FP's Top 2026 Predictions for Immigration Law

Insights

1.13.26

Our Immigration Practice Group thought leaders have pulled together their top predictions for the new year so that employers can get a head start to 2026. If you want more, register for our FP Workplace Law Forecast Webinar here.

We'll See an H-1B Lottery Overhaul

In November, we predicted that DHS would replace the random H-1B cap lottery with a weighted selection system that gives higher-wage positions better odds of being chosen, as soon as the March 2026 cap season.

Indeed, DHS finalized this change in December. The new system does not entirely eliminate the lottery. Rather, it changes the odds for each entry. Each H-1B registration will still be placed into a

single selection pool, but registrations tied to higher wage levels will be entered into that pool more times, increasing their likelihood of being selected.

You should begin preparing for the 2026 cap season by <u>reading our summary and reviewing our list of seven suggested action items</u>.

OPT/STEM OPT Restrictions Will Reshape Early-Career Hiring

We also predict the administration will release a rule ending or sharply limiting Optional Practical Training – including the 24-month STEM OPT extension. If finalized, the impact could be seismic:

- University recruiting pipelines could be hit hard, especially for engineering and tech-heavy industries.

- Employers would need to shift toward O-1, TN, H-1B1, and J-1 research trainees to retain foreign graduates.

- Domestic upskilling and apprenticeship programs would need to surge to fill gaps.

Even the initial announcement would deter international students from enrolling – shrinking future talent pools. Employers should plan now for what your entry-level hiring model looks like without OPT.

AI-Powered Enforcement Will Become the Defining Immigration Story of 2026

The deployment of ImmigrationOS will mark a turning point for employer compliance. ICE, DOS, USCIS, and DOL will soon operate within a fully integrated, AI-driven enforcement ecosystem capable of triggering cascading consequences from a single data point.

Expect more I-9 investigations (especially tied to remote-verification errors and payroll mismatches), instant visa revocations (often without human review) triggered by arrests, address discrepancies, SEVIS irregularities, or social-media flags, and data-matching sweeps across IRS, SSA, DMV, and passport systems pulling employers into audits they didn't anticipate.

Expect More Visa Revocations and Status Whiplash

The State Department revoked significantly more visas in 2025 than the prior year – and that trajectory will continue in 2026. Revocations will increasingly stem from minor criminal arrests, perceived "inconsistencies" in DS-160 or I-983 forms, online speech, automated SEVIS flags, and employer-level audits triggered by <u>Project Firewall</u>.

Want More?

- You can read our entire FP Forecast 2026 here, full of predictions spanning many practice areas and industries.

- You can register for our FP Workplace Law Forecast 2026 Webinar here.

Conclusion

We will continue to monitor developments related to all aspects of immigration law. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our Immigration Practice Group.

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