

## FAQ: Termination of an H-1B Employee. What Happens Now?

### What are the employer's responsibilities when an H-1B employee is terminated?

The employer should:

1. **Provide notification of the employee's termination to the employee.** It should be done in writing and clearly indicate that the employment relationship has been terminated.
2. **Notify the U.S. Citizenship and Immigration Services (USCIS) in writing.** A letter should be submitted to USCIS advising of the termination of an H-1B employee. This letter should be certified to the USCIS service center that approved the H-1B, provide the date of termination and request a revocation of the H-1B petition.
3. **Notify the U.S. Department of Labor.** This notification is achieved by withdrawing the labor condition application (LCA).
4. **Offer to pay to the employee the reasonable cost of transportation to his/her home country.** This is a requirement under the regulation. The obligation does not extend to family members or for personal items such as furniture and belongings. The employer can offer a direct purchase of a plane ticket, cash payment or rejection of the reimbursement.

The employer should retain records of all the steps that it has taken to comply with these immigration law obligations. Failure to comply with a bona fide termination could result in liability for back wages.

### What are the employee's options after termination?

Under the High Skilled Worker Rule that took effect in 2017, the employee has a 60-day grace period to leave the U.S., find another employer/sponsor, or change status (such as to F-1). These grace period also applies to the H-1B dependents.

This grace period might incentivize the H-1B worker to remain in the U.S. Under these circumstances, the employer might not be required to pay the transportation costs back to the employee, if it is confirmed that the employee has another employer/sponsor or ability to remain in the U.S. legally.