TECHNET
THE VOICE OF AMERICAN INNOVATION

1420 New York Avenue NW, Suite 825
Washington, D.C. 20005
www.technet.org | @TechNetUpdate

November 9, 2026

Business and Foreign Workers Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: Eliminating the Discretionary 60-Day Grace Period, DHS Docket No. USCIS-2026-0364; RIN 1615-AD22 91 Fed. Reg. 57807

Dear Director Edlow:

TechNet appreciates the opportunity to submit comments on the Department of Homeland Security's (DHS or the Department) proposed rule, *Eliminating the Discretionary 60-Day Grace Period*. TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes over 100 dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

TechNet and its member companies support immigration policies that strengthen the domestic workforce while enabling U.S. businesses to recruit and retain the world's best and brightest talent. High-skilled foreign-born professionals complement American workers, drive innovation and entrepreneurship, and contribute to U.S. economic growth and job creation. As global competition for talent and technological leadership intensifies, federal immigration policies should reinforce these advantages rather than undermine them.

TechNet is concerned that the proposed elimination of the discretionary 60-day grace period for certain employment-based nonimmigrants would disrupt U.S. businesses, discourage workforce mobility, and weaken America's ability to attract and retain global talent. The existing grace period provides a limited but important opportunity for eligible workers to pursue new employment or resolve their immigration status following a job loss without immediately departing the country. Eliminating this protection would impose unnecessary costs on employers and workers, disrupt business operations, and undermine U.S. competitiveness without demonstrated

corresponding benefits. For these reasons, TechNet urges DHS to withdraw the proposed rule and retain the existing 60-day grace period.

I. The 60-Day Grace Period Is an Important Tool for U.S. Businesses to Recruit, Retain, and Manage High-Skilled Talent.

U.S. employers depend on a competitive, adaptable workforce to innovate and grow. The flexibility of the existing 60-day grace period serves an important function in the U.S. labor market by providing eligible high-skilled nonimmigrant workers with a reasonable opportunity to pursue new employment or other immigration options following the cessation of their previous employment. Technology companies operate in rapidly evolving markets where business needs, project requirements, and workforce demands can change quickly. Companies must be able to recruit employees with specialized skills, reorganize teams, shift resources among projects, and respond to emerging technologies and changing economic conditions. The ability of experienced professionals to move between employers and opportunities is essential to this process.

The existing grace period helps facilitate these transitions. When an eligible worker's employment ends, the grace period allows time to identify another employer willing to sponsor the worker, prepare the necessary immigration filings, or pursue another lawful immigration option. Without this protection, employers seeking to hire such workers would face additional procedural obstacles, delays, and uncertainty, even where the worker is otherwise qualified for the new position and the employer is prepared to comply with applicable immigration requirements.

For employers, the grace period's value is efficiency. It allows them to hire experienced workers who are already in the United States and have been vetted through the immigration system. Where an employer identifies a qualified candidate, H-1B portability permits work to begin upon filing of a nonfrivolous petition, which means projects stay on schedule. In specialized fields, this speed is a decisive advantage in competing for scarce talent.

Congress has recognized the importance of mobility for high-skilled workers. The *American Competitiveness in the Twenty-First Century Act of 2000* ("AC21") established H-1B portability provisions intended to facilitate changes of employment by eligible workers without requiring them to await final adjudication of a new petition before beginning employment. Although the existing grace period is a distinct regulatory protection, it complements Congress's efforts to reduce unnecessary barriers to high-skilled workforce mobility. Eliminating it would undermine those objectives by making the transition between jobs more difficult, particularly following an involuntary separation.

Worker mobility is a feature of a healthy labor market. When workers can move to better matches, employers fill roles more efficiently, productivity rises, and competition for talent strengthens. These gains accrue not only to the workers and employers directly involved but also to their American co-workers. The grace period

supports this mobility by preventing a single job loss from forcing the immediate exit of a productive worker.

The proposal could also complicate legitimate workforce restructuring and internal mobility. For example, a company that eliminates a position but identifies another suitable opportunity for the affected employee may need time to evaluate the new role, determine applicable immigration requirements, and prepare any necessary filings. The existing grace period provides a limited measure of flexibility where employment has ceased. Eliminating it would increase the risk that an otherwise productive worker must leave the country before a lawful transition can be completed. The grace period does not provide unrestricted employment authorization or eliminate the requirements applicable to a new position. Rather, it recognizes that lawful transitions take time and that employers and workers benefit from a reasonable opportunity to complete them. Removing this flexibility would make the labor market less efficient without meaningfully improving the qualifications or compliance obligations of participating employers.

II. Requiring Otherwise-Eligible Workers to Depart and Reenter the United States Would Impose Unnecessary Costs and Weaken America's Ability to Attract Global Talent.

