

Congress of the United States

Washington, DC 20515

December 22, 2022

The Honorable Alejandro Mayorkas,
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue S.E.
Washington, D.C. 20528

The Honorable Ur Jaddou,
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, Maryland 20746

Dear Secretary Mayorkas and Director Jaddou,

In 2022, more than 140,000 tech workers have lost their jobs,¹ with approximately 50,000 tech sector job losses in November alone.² These layoffs in positions centered on Science, Technology, Engineering, and Mathematics (STEM) have had a devastating impact, especially on the thousands of individuals who are at risk of losing their employment-based visas if they cannot find a new job within 60 days.

Foreign-born workers comprise nearly a quarter of the STEM workforce,³ and many of these newly unemployed workers are on H-1Bs or other employment-based visas. These individuals only have 60 days to find a new employer to sponsor their visa, and those who are unable to do so must leave the country.

Forcing these talented immigrants to leave our country is harmful to our long-run economic competitiveness. Many of these individuals have highly specialized skills and advanced STEM degrees from top U.S. universities. If allowed to stay in the U.S., they will develop innovative products, start new businesses and create jobs, and advance research across a variety of fields. Some of these individuals have been in the United States for decades and have U.S. citizen children and deep roots in the community.

Throughout our country's history, immigrants have been the driving force behind the innovation and entrepreneurship that has made the American economy the largest and most prosperous in the world. In fact, more than half of all billion-dollar technology companies were founded by immigrants.⁴ To ensure that the successful companies of the future are based in the U.S., we must prevent this brain drain from taking place.

Retaining STEM talent is also critical to strengthening U.S. national security. According to the Pentagon's most recent U.S. Defense Industrial Base Industrial Capabilities Report, the STEM

¹ Dixit, Pranav. "They Worked in Big Tech and Lived the American Dream. Now They Might Be Forced to Leave the Country." *BuzzFeed News*, 5 Dec. 2022, <https://www.buzzfeednews.com/article/pranavdixit/laid-off-tech-workers-us-visas-problems>.

² Smith, Stacey Vanek. "Find a New Job in 60 Days: Tech Layoffs Put Immigrant Workers on a Ticking Clock." *NPR*, 8 Dec. 2022, <https://www.npr.org/2022/12/08/1141402046/h1b-visa-immigrant-workers-tech-layoffs-60-days-to-find-a-job>.

³ Jordan, Miriam. "Tech Layoffs in U.S. Send Foreign Workers Scrambling to Find New Jobs." *The New York Times*, 9 Dec. 2022, <https://www.nytimes.com/2022/12/09/us/tech-immigrant-workers-visas.html>.

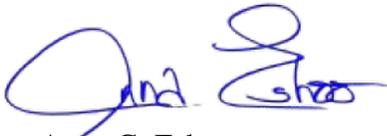
⁴ Anderson, Stuart. "NFAP Policy Brief: Immigrant Entrepreneurs and U.S. Billion-Dollar Companies." *NFAP*, 2 Nov. 2022, <https://nfap.com/research/new-nfap-policy-brief-immigrant-entrepreneurs-and-u-s-billion-dollar-companies>.

education and talent deficit in the United States is a major threat to national security.⁵ In an era in which the U.S. is increasingly threatened by adversaries that invest heavily in technological innovation, we must maintain a competitive advantage in strategically important fields, including artificial intelligence, aerospace, and quantum computing. This advantage is only possible if the U.S. attracts and retains talented immigrants who can contribute to research in these fields.

Because foreign-born workers only have a 60-day grace period to find a new job before losing their employment-based visa, it is difficult for them to remain in the U.S. after being laid off. The Immigration and Nationality Act empowers U.S. Citizenship and Immigration Services (USCIS) to modify the duration of the grace period through administrative action. Given the many benefits of retaining immigrant talent, we respectfully request that you extend the grace period to at least 120 days for employment-based visas, including the E, H, L, O, and TN visa categories. We're confident this policy change will boost America's economic competitiveness and honor our proud heritage as a nation of immigrants.

Thank you in advance for considering this request and for your ongoing efforts to ensure that our immigration system advances U.S. interests by attracting and retaining international talent.

Most gratefully,



Anna G. Eshoo
Member of Congress



Zoe Lofgren
Member of Congress

⁵ "DOD Releases Industrial Capabilities Report." *U.S. Department of Defense*, <https://www.defense.gov/News/Releases/Release/Article/2472854/dod-releases-industrial-capabilities-report/>.



U.S. Citizenship
and Immigration
Services

January 25, 2023

The Honorable Anna G. Eshoo
U.S. House of Representatives
Washington, DC 20515

Dear Representative Eshoo:

Thank you for your December 22, 2022 letter to the U.S. Department of Homeland Security (DHS) regarding technology sector layoffs and extending the 60-day grace period for workers in certain employment-based nonimmigrant classifications. Secretary Mayorkas asked that I respond on his behalf.

U.S. Citizenship and Immigration Services (USCIS) understands the impact that job loss can have on employment-based nonimmigrant workers in the United States. We are aware of the issue of involuntary terminations, especially in the technology sector, and are engaging with stakeholders on the matter. To provide further clarification to stakeholders and impacted nonimmigrant workers, USCIS recently published a fact sheet with options for the recently unemployed to remain in the United States beyond the 60-day grace period.¹ The 60-day grace period not only gives nonimmigrant workers time to find new employment, but also permits them the option to change their status to another nonimmigrant status, among other options, in the event their employment search takes longer than 60 days. Changing to another status (for example, a dependent status or a visitor status) may allow nonimmigrant workers to remain in the United States for additional time while they continue their employment search.

In your letter, you recommend extending the existing 60-day grace period to provide terminated workers more time to find new employment. Because the 60-day grace period is codified at 8 CFR 214.1(l)(2), it would require a regulatory change which would take considerable time to complete given the generally lengthy regulatory process under the Administrative Procedure Act. Therefore, it is likely that any extension of the regulatory grace period would not assist currently impacted individuals. USCIS recognizes the benefits to the United States of attracting and retaining talented foreign-born workers, and will continue to monitor technology sector layoffs and explore appropriate measures.

¹ See DHS, USCIS, Newsroom, Options for Nonimmigrant Workers Following Termination of Employment (Dec. 19, 2022), <https://www.uscis.gov/newsroom/alerts/options-for-nonimmigrant-workers-following-termination-of-employment>.

The Honorable Anna G. Eshoo

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Thank you again for your letter and interest in this important issue. Rep. Lofgren, the cosigner of your letter, will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director