

STATE DEPARTMENT VISA REFUSALS IN FY 2018 FOR IMMIGRANTS AND NONIMMIGRANTS

EXECUTIVE SUMMARY

Implementation of “extreme vetting” and new “public charge” eligibility requirements at U.S. consulates has increased the number of immigrants and applicants for temporary visas denied entry to the United States, according to an analysis of new [data](#) released by the U.S. Department of State. The National Foundation for American Policy compared data for FY 2017 to FY 2018 and found ineligibility findings used by the State Department to refuse visa applicants increased 39% for immigrants and 5% for nonimmigrants (individuals seeking temporary visas) between FY 2017 and FY 2018. The number of temporary visas issued declined 7% from FY 2017 to FY 2018, while the number of immigrant (permanent resident) visas issued fell 5% from FY 2017 to FY 2018. Immigrant and temporary visas could continue to decline in FY 2019 and FY 2020 due to restrictive policies from the Trump administration.

The administration’s March 6, 2017, presidential memorandum on “[heightened screening and vetting of applications for visas](#)” and the [change in public charge standards](#) in the Foreign Affairs Manual are most responsible for the decline in visa issuance. The March 6, 2017, presidential memorandum stated, “I direct the Secretary of State, the Attorney General, the Secretary of Homeland Security . . . to rigorously enforce all existing grounds of inadmissibility and to ensure subsequent compliance with related laws after admission.” The Buy American and Hire American [executive order](#) also has played a role. Reducing the number of immigrants and temporary visa holders admitted to the United States has been an administration goal since Donald Trump became president.

Table 1
Visas Issued to Immigrants and Temporary Visa Holders: FY 2017 to FY 2018

	FY 2017	FY 2018	Decline FY 2017 to FY 2018
Temporary (Nonimmigrant) Visas Issued	9,681,913	9,028,026	-653,887 (-7%)
Immigrant Visas Issued	559,536	533,557	-25,979 (-5%)

Source: U.S. Department of State, National Foundation for American Policy.

Table 2
Visa Refusals (Ineligibility Findings) for Immigrants and Temporary Visas: FY 2017 to FY 2018

	FY 2017	FY 2018	Increase FY 2017 to FY 2018
Total Number of Ineligibility Findings for Immigrants	332,003	460,840	128,837 (+39%)
Total Number of Ineligibility Findings for Temporary Visas (Nonimmigrants)	3,516,581	3,706,541	189,060 (+5%)

Source: U.S. Department of State, National Foundation for American Policy. Note: An applicant “may be found ineligible under more than one section of the Immigration and Nationality Act,” according to the State Department, which means the number of ineligibility findings may not match up with the number of applications within a single year.

INELIGIBILITY FINDINGS FOR VISA REFUSALS INCREASE IN FY 2018

When a consular officer declines to issue a visa, he or she cites one or more grounds of ineligibility. It is best to compare the data from year to year, rather than use the data on grounds of ineligibility in comparison to the number of applications within the same year. That is because “one applicant may be found ineligible under more than one section of the Immigration and Nationality Act,” according to the State Department.

The total number of ineligibility findings or determinations for immigrants (individuals seeking permanent residence) increased 39% from FY 2017 to 2018, rising from 332,003 in FY 2017 to 460,840 in FY 2018. From FY 2017 to FY 2018 the total number of ineligibility determinations for temporary visa (nonimmigrant) applicants rose 5%, from 3,516,581 to 3,706,541. These types of increases reflect changes in policy. (See Table 2.)

The documents to examine for the policy changes include the March 6, 2017, presidential memorandum on [“heightened screening and vetting of applications for visas,”](#) the [change in public charge standards](#) in the Foreign Affairs Manual and the Buy American and Hire American [executive order](#).

VISA REFUSALS INCREASE, LEADING TO FEWER VISAS ISSUED

The overall number of temporary visas issued by the State Department declined 653,887 or 7% between FY 2017 and FY 2018.¹ Much of the drop can be attributed to issuing fewer B1/B2 visas (temporary visitor for business and pleasure), which declined from 6,276,851 in FY 2017 to 5,708,278 in FY 2018, a decline of 568,573 or 9%. Between FY 2016 and FY 2018 the number of temporary visas issued declined 1,353,465 or 13%.

The data show a similar trend for immigrants seeking permanent residence, primarily family-based immigrants, since employment-based immigrants typically gain permanent residence (a green card) while adjusting from a temporary status (such as H-1B) inside the United States. Between FY 2016 and FY 2018 the number of immigrants issued visas declined 14%.

