



**Homeland
Security**

Engagement Readout

CIS Ombudsman Listening Session: Immigration Concerns and Options for Laid-Off Foreign Workers

On January 19, 2023, the Department of Homeland Security's (DHS) [Office of the Citizenship and Immigration Services Ombudsman \(CIS Ombudsman\)](#) hosted a listening session to hear concerns from stakeholders and present options for laid-off foreign workers.

[CIS Ombudsman Phyllis A. Coven](#) provided opening remarks acknowledging the impacts of the recent layoffs that affect foreign workers. She also shared that USCIS disseminated information regarding options for nonimmigrant workers seeking to remain in the United States in an authorized period of stay on its [Options for Nonimmigrant Workers Following Termination of Employment](#) web page. USCIS provided background information, and CIS Ombudsman staff facilitated the listening session. The phone lines were opened to stakeholders for questions and comments.

A total of 416 people joined this listening session, asked questions, and provided feedback. The CIS Ombudsman also received emails with additional feedback. Altogether, participants submitted more than 50 questions and comments during the session and via email. Below is a sample of the questions received:

- Which date does USCIS consider as the last date of employment? Does the 60-day grace period begin on the last day of payroll or the last day of actual work? For example, if the H-1B employment ends but the employer keeps the employee on the payroll for another month, then which date does USCIS consider as the date to start the clock on the 60-day grace period?
- If an H-1B nonimmigrant, who is also the beneficiary of an approved I-140 petition, is laid off, are they eligible for change of status to B-2 (assuming all eligibility requirements are met and the only issue in question is intent)?
- Can you extend the 60-day grace period to 90 days? Preparing a new H-1B petition can take weeks, so by the time an employee finds a new job and the application is filed, it is very close to 60 days. Can USCIS clarify or provide guidance regarding its employment authorization document adjudications standards?
- What is the situation if the H-1B visa holder is laid off and he/she filed a change of status to H-4? When can the individual start working – when the H-4 status is approved?
- Given the layoffs in the technology industry, will USCIS hold an H-1B lottery for FY 2024?

- Suppose a person in H-1B status is laid off and applies for an H-4 before the 60-day grace period ends. Then after the grace period ends, they get a new job, and they file an H-1B change of status. In this situation, are the H-4 and the H-1B change of status both pending? Do they need the H-4 to be adjudicated before the H-1B change of status can be approved?

The CIS Ombudsman will share a full list of inquiries and comments received with USCIS to give the agency an opportunity to address the public's questions and concerns.

Speakers:

- Phyllis A. Coven, CIS Ombudsman, DHS
- Gary Merson, Chief of Staff at the CIS Ombudsman, DHS
- Douglas Rand, Senior Advisor, Office of the Director, USCIS