



U.S. Department of Justice
Immigration and Naturalization Service

EAC 214h.1-P

425 I Street NW
Washington, DC 20536

June 18, 1991

MEMORANDUM FOR SIE's
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Info.Unit

FROM: Gilbert C. Tabor
Center Director
Eastern Service Center

SUBJECT: Strikes and Work Stoppages and Their Effect on H Petitions and Applications

Over the past few years, there have been some changes in the regulations relating to the effects of strikes and work stoppages on H petitions and applications. This memo will attempt to explain the present regulations on this subject. Some references on this subject can be found at 8CFR214.2(h)(16) on page 1106.44, and in the 3-21-91 Federal Register, vol. 56, No. 55, page 11917.

- 1). A strike or work stoppage has no effect on our adjudications unless the Secretary of Labor certifies to the INS Commissioner that a strike or other labor dispute involving a work stoppage or workers is in progress in the occupation and at the place where the beneficiary is to be employed or trained. When the Secretary of Labor has notified the Commissioner of such a work stoppage, ESC is normally notified by a memo from Headquarters. The Secretary of Labor's notification is based upon a finding that the employment of additional foreign workers, at the job and place in question, would adversely affect the wages and working conditions of U.S. citizen and permanent resident workers.
- 2). If such a certification has been made by the Secretary of Labor to the Commissioner, and we have a pending H petition for the job and place named in the certification, we will deny the petition.

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- 3). If we have already approved an H petition, but the beneficiary has not yet enter the U.S., and we then learn of a certification, the petition's approval is automatically suspended. If the beneficiary attempts to enter the U.S. on the basis of the petition, his or her application for admission is to be denied. This scenario does not affect Service Center Operation.
- 4). If we have already approved an H petition, and we learn of a certification, and the beneficiary has already entered the U.S., but has not yet begun employment, the petition's approval is automatically suspended. This scenario does not affect Service Center Operations.
- 5). If we have already approved an H petition, and we learn of a certification, and the beneficiary has already begun employment pursuant to that petition, the petition remains approved, and the beneficiary continues to be in valid H status, regardless of any past, present, or future participation by the beneficiary in the strike or work stoppage. In other words, once the beneficiary starts working, he or she is safe from INS sanction related to the work stoppage. This #5 provision is contained in the Federal Register cited above, and it represents a change from the regulation currently printed in our lawbooks at page 1107 (TM 175).

This memo supercedes an EAC 214h.1-P memo dated 3-26-90 under the subject heading "Jai Alai Petitions."

If you have any questions about this subject, please speak with your supervisor.

Gilbert C. Tabor
Center Director