The number of Immediate Relatives (spouses, children and parents of U.S. citizens) issued visas fell from 254,430 in FY 2017 to 236,526 in FY 2018, a decline of 7%. Visas issued to Immediate Relatives declined 25%, or 78,826, between FY 2016 and FY 2018.

¹ Data analyzed in this report can be found in the Report of the Visa Office 2018, Report of the Visa Office 2017 and the Report of the Visa Office 2016 issued by the U.S. Department of State and available at: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics.html>.

State Department Visa Refusals in FY 2018

Table 3
Visas Issued to Immediate Relatives and Fiancés of U.S. Citizens: FY 2017 to FY 2018

	FY 2017	FY 2018	Decline FY 2017 to FY 2018
Immediate Relatives	254,430	236,526	-17,904 (-7%)
K-1 Fiancé Visas	34,797	24,675	-10,122 (-29%)

Source: U.S. Department of State, National Foundation for American Policy.

CHINA B1/B2 VISA REFUSAL RATE INCREASES AND VISAS DECLINE

The number of B1/B2 temporary visitor visas for business and pleasure issued for individuals from China declined from 1,452,834 in FY 2017 to 1,241,879, a decline of 210,955 or 15%. The decline in B1/B2 visas for Chinese tourist and business visitors was 748,046, or 38%, between FY 2016 and FY 2018. Some portion of the decline, at least from FY 2016, can be explained by the United States in 2014 increasing the length of a B1/B2 visa for China from 1 year up to 10 years, based on reciprocity with China. That meant Chinese visitors making multiple visits to the United States needed to obtain new visas less frequently.²

Table 4
B1/B2 Visas for Business and Tourism for China: FY 2017 to FY 2018

	FY 2017	FY 2018	Decline FY 2017 to FY 2018
B1/B2 Visas for China	1,452,834	1,241,879	-210,955 (-15%)

Source: U.S. Department of State, National Foundation for American Policy.

However, the decline in the past year can in large measure be attributed to increased refusal rates by U.S. consular officers. Refusal rates for B1/B2 visas for applicants from China increased from 14.6% in FY 2017 to 17% in FY 2018.³ The refusal rate was 12.4% in FY 2016.

Table 5
Refusal Rates for B1/B2 Visas for Business and Tourism for China

	FY 2016	FY 2017	FY 2018
Refusal Rate for B1/B2 Visas for China	12.4%	14.6%	17%

Source: U.S. Department of State, National Foundation for American Policy.

² <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/us-china-agree-to-extend-visas.html>.

³ <https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/refusal%20rate%20language.pdf>.

*State Department Visa Refusals in FY 2018***THE NUMBER OF STUDENT VISAS ISSUED DECLINE**

The number of F1 student visas issued fell from 393,573 in FY 2017 to 362,929 in FY 2018, a decline of 8% or 30,644 visas. The decline was 108,799 or 23% from FY 2016 to 2018. Some of the decline is connected to the United States agreeing in 2014 to increase the length of Chinese student visas from 1 year up to 5 years, based on reciprocity with China.⁴ However, the decline in student visas from China, even if to some degree due to the 2014 change in visa reciprocity, would only explain part of the fall in student visas.

Table 6
International Student Visas Issued: FY 2017 to FY 2018

	FY 2017	FY 2018	Decline FY 2017 to FY 2018
F1 Student Visas	393,573	362,929	-30,644 (-8%)

Source: U.S. Department of State, National Foundation for American Policy.

The number of F student visas issued to China declined 14,566 or 13% between FY 2017 and FY 2018. Overall, F1 student visas fell 108,799 from FY 2016 to FY 2018, and, as noted, 30,644 from FY 2017 to FY 2018, much larger than the decline in Chinese student visas.⁵

The decline in international students from India has been significant. The number of F student visas issued to India fell by 20,013 or 31% between FY 2016 and FY 2018. The trend continued in FY 2018, with F visas for Indians declining 4% or 2,058 visas, from FY 2017 to FY 2018.

Table 7
International Student Visas Issued to Indians: FY 2016 to FY 2018

	FY 2016	FY 2017	FY 2018	Decline FY 2016 to FY 2018
F Student Visas for Indians	65,257	47,302	45,244	-20,013 (-31%)

Source: U.S. Department of State, National Foundation for American Policy.

⁴ <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/us-china-agree-to-extend-visas.html>.

⁵ Note: State Department data for F1 student visas overall and F visas for specific countries may not precisely match up. F2 visas are for a spouse or child of a student.

State Department Visa Refusals in FY 2018

VISA REFUSALS INCREASE ON PUBLIC CHