

Changes in FAM May Make it More Difficult for Students with Pending H-1B Cases to Travel

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The Department of State has revised its guidance for Consular Officers on the issuance of student visas, emphasizing that the officer must be “satisfied that applicant intends to depart [the U.S.] upon completion of the approved activity.”

[The guidance states:](#)

If you are not satisfied that the applicant's present intent is to depart the United States at the conclusion of his or her study or OPT, you must refuse the visa under INA 214(b). To evaluate this, you should assess the applicant's current plans following completion of his or her study or OPT. The hypothetical possibility that the applicant may apply to change or adjust status in the United States in the future is not a basis to refuse a visa application if you are satisfied that the applicant's present intent is to depart at the conclusion of his or her study or OPT. 9 FAM 402.5-5(E) (1)

This means that students who have H-1B visa applications pending probably should not travel, especially if they will need a new F visa to return to the U.S. There has always been some undefined risk associated with attempting to travel and/or apply for an F visa with a pending H-1B application, but now that risk is more of a reality. Those in student status who hoped to travel during the summer (with an H visa pending), perhaps to a family wedding or to attend to a sick relative, may no longer want to take the chance and, if they do travel, may have to content themselves with staying abroad until October, when they can apply for H status.

The American Association of College Registrars and Admissions Officers has already reported a decline in international student applications, in part due to the political climate. The Trump Administration's anti-immigrant sentiment has found expression in the travel ban, which left potential students questioning whether they were welcome in the U.S. More recently, the Buy American, Hire American Executive Order's [crackdown on H-1B visas has heightened anxiety](#). The Chronicle of Higher Education reported that:

For many international students, the opportunity to stay in the United States, even temporarily, after graduation and gain work experience is almost as valuable as an American degree itself. Any policy that might erect hurdles on the pathway from college to work could depress international enrollments.

Already, it has been reported that a third of the potential international applicants to U.S. colleges and universities may be feeling deterred. International students bring more than cultural diversity to the United States, they also contribute dollars to the U.S. economy as well as to the universities they attend. Stringent travel restrictions are yet another issue for potential foreign students to consider when thinking about whether they want to attend college in the United States.

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