

JANUARY 2026

CUMMING & PARTNERS
U.S. & CANADIAN IMMIGRATION INSIGHTS

U.S. IMMIGRATION

STATE DEPARTMENT PAUSES IMMIGRANT VISAS FOR 75 “HIGH-RISK” COUNTRIES

On January 14, 2026, the Department of State issued guidance pausing immigrant visa issuances for nationals of 75 countries considered at high risk for public benefits usage. (See below link for the full list) The suspension of processing took effect January 21.

Although applicants can still be interviewed, visas won't be issued until further notice. Dual nationals using a passport from a non-listed country are exempt. Current valid visas haven't been revoked under this guidance. This pause doesn't apply to tourist, business or non-immigrant visas.

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DIVERSITY VISA LOTTERY PROGRAM SUSPENDED

On Dec. 5, 2025, the Supreme Court agreed to take up the case of whether President Trump's directive to restrict birthright citizenship is constitutional. In Jan. 2025, the President signed an executive order telling U.S. agencies to disregard the citizenship of children born in the U.S. if neither parent is an American citizen or permanent resident.

The 14th amendment of the Constitution has been understood to grant U.S. citizenship to everyone born on U.S. soil. Lower-court rulings have struck down the Trump administration's restrictions, which have yet to take effect. The Supreme Court is expected to hear arguments in 2026, and issue a ruling by the end of June.

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COURT UPHOLDS \$100,000 H-1B FEE

A U.S. District Court judge in Washington, D.C. has upheld the legality of the new H-1B fee imposed under a September 19, 2025 executive order. Under the order, employees in specialty occupations under the H-1B program were restricted from entering the U.S. unless their petition was accompanied by a \$100,000 payment.

With the court decision, which was issued Dec. 23, 2025, the fee remains in effect. Covered employers are required to either pay the fee (per each H-1B beneficiary) before a visa can be processed or qualify for a national interest exception.

Please note there are also important exceptions for the H-1B \$100,000 filing fee, including applicants who are in the U.S. and who are applying to change status to H-1B. Now is the time to discuss these H-1B application fee exemption to plan for the March 2026 lottery.

The ruling is being appealed, and the case is being fast-tracked. Oral arguments are expected in February 2026. Additional lawsuits are pending in other jurisdictions.

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DHS AMENDS H-1B VISA RULES TO PRIORITIZE HIGHER-PAYING JOBS

The Department of Homeland Security (DHS) has finalized a rule overhauling the H 1B visa selection process. The current random lottery system is being replaced with a weighted system that favours higher skilled and higher paid applicants. For instance, individuals who are offered higher wages will receive additional entries into the selection pool, increasing their odds.

This new rule is effective Feb. 27, 2026, and will be in place for the FY 2027 H-1B cap registration season. The annual cap of 65,000 visas, plus 20,000 for advanced degree holders, remains unchanged.

DHS says the change aims to curb employer abuse of the lottery, and better protect U.S. wages and job opportunities.

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PREMIUM PROCESSING FEES TO INCREASE

The Department of Homeland Security is increasing premium processing fees charged by U.S. Citizenship and Immigration Services. The changes reflect the amount of inflation from June 2023 through June 2025.

The fees for Form I-140 immigrant worker petitions, and for most Form I-129 nonimmigrant worker petitions, will rise from \$2,805 to \$2,965. Fees for premium processing of certain other petitions and applications will also increase.

The new fees will take effect for filings postmarked on or after March 1, 2026.

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STATE DEPARTMENT ADDS COUNTRIES TO B-1/B-2 VISA BOND PILOT

The State Department has added 25 countries to its B-1/B-2 Visa Bond pilot program, effective Jan. 21, 2026. The additional countries: Algeria, Angola, Antigua and Barbuda, Bangladesh, Benin, Burundi, Cabo Verde, Cote d'Ivoire, Cuba, Djibouti, Dominica, Fiji, Gabon, Kyrgyzstan, Nepal, Nigeria, Senegal, Tajikistan, Togo, Tonga, Tuvalu, Uganda, Vanuatu, Venezuela and Zimbabwe.

The pilot program requires nationals of designated countries to pay a bond as a condition of B-1/B-2 visa issuance. The amount – either \$5,000, \$10,000 or \$15,000 – is determined at the time of the visa interview. Applicants should submit Form I-352 to post a bond only after a consular officer directs them to.

The pilot program will be in effect through August 5, 2026.

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35,000 H-2B VISAS TO BE ADDED TO BOOST SEASONAL WORKFORCES

The Departments of Labor (DOL) and Homeland Security (DHS) will make an additional 35,000 H-2B temporary nonagricultural worker visas available for the 2026 fiscal year. That's on top of the 66,000 H-2B visas mandated by Congress.

DOL and DHS will focus the additional H-2B visas on supporting American businesses with seasonal or temporary workforce needs in critical infrastructure sectors of the U.S. economy. That includes seafood, forestry, hospitality and tourism, transportation and manufacturing.

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CONSULATES IN INDIA CANCEL VISA INTERVIEWS

In India, many H-1B and H-4 visa interviews that were originally scheduled for December 2025 were cancelled. Consulates have cited the U.S. State Department's new online presence review (i.e. social media activities and history) and enhanced vetting procedures.

Many of these appointments will now only take place in March 2026, or later for interviews that had been scheduled for early 2026.

While these cancellations have occurred in India, H-1B and H-4 applicants elsewhere should be aware of possible delays.

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