

Current H-1B Denial Rates Concerning

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While there have not been any changes with applicable H-1B statutes and regulations, H-1B denials are propagating at plague level. USCIS is reinterpreting laws, placing qualifiers on established requirements and conceiving elevated standards of review. The result is a systemic assailing that feels like the H-1B specialty occupation may find its way onto the endangered species list.

Consider that H-1B denial rates for new H-1B filings have risen from 6% in FY 2015 to 32% in the 1st QTR of FY 2019. This was after a rise from 6% in FY 2015 to 24% in FY 2018.

H-1B extensions with the same employer and for the same position have also taken a hit. Interestingly, these filings for the same position and same employer as the previous H-1B approval also saw a denial rate that quadrupled from FY 2015 (3%) to FY 2018 (12%).

Although USCIS asserts that they are not adjudicating H-1B cases differently, the spread of denials is palpable. The fact that H-1B denial rates from FY 2015 to FY 2018 for "new" and "continuing" H-1Bs both quadrupled is also curious.

The challenge continues to make sure established laws, regulations and policies are followed. Unilaterally and tacitly changing the rules is not a viable system.

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