The proposed rule would require affected workers to depart the United States immediately upon cessation of qualifying employment unless they have another lawful basis to remain. In many cases, these workers would remain eligible for subsequent employment-based immigration status and could return to the United States after completing the necessary procedures. Requiring their departure in the interim would serve little practical purpose while imposing significant costs on U.S. businesses and workers.

For employers, the consequences could include additional recruitment and onboarding expenses, immigration counsel fees, travel-related costs, and delays associated with consular processing or reentry. Employers may also face disruptions to ongoing projects when workers who could otherwise transition to new positions within the United States must instead depart and pursue the necessary authorization from abroad. Such interruptions can delay product development, reduce productivity, and increase operational uncertainty.

The costs also fall on the workers themselves and, through them, on the broader U.S. labor market. DHS itself recognizes that affected workers "may incur lost income if they require additional days to conduct their job search and return to the United States." A worker who is forced to leave during that interval may accept an offer from a competitor country rather than return, taking with them skills and experience the U.S. economy has already invested in attracting.[1]

[1] Eliminating the Discretionary 60-Day Grace Period, 91 Fed. Reg. 57807, 57809 (Sept. 11, 2026) (proposed rule).

These costs would be particularly significant in highly specialized technology fields, where identifying and recruiting qualified candidates can require substantial time and resources. An employer that has already identified a qualified worker in the United States should not be forced to navigate unnecessary international travel and immigration processing merely because the worker experienced a temporary interruption in employment.

The proposed rule would also send a damaging signal to the global workforce. The United States competes directly with countries such as Canada and the United Kingdom, as well as European Union member states and China, for highly skilled professionals in engineering, artificial intelligence, data science, advanced manufacturing, design, and other innovation-intensive fields. These workers evaluate not only compensation and professional opportunities, but also the predictability of immigration systems and the stability they can expect when relocating themselves and their families.

At a time when the United States should be strengthening its position as the world's leading destination for innovation, the federal government should avoid policies that make the country appear less welcoming, predictable, or competitive for highly skilled professionals.

III. An Immediate Departure Requirement Is Unworkable for Employers and Workers and Creates Unnecessary Immigration Compliance Risks.

The burdens that an immediate departure requirement places on individual workers have direct consequences for the ability of U.S. businesses to recruit and retain global talent. Highly skilled professionals considering employment in the United States must weigh not only career opportunities and compensation, but also the stability of their immigration status and the potential consequences for their families. The prospect that an unexpected job loss could require immediate departure, with little opportunity to resolve personal obligations or pursue new employment, creates a powerful disincentive to accepting positions with American companies. This uncertainty is particularly consequential for workers considering relocation from countries with more predictable immigration frameworks or leaving established positions to join U.S. startups and emerging technology companies.

The proposed rule's immediate departure requirement fails to account for the practical realities of employment transitions and international travel. Workers who unexpectedly lose their jobs may need time to arrange international travel, resolve housing and financial obligations, coordinate the departure of family members, and determine whether another lawful immigration option is available. These responsibilities cannot reasonably be completed immediately, particularly when employment ends without advance notice or circumstances beyond a worker's control prevent prompt departure. The proposed rule would apply equally to the dependents

of affected workers,[2] so immediate loss of status would disrupt household income and, for dependent spouses with work authorization, labor force participation.

Rather than attracting the highly skilled professionals needed to sustain American innovation, the proposed rule would make employment in the United States unnecessarily precarious and place U.S. businesses at a disadvantage in the global competition for talent. The existing 60-day grace period offers a limited, practical safeguard that makes the U.S. immigration system more predictable for workers and more competitive for employers. DHS should preserve this protection rather than impose an immediate departure requirement that would discourage qualified professionals from pursuing opportunities in the United States. Additionally, DHS reports just 37 H-1B Notices to Appear following expiration of the grace period in FY2025, a limited enforcement record that does not justify exposing thousands of otherwise compliant workers to potential status violations.

IV. DHS Has Not Adequately Justified the Proposed Rule or Accounted for Its Economic Consequences and Established Reliance Interests.

TechNet is also concerned that the proposed rule lacks a sufficient reasoned justification under the Administrative Procedure Act (APA). Although DHS identifies a desire to more closely align nonimmigrant status with qualifying employment and reduce administrative burdens, the proposal does not adequately explain why eliminating the grace period is necessary to achieve those objectives or why the resulting economic harms are justified.

<u>DHS Has Not Demonstrated Benefits Sufficient to Justify the Rule's Costs.</u>

The Department's regulatory analysis does not adequately quantify the costs that eliminating the grace period would impose on U.S. businesses and workers. Those costs include recruitment and replacement expenses, additional immigration filings and legal services, travel and consular processing expenses, lost productivity, project delays, and the opportunity costs associated with reduced workforce mobility.
The proposal also fails to adequately consider the broader economic consequences of making the United States a less attractive destination for high-skilled talent. Reduced mobility can impair companies' ability to recruit experienced workers, discourage entrepreneurship, and limit the efficient allocation of specialized skills across the economy. Although these effects may be difficult to quantify precisely, that difficulty does not relieve DHS of its obligation under the Administrative Procedure Act to meaningfully consider significant consequences of its proposed action. An agency must examine relevant factors and provide a reasoned explanation for its decision, including its treatment of important economic impacts. DHS should therefore assess these foreseeable consequences, even where precise monetary estimates are unavailable, and explain how they factor into its determination that the proposed rule's asserted benefits justify its costs.

