical Training (OPT) and a fee of $30,000 for any subsequent OPT.

Trump Administration's Plans to Deport Afghans Temporarily Blocked by Court – Plans to deport about 200 Afghans to Afghanistan or Pakistan were temporarily blocked by a court order after advocates and members of Congress warned that their lives would be in danger.

Firm in the News

Details:

Following Historic Midterms, President Trump Appoints Stephen Miller as Chief of Staff

In a national rebuke of the Trump administration's policies by U.S. voters, Democrats swept the midterm elections across the United States on November 3, 2026. On November 6, President Trump appointed Stephen Miller—widely seen as the architect of mass deportations and responsible for the

administration's hardline immigration crackdowns—as his new chief of staff, replacing Susie Wiles.

Mr. Miller's promotion was met with swift criticism from Democrats. Sen. Dick Durban (D-Ill.) said, "For Trump to promote this hatemonger shows he has learned nothing." Sen. Chuck Schumer (D-N.Y.) said President Trump had "learned nothing from his historic defeat" and "couldn't have made a worse choice." Rep. Hakeem Jeffries (D-N.Y.), who is expected to become the next Speaker of the House, said Mr. Miller is "a dangerous xenophobe and reckless extremist who has American blood on his hands."

Republican reaction was mixed. Some Republicans praised the promotion. Sen. Mike Lee (R-Utah) said Mr. Miller is "a staunch defender of law and order against illegal invasions and leftist lawlessness." Others criticized it. Rep. Marlin Stutzman (R-Ind.) said the promotion was a "horrible decision." Miles Taylor, formerly chief of staff at the Department of Homeland Security during President Trump's first term who later became an outspoken anti-Trump Republican, said, "I spent two years working with Stephen Miller. His appointment as White House chief of staff is among the most dangerous personnel decisions in the history of our republic. I say that without reservation."

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Advocates Oppose OPT Fee Proposed Rule

On November 6, 2026, the American Immigration Lawyers Association (AILA) and the American Immigration Council (AIC) submitted a joint comment opposing a Department of Homeland Security (DHS) proposed rule, published on October 8, 2026, that would impose a $70,000 fee for an initial period of Optional Practical Training (OPT) and a fee of $30,000 for any subsequent OPT.

AILA and AIC noted in their joint comment that the rule would require a Student and Exchange Visitor Program (SEVP)-certified school to pay a fee of $70,000 before its Designated School Official (DSO) may recommend an F-1 international student for an initial period of OPT and a fee of $30,000 before the DSO may recommend a student for any subsequent OPT (including the up to 24-month OPT STEM extension). "Although framed as a fee, the Rule would impose charges so large that they would function as a prohibition or deterrent, significantly diminishing the viability of the OPT program. Departing from past

practice in all its previous fee rules, DHS does not tie the fee amounts to any cost of administering OPT; instead, the Rule candidly embraces deterrence and a dramatic reduction in OPT participation as its objectives." AILA and AIC said that the proposed rule "exceeds DHS's statutory authority, is contrary to the intent of Congress, and is arbitrary and capricious under the Administrative Procedure Act."

AILA and AIC also noted that "DHS assumes, without support, that the fees will not reduce international enrollment or the number of STEM graduates, and it fails to quantify the Rule's substantial costs to U.S. institutions, U.S. students, innovation, and the U.S. economy, despite independent research available to the contrary." They also said the 30-day comment period was "insufficient to address the scope, impact, and complexity of the Proposed Rule. The short comment period deprives stakeholders of a meaningful opportunity to comment and will produce an inadequate administrative record."

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Trump Administration's Plans to Deport Afghans Temporarily Blocked by Court

According to reports, the Trump administration had been planning to begin deporting approximately 200 Afghans from U.S. Immigration and Customs Enforcement facilities in Louisiana via flights to Afghanistan or Pakistan. However, the plans were temporarily blocked by a court order after advocates and members of Congress warned that the Afghans' lives would be in danger.

On November 2, 2026, dozens of members of Congress sent a letter to Secretary of State Marco Rubio and Homeland Security Secretary Markwayne Mullin that said they were "extremely concerned that sending vulnerable people" to Afghanistan or Pakistan would expose them to "persecution, torture, or even death."

The plans appeared to include sending the Afghans arriving in Pakistan back to Afghanistan, although the specifics were unclear. Zia Ahmad Takal, a spokesman for Afghanistan's foreign ministry, said "the Islamic Emirate of Afghanistan expresses its serious concern" about potential deportations of Afghans to Pakistan, and said that "third-party countries should not engage in dealings concerning the fate of another nation's citizens."

Savitri Arvey, of Human Rights First, said, "We celebrate today, but we're getting

right back to work tomorrow, continuing to make sure through our flight tracking that none of these flights are taking off."

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Firm in the News

Cyrus Mehta was quoted by the *Times of India* in Immigration After the Midterms: A New Congress, But Who Holds the Power? Mr. Mehta said, "While there may be oversight committee investigations into ICE excesses and abuses, and DHS racial profiling, I think the administration will pretty much carry out its immigration agenda." He added, "Congress may be able to question the administration regarding the justification for the $100,000 H-1B fee for hiring workers from outside the U.S., but its authority is limited to just that: holding hearings and asking questions. The administration will continue to implement rules and policies."

Mr. Mehta was quoted by the *Times of India* in Democratic Win May Soften U.S. Immigration Rhetoric; No Immediate H-1B Relief. He said, "Trump will not be able to get legislation through Congress to endorse his executive actions if there are no Republican majorities. In any event, it would have been difficult for him to do so even now without 60 votes in the Senate. If the new Democratic majorities pass bills in Congress in , Trump will have the power to veto them." He also noted that "since Texas and Georgia have become Democratic, they will no longer side with Trump in litigation against the $100,000 fee. This will leave the administration with less support in defending its policies in court."

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