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Employer-Sponsored Immigration Programs Amid Litigation: Key Developments and Planning Considerations

June 23, 2026

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In June 2026, two federal court decisions created potential implications for employers sponsoring foreign national employees and individuals with pending immigration benefit applications. Although the cases involve different USCIS policies and arise from separate legal challenges, both have immediate operational implications and underscore the uncertainty that ongoing immigration litigation can create for employers.

Rhode Island Court Vacates USCIS Adjudication Policies

A federal court vacated several USCIS policy directives that affected how the agency reviewed and processed certain immigration benefit requests.

On June 5, 2026, the U.S. District Court for the District of Rhode Island issued an order vacating three USCIS policy issuances:

- Policy Memorandum PM 602-0192
- Policy Memorandum PM 602-0194
- Policy Alert PA 2025-26

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The court found that the challenged policies introduced substantive changes to adjudication and case-processing procedures without following the administrative requirements necessary to implement them. Based on those findings, the court concluded that the policies violated the Administrative Procedure Act and could not remain in effect.

The policies affected internal USCIS adjudication procedures and case processing practices. Among other things, they provided for:

- Adjudication holds for certain immigration benefit requests;
- Additional review or re-review of pending and previously adjudicated matters; and
- Increased discretionary scrutiny relating to certain categories or factors.

In practical terms, these policies contributed to longer processing times across several immigration filing categories, including employment-based petitions. Because the court vacated the policies, USCIS must now treat them as having no force or effect.

For the time being, USCIS officers are expected to adjudicate cases under existing statutory authority, applicable regulations, and guidance that was in place before these policies were issued.

For employers whose cases were delayed or placed on hold under these policies, the court's decision may allow those matters to resume normal processing. Employers should promptly identify any affected cases and work with immigration counsel to evaluate whether follow-up with USCIS is appropriate to help ensure those matters are returned to active adjudication. Given that USCIS has stated it disagrees with the Rhode Island court's ruling, while confirming it will comply with the order as it considers potential next steps, employers

should take a proactive approach to monitoring impacted cases and seeking updates where necessary.

Updates to the $100,000 H-1B Proclamation Fee

A federal district court in Massachusetts initially ruled that the $100,000 H-1B fee policy was unlawful and ordered that it be vacated nationwide. The court concluded that the fee functioned as a tax and that the executive branch lacked authority to impose it through a presidential proclamation. The court also found that the policy exceeded statutory authority and failed to comply with the Administrative Procedure Act.

The government promptly appealed that decision. The Massachusetts court subsequently paused the effect of its vacatur order while the appellate process moves forward. As a result, USCIS may continue requiring the $100,000 fee for H-1B petitions that seek, or are eligible only for, consular notification rather than change-of-status approval.

The U.S. Court of Appeals for the First Circuit will decide whether USCIS may continue collecting the fee while the appeal is pending.

At present, employers should recognize that the fee's future remains uncertain. Depending on the appellate court's ruling, the fee could be suspended again, remain in effect during the appeal, or become subject to further court orders. Employers considering H-1B filings that may be affected by the fee should carefully assess timing, budget considerations, and filing strategy with counsel.

Practical Implications for Employers

Both decisions are significant, but neither issue appears fully resolved. Additional court rulings and agency guidance are expected in the coming weeks and months.

Employers, foreign nationals, and sponsoring organizations should proactively review pending matters, anticipated filings, and any planned travel or consular processing to account for current requirements, possible fee obligations, processing delays, and further changes. Given the pace of recent developments, close attention to future agency announcements and court decisions will remain important.

Akerman's Immigration Strategic Planning & Compliance Practice Team is available to assist employers with questions regarding the status, impact, and practical implications of these recent developments.
