

# Immigration service tightens rules to make deportation easier

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*L. Francis Cissna, the director of U.S. Citizenship and Immigration Services, speaks at a daily briefing at the White House in Washington in 2017.*

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U.S. Citizenship & Immigration Services announced Friday that it no longer had to ask for additional evidence or notify an applicant before denying a visa.

Taken with guidance issued last month that expands the service's ability to potentially deport immigrants, experts said incomplete applications or even government error could now quickly lead to foreign workers and other immigrants ending up in front of an immigration judge.

"USCIS is restoring full discretion to our immigration officers to deny incomplete and ineligible applications," agency Director L. Francis Cissna said in emailed remarks. The changes were designed to discourage frivolous and "skeletal" applications used to game the system, he added.

Immigration officers no longer have to issue requests for additional evidence, known as RFEs, or notices of intent to deny, known as NOIDs, before terminating an application, according to the memo.

Requests for evidence for high-skilled H-1B visas have been on the rise the last three fiscal years, according to the immigration service. Immigration attorneys worried that those applications will now become denials without a chance for them to provide additional evidence on behalf of their clients.

"How they're going to determine which application is frivolous versus which is substantive is going to be arbitrary," said Sam Adair, a business immigration attorney and partner at Graham Adair Inc.

The immigration service frequently overlooked or lost documents, which often prompted the agency to ask for additional guidance, Adair said.

Other attorneys acknowledged that they sometimes filed applications that were not fully fleshed out, however.

"I'm using it as a cudgel to beat my clients to get me fully formed, complete work product to file and not rely on getting an RFE," Richard Green, a business immigration attorney and partner at Carothers DiSante & Freudenberger LLP in Irvine, said about the memo.

"Sometimes we buy time and say we'll figure this out when the RFE shows up," he added. "We can't do that anymore."

Green said the swifter denials mean that immigrants applying for all kinds of visas, including H-1Bs, would be placed in deportation proceedings because of another memo issued by the immigration service last month.

That policy instructs immigration service officers to issue notices to appear in immigration court, essentially charging documents, in a wider range of cases, including when their visa applications are denied.

"If your client is now out of status, they're going to stick in a notice to appear," Green said.

"Before they wouldn't automatically issue a notice to appear to someone when an application was denied," Adair said, referring to his clients who applied for work visas.

He said people were previously given a short period of time to voluntarily leave the U.S. and that the June policy could make it difficult for immigrants to return after dealing with U.S. Immigration and Customs Enforcement and the immigration courts.

“This is a very important reform that will go a long way toward preventing fraudsters from gaming our system and tying up the precious time of adjudicators,” said Jessica Vaughan, director of policy studies at the nonprofit Center for Immigration Studies, which advocates for decreased immigration to the U.S., in an emailed statement.

“It will prevent the people submitting frivolous or unqualified applications from getting other benefits, like work permits or protection from deportation, to prolong their stay here even if they have no chance of ever being approved,” Vaughan said.

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