[2] *Id.* at 57809.

Moreover, DHS has not demonstrated that eliminating the grace period would generate meaningful administrative savings sufficient to offset these costs. Although the Department identifies reduced administrative burden as a justification for the proposal, it does not provide a persuasive quantitative assessment of the resources saved by eliminating discretionary grace-period determinations. Without a credible assessment of the anticipated benefits, DHS cannot adequately justify the proposal's substantial costs to employers and workers.

Indeed, the proposed rule could increase other government workloads by requiring additional consular processing, generating more complicated immigration filings, and exposing additional workers to immigration enforcement proceedings. Any assessment of administrative savings should account for these potential offsetting costs.

TechNet urges DHS to conduct a more complete regulatory impact analysis that quantifies, to the extent practicable, the direct and indirect costs to employers, affected workers, and the broader economy. The Department should also evaluate the rule's disproportionate effects on startups and smaller businesses under the Regulatory Flexibility Act, including the practical burdens faced by employers without dedicated immigration compliance teams. Without such analysis, DHS cannot reasonably conclude that the proposed rule's asserted benefits justify its substantial economic consequences.

The Proposal Undermines Congress's Policy of Facilitating High-Skilled Workforce Mobility.

The proposal is also difficult to reconcile with Congress's longstanding recognition that high-skilled workforce mobility serves important economic interests. Through AC21, Congress sought to facilitate employment transitions for eligible H-1B workers and reduce barriers that prevent skilled professionals from moving between employers. The existing grace period supports this broader policy by providing a limited opportunity for workers who experience a cessation of employment to pursue another qualifying position without immediately leaving the country. Eliminating it would create new barriers to mobility and make workers more dependent on uninterrupted employment with a particular employer.

DHS should address this tension directly. While the Department possesses authority to establish conditions governing nonimmigrant status, that discretion should be exercised consistently with Congress's efforts to promote a flexible, competitive labor market for high-skilled workers. The proposed rule does not adequately explain why creating additional obstacles to employment transitions advances the purposes of the employment-based immigration system.

DHS Has Not Adequately Considered the Reliance Interests Created by the Existing Grace Period.

The 60-day grace period has been part of the employment-based immigration framework since 2017. During that time, employers, workers, and their families have

reasonably relied on its availability when making decisions about recruitment, relocation, employment transitions, and long-term career planning. Technology companies have incorporated the existing framework into their immigration compliance practices and workforce planning.

Although DHS acknowledges reliance interests in the NPRM, it does not adequately account for the extent to which employers and workers have structured their decisions around the existing rule or meaningfully weigh the disruption that eliminating it would cause. Under the APA, an agency changing an established policy must consider serious reliance interests and provide a reasoned explanation for its decision. Merely acknowledging that reliance exists is insufficient if the agency fails to meaningfully assess the consequences of disrupting it.

Here, those consequences include not only the immediate burdens on workers who lose employment, but also the broader effects on employers' recruitment strategies, workforce management, and ability to compete for international talent. DHS should give these interests substantial weight rather than dismiss them in favor of speculative administrative efficiencies.

DHS Should Consider Less Burdensome Alternatives.

Even if DHS determines that aspects of the existing grace period warrant modification, eliminating it entirely is neither necessary nor proportionate to the Department's stated objectives. The Department could instead retain the 60-day period while clarifying the circumstances under which it applies, establishing more predictable standards for its administration, or making narrowly tailored adjustments to address specific compliance concerns. If DHS is concerned about the discretionary nature of the current framework, it could consider codifying a fixed grace period that provides greater certainty to employers and workers while preserving appropriate safeguards. These alternatives would maintain the essential benefits of the existing policy without creating the substantial economic disruption and compliance risks associated with immediate departure. They could also reduce administrative complexity by providing clearer, more consistent standards for adjudication.

V. Conclusion

The United States' economic leadership depends on its ability to attract, retain, and effectively deploy the world's most talented workers. The existing 60-day grace period is a modest but important component of an immigration system that allows American businesses to compete for high-skilled talent while providing workers with reasonable flexibility to navigate unexpected employment transitions.

TechNet respectfully urges DHS to withdraw the proposed rule and preserve the existing 60-day grace period. We appreciate the Department's consideration of these comments and welcome continued engagement on immigration policies that strengthen U.S. economic competitiveness, support American workers, and ensure that the United States remains the world's leading destination for innovation.

Sincerely,



Linda Moore
President and CEO