



Sen. Grassley Chides Obama Administration for L-1B Visa Memorandum

In a September 15 letter to U.S. Citizenship and Immigration Services (USCIS) Director León Rodríguez, Senator Chuck Grassley (R-Iowa) expressed his concern about a USCIS memorandum published on August 17, 2015 (and going into effect on August 31) that purports to “reform” the L-1B nonimmigrant visa category. The so-called reform pertains to intracompany transferees with “specialized knowledge.”



In interpreting the intent of the USCIS memo, Grassley referred to President Obama’s March 23 remarks, which were published on the White House website under the heading “FACT SHEET: President Obama to Announce New Steps to Attract Foreign Investors and Create Jobs through the Continued Expansion of the SelectUSA Initiative.”

That presidential statement, which touted the administration’s supposed efforts to attract foreign investors to the United States, had this to say about L-1B visas:

Policy Guidance for L-1B Visas: ... U.S. Citizenship and Immigration Services will increase clarity around the adjudication of the L-1B non immigrant visa that allows international companies to temporarily deploy workers with specialized knowledge to the United States when launching or conducting operations here. This long-anticipated policy guidance, which will be released for public feedback, is of particular interest to global companies participating in the SelectUSA Investment Summit.

Grassley cited Obama’s further assertion that “this could benefit hundreds of thousands of nonimmigrant workers and their employers; that, in turn, will benefit our entire economy and spur additional investment.”

However, Grassley strongly disagreed. He stated in his letter:

The President’s assertion that the proposed L-1B reforms will result in hundreds of thousands of additional L-1B workers being admitted to the United States is troubling. The L-1B program has never been intended by Congress to be a high-volume temporary foreign worker program.

Grassley quoted from a statement made by the DHS Office of the Inspector General (OIG) that a liberal definition of “specialized knowledge” “would open the category to an unlimited number of foreign workers.”

Grassley continued:

A more liberal definition of “specialized knowledge” that causes hundreds of thousands of additional L-1B workers to be admitted to the country will also accelerate the offshoring of jobs from the United States. The problem was already well known nine years ago, at which time the DHS OIG found that the term “specialized knowledge” was already “so broadly defined that adjudicators believe they have little choice but to approve almost all petitions.” The OIG concluded:



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“That so many foreign workers seem to qualify as possessing specialized knowledge appears to have led to the displacement of American workers.”

While Obama asserted that his “clarified” L-1B visa policy would “benefit hundreds of thousands of nonimmigrant workers and their employers,” it is important to remember that those workers are foreigners. If this “benefit” is done at the expense of U.S. workers, whom the OIG admitted were “displaced,” then the net effect on Americans is a loss of jobs!

Senator Jeff Sessions (R-Ala.) has been a vocal critic of the Obama administration’s immigration policies and, notably, the effect those policies have had on American jobs. In a statement delivered in the Senate on July 8, Sessions called on Congress to “to establish immigration reforms that serve the interests of all lawful residents of the United States living here today, including “curtailing foreign work visas to protect American jobs.” Toward the end of his remarks, Sessions said:

The only immigration reforms politicians should be discussing today are those that protect Americans — that protect American security and safety, that protect American jobs and American communities. More than enough has been done for the special interests. They have had their day. They have had their day for too long.

Whether we are talking about employees at Walt Disney in Florida, unemployed construction workers in California, or truck drivers in North Dakota, it is time for the needs of Americans to come first. We don’t have enough jobs for Americans. We don’t need to bring in more workers.

In an article back in 2014, Sessions also suggested a different approach to job creation in the United States. Noting that the federal government currently spends \$750 billion a year on poverty-assistance and welfare programs, Session proposed:

What if, instead of applying for guest workers, companies applied to hire workers receiving job training at a local welfare office? Able-bodied adults, in turn, would be required to accept employment or lose benefits. In other words: instead of a guest-worker program, a welfare-to-work program.

While Sessions’ proposal was good as far as it goes, a strictly constitutionalist approach would also insist that the federal government spend *nothing* on poverty-assistance and welfare programs, since those functions have not been delegated to the federal government in the Constitution.

A report on the administration’s memorandum on the L-1B visas in *National Review* for September 21 attributed the policy change to Obama’s frustration with Congress’s refusal to raise the annual cap on H-1B visas. The administration, acting in much the same way it has done on immigration, decided to act unilaterally and substitute an executive memorandum for legislation. As Ian Smith put it in the *National Review* article: “The Obama administration, at the behest of Big Tech lobbyists, has told its agency lawyers to think up a clever alternative.”

The administration’s circumvention of Congress on the matter of L-1B visas displays a disturbing mindset at the White House and a disregard for the separation of powers. It is fortunate that congressional watchdogs such as Senator Grassley are resisting such abuses of executive power.

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