Employer Immigration Rule Tracker

H-1B, PERM, and F-1 OPT: key rules, announcements, and actions at a glance

1 public comment period remains open: the USCIS deference proposal closes Nov. 13	**2** major measures are currently blocked in court: the $100,000 H-1B payment and the F-1 duration of status rule	**8** employers subject to DOL's PERM suspensions. This is not a nationwide PERM halt	**0** new fees or wage rules are in effect. The fee and wage proposals are still proposals

Key takeaways

- **Most of what has been announced is not yet law.** Fees, wage changes, the grace period proposal, and the PERM overhaul are proposals. Current rules still apply until a final rule takes effect.
- **Court orders have paused implementation of certain measures.** The duration of status rule and the $100,000 H-1B payment are both blocked. The fee proposals may also face legal challenges if finalized.
- **Enforcement is targeted, not universal.** The October 8 PERM suspensions are employer-specific, and public statements cited investigations. Allegations are not findings of wrongdoing.
- **Layoffs draw attention.** Employers conducting reductions in force should coordinate early with immigration counsel on PERM recruitment and "Notify and Consider" obligations.

Key dates

Date	What it is	What is due or expected
Nov. 13, 2026	Proposed rule: elimination of the USCIS deference policy for extensions	Public comments due
Not yet announced	DOL's PERM labor market test modernization proposal (cleared OMB review Oct. 23)	Publication, followed by a 30- to 60-day comment period
Nov. 9, 2026	Proposed rule: new OPT fees ($70,000 initial; $30,000 subsequent)	Comment period has closed
Nov. 10, 2026	Proposed rule: elimination of the discretionary 60-day grace period after employment ends	Comment period has closed

Policy backdrop

- **Midterm elections (Nov. 3):** Democrats won control of Congress. The new Congress is not seated until January, so pending rules and enforcement actions continue in the meantime. A Democratic Congress gains oversight tools, but it cannot reverse the administration's rules without legislation the President would have to sign, so courts are likely to remain the main near-term check.
- **White House leadership (Nov. 6):** Stephen Miller, long associated with the administration's restrictive immigration policy, was named White House Chief of Staff. Reporting characterizes the move as a sign of policy continuity.
- **H-1B lottery:** IT consultancy companies registered far fewer H-1B lottery cases this year than last year (see the chart at the end of this tracker).

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BLOCKED court order prevents it from taking effect | **PROPOSED** proposed rule; not final or in effect | **COMMENTS OPEN** public comment period still running | **PENDING** cleared or announced, details not yet published | **EMPLOYER-SPECIFIC** applies to specific employers only

H-1B

Rule / announcement / action	Date introduced	Status	Date implemented or expected	Impact on employers
$100,000 H-1B payment requirement and one-year extension	Original proclamation Sept. 19, 2025; extension Sept. 18, 2026	**BLOCKED** Litigation is ongoing, and a Sept. 30 injunction addresses both proclamations.	The extension covers a further year beginning Sept. 21, 2026. Collection remains subject to court orders.	The requirement has been extended, but its enforcement remains blocked. **Practice pointer:** H-1B consular notice petitions are currently being approved without a fee request. We are monitoring the litigation and its implications for affected petitions.
Additional $103,265 fee for cap-subject H-1B petitions	Announced Aug. 24; proposed rule published Aug. 25, 2026	**PROPOSED** Comments closed Sept. 24, 2026.	No effective date has been established.	The fee would add $103,265 to cap-subject petitions. There is no additional fee for lottery registration. Because the fee would raise revenue well beyond the agency's needs, any final rule may face legal challenges if finalized.
Elimination of the discretionary 60-day grace period	Sept. 11, 2026	**PROPOSED** Comments closed Nov. 10, 2026.	No effective date has been established.	The proposal would shorten the time available to change employers or arrange another status after employment ends. The current grace period remains available. Any final rule may face legal challenges.
Elimination of the USCIS deference policy	Oct. 14, 2026	**PROPOSED** / **COMMENTS OPEN** Comments are due Nov. 13, 2026.	No effective date has been established.	The proposal would make it easier to deny an extension even where the same position was previously approved. Employers should build extra time and supporting evidence into extension filings.
Prevailing-wage methodology changes (PERM and H-1B, H-1B1, E-3)	Mar. 27, 2026	**PROPOSED** Comments closed May 26, 2026.	No final implementation date has been identified.	The proposal would revise the four-tier OEWS methodology and raise wage requirements for many positions. Reports suggest an average increase of roughly $26,000 for H-1B positions. Employers should review salaries for sponsored employees and consider alternate wage surveys. Any final rule may face legal challenges.

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PERM and prevailing wages

Rule / announcement / action	Date introduced	Status	Date implemented or expected	Impact on employers
PERM recruitment and labor market test modernization (RIN 1205-AC29)	Draft sent to OIRA Sept. 14; review completed Oct. 23, 2026	**PENDING** OMB review is complete ("Consistent with Change"), but the proposed text has not been published.	No implementation date has been established. Publication would open a 30- to 60-day comment period.	DOL's stated priorities are recruitment standards, layoff safeguards, nondiscrimination, and record retention. **Unconfirmed** conference reports mention electronic recruitment, postings of 90 days or longer, possible elimination of Schedule A, post-layoff filing limits, attestations under penalty of perjury, and broader debarment. Whether any changes would apply to pending cases remains uncertain.
PERM suspensions involving eight employers	Announced Oct. 8, 2026	**EMPLOYER-SPECIFIC** DOL reportedly suspended new and pending applications for eight top filers. Public written terms have not been verified.	The suspensions were announced as immediate. 20 C.F.R. § 656.31(b) allows an initial suspension of up to 180 days, which can be extended. Employers should confirm duration and scope in their written notices.	This is not a nationwide PERM ban, and allegations are not findings of wrongdoing. Employers should review recruitment compliance, especially layoff Notify and Consider practices.

F-1 OPT and duration of status

Rule / announcement / action	Date introduced	Status	Date implemented or expected	Impact on employers
F-1 duration of status replaced with fixed admission periods	Final rule published July 17, 2026	**BLOCKED** Preliminary court relief blocked the rule nationwide on Sept. 14. The government's appeal is pending.	The rule was scheduled to take effect Sept. 15, 2026. It has no operative date while the court's relief remains in place.	The rule would introduce fixed admission deadlines and extension-of-stay requirements affecting students and practical training. The existing duration of status framework remains in place.
New OPT fees: $70,000 initial; $30,000 subsequent	Oct. 8, 2026	**PROPOSED** Comments closed Nov. 9, 2026.	No effective date has been established.	The proposal would require the recommending school to pay the fee before recommending OPT. It could significantly affect access to student talent and prompt funding requests involving employers or students. Any final rule may face legal challenges.

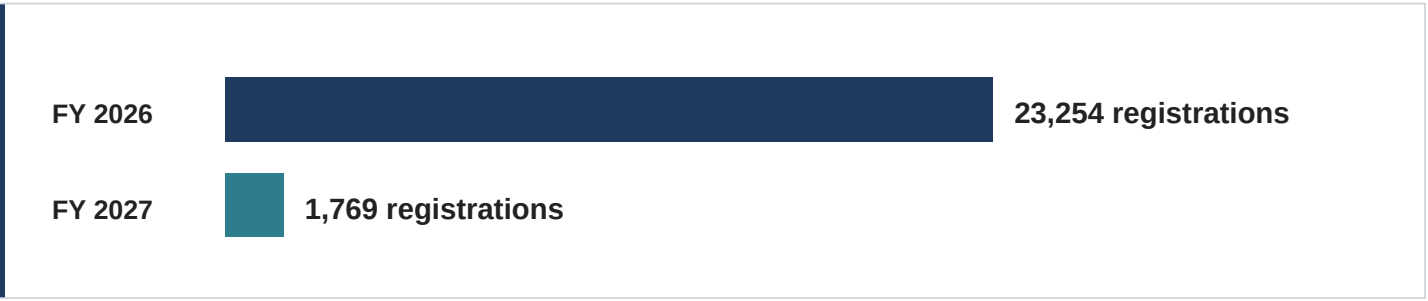
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H-1B lottery context

Among five major H-1B lottery filers, combined registrations fell 92% from FY 2026 to FY 2027, and four of the five cut their registrations by 90% or more.

92%
reduction in combined registrations, FY 2026 to FY 2027



Combined FY 2026 and FY 2027 registrations of the five filers, from public registration data. Reductions at the individual filers ranged from 87.5% to 95.6%. Employers that hire heavily from U.S. universities fared better, with many reporting selection rates well above recent norms in the latest lottery, some reaching 50% to 60% or more. The wage-weighted selection process remains in place.

What employers should do now

- **Keep following current rules.** Proposals and reports do not change existing requirements.
- **Consider commenting on the deference proposal.** Talk with us about whether to submit comments before the Nov. 13 deadline.
- **Plan for status limits.** Identify employees with approaching status limits and discuss contingency options, including the possible loss of the grace period.
- **Coordinate before layoffs or PERM filings.** Bring immigration counsel, recruiting, HR, and public affairs together early.
- **Prepare for the PERM proposal.** Review recruitment practices, confirm application channels work, and preserve complete recruitment and applicant records.
- **Assess your student pipeline.** If you hire students, consider how an OPT fee requirement could affect hiring and whether funding requests could follow.

Please contact your WR Immigration team before making significant recruitment or workforce changes that could affect sponsored employees.

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