

USCIS Clarifies Start Date for Maximum 60-Day Grace Period Following Termination of Employment

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On March 10, 2023, U.S. Citizens and Immigration Services (USCIS) provided clarification on the 60-day grace period offered to nonimmigrant workers who have been terminated or who have resigned from their jobs. This is relevant given recent layoffs affecting nonimmigrant visa holders.

USCIS [now clarifies](#) that the “grace period starts the day after termination of employment, which is typically determined based on the last day for which a salary or wage is paid.” Consequently, the date on the employee’s final pay statement will indicate the start of the grace period. This may afford a terminated employee more time between their last day of in-office employment and when the 60-day clock starts running.

The 60-day grace period is a discretionary regulatory provision that allows certain nonimmigrant workers – including H-1B, E-1, E-2, E-3, L-1, H-1B1, O-1, and TN visa holders – who have been terminated or voluntarily leave their employment, to remain in the United States for up to 60 days or until the end of their authorized nonimmigrant validity period – whichever comes first. During the grace period, the nonimmigrant visa holder is considered holding valid nonimmigrant status. If eligible, the worker may file to change to another nonimmigrant status or transfer to a new employer. If unable to remain in a period of authorized stay, the worker must leave the country.

For the full USCIS FAQ document, please visit [Options for Nonimmigrant Workers Following Termination of Employment | USCIS](#).

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