



February 03, 2021

PM-602-0142.1

Policy Memorandum

SUBJECT: Rescission of 2017 Policy Memorandum PM-602-0142

Purpose

Effective immediately, USCIS rescinds PM-602-0142 “Rescission of the December 22, 2000 ‘Guidance memo on H1B computer related positions.’”

USCIS officers should not apply PM-602-0142 to any pending or new requests for H-1B classification, including motions on and appeals of revocations and denials of H-1B classification. Further guidance will be forthcoming.

Background

On December 16, 2020, the U.S. Court of Appeals for the 9th Circuit issued a decision in [Innova Solutions v. Baran, No. 19-16849 \(9th Cir. 2020\)](#) where the court overturned USCIS’ denial of an H-1B nonimmigrant visa petition as arbitrary and capricious. The court’s opinion noted that while USCIS did not explicitly rely on PM-602-0142 “Rescission of the December 22, 2000 ‘Guidance memo on H1B computer related positions.’” in the denial, the denial followed its logic. In order to ensure consistent adjudications across the H-1B program, USCIS is rescinding PM-602-0142.

Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties, but it does not remove their discretion in making adjudicatory decisions. It may not be relied upon to create any right or benefit, substantive or procedural, enforceable under law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

If USCIS officers have questions regarding this PM, they should direct them through their appropriate chains of command to the Office of Policy & Strategy.