



Written by [Warren Mass](#) on April 5, 2017

Justice Department Cautions Employers Seeking H-1B Visas Not to Discriminate Against U.S. Workers

In a press statement released on April 3, the U.S. Department of Justice warned employers petitioning for H-1B visas for the next fiscal year not to discriminate against U.S. workers.

The release explained that the H-1B visa program allows companies in the United States to temporarily employ foreign workers in specialty occupations such as science and information technology. “The Justice Department will not tolerate employers misusing the H-1B visa process to discriminate against U.S. workers,” the release quoted Acting Assistant Attorney General Tom Wheeler of the Civil Rights Division. “U.S. workers should not be placed in a disfavored status, and the department is wholeheartedly committed to investigating and vigorously prosecuting these claims,” Wheeler added.

The release noted that the Civil Rights Division’s Immigrant and Employee Rights Section (IER) is responsible for enforcing the anti-discrimination provision of the Immigration and Nationality Act. The statute prohibits, among other things, citizenship, immigration status, and national origin discrimination in hiring, firing, or recruitment or referral for a fee; unfair documentary practices; retaliation and intimidation.

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In the past, American workers have complained that they have lost their jobs to foreign H-1B visa holders and have even suffered the indignity of being required to train the foreign workers who were taking their jobs.

One of the biggest critics of this practice — while he was in Congress serving as a senator from Alabama — was Attorney General Jeff Sessions. As we noted in an article in 2015 (“[American IT Workers Complain of Losing Jobs to Foreign H-1B Visa Holders](#)”) on April 9 of that year, Sessions, who was then chairman of the Subcommittee on Immigration and the National Interest, and Senate Minority Whip Richard Durbin (D-Ill.) led a bipartisan coalition of senators who sent a letter to then-Attorney General Eric Holder, then-Homeland Security Secretary Jeh Johnson, and then-Labor Secretary Thomas Perez, asking them to investigate Southern California Edison’s use of the H-1B guest-worker program to replace American workers.

The letter began:

We are concerned about recent information that has come to light regarding the abuse of the H-1B





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visa program by Southern California Edison (SCE) and other employers to replace large numbers of American workers. We urge you to investigate this matter.

A number of U.S. employers, including some large, well-known, publicly-traded corporations, have reportedly laid off thousands of American workers and replaced them with H-1B visa holders. To add insult to injury, many of the replaced American employees report that they have been forced to train the foreign workers who are taking their jobs.

The letter noted that the “troubling practice” seems to be especially prevalent in the information technology (IT) sector of the U.S. economy and that “sixty five percent of H-1B petitions approved in FY 2014 were for workers in computer-related occupations.”

The senators signing the letter — who, besides Sessions and Durbin, also included Richard Blumenthal (D-Conn.), Charles Grassley (R-Iowa), Sherrod Brown (D-Ohio), David Vitter (R-La.), Claire McCaskill (D-Mo.), Bill Cassidy (R-La.), Bernie Sanders (I-Vt.), and James Inhofe (R-Okla.) — also asked whether the U.S. companies, by laying off American workers and replacing them with H-1B workers, “have engaged in prohibited citizenship status discrimination against U.S. citizens.”

If Sessions’ record as a senator is any indication, he will enforce the Trump administration’s crackdown on corporate abuse of the H-1B guest-worker program vigorously. In addition to the April 2015 letter to former Attorney General Holder that we quoted from above, Sessions and Representative Dave Brat (R-Va.) wrote an open letter to congressional colleagues published by the Washington, D.C.-based *Roll Call* on October 19, 2015, in which they warned against “immigration reform” that does nothing to curb what they regarded as excessively high immigration levels. “Immigration reform should mean improvements to immigration policy to benefit Americans,” stated the two members of Congress.

As one example of false immigration reform, the duo asked colleagues to consider the Senate-passed 2013 “gang of eight” immigration bill, which they noted was supported by “giant special interests” including “tech oligarchs” represented by Facebook founder Mark Zuckerberg’s FWD.us, groups promoting open borders such as La Raza (Spanish for “The Race”), and what they described as the “globalist class embodied by the billionaire-run Partnership for a New American Economy.”

The letter cited the H-1B program among its critical points against the “Gang of Eight” bill:

For these and countless other interest groups who helped write the bill, it delivered spectacularly: the tech giants would receive double the number of low-wage H-1B workers to substitute for Americans. La Raza would receive the further opening of America’s borders (while Democratic politicians gain more political power). And the billionaire lobby would receive the largest supply of visas for new low-skilled immigrants in our history, transferring wealth and bargaining power from workers to their employers.

Sessions and Brat summed up the problem by noting:

This is not immigration reform. This is the dissolution of the nation state, of the principle that a government exists to serve its own people.

Sessions was among the first high-ranking political figures to endorse Trump during his presidential campaign. A large part of their political alliance was based on their shared views regarding immigration reform and immigration enforcement. More stringent monitoring of the H-1B visa program is a good place for them to put their common principles into practice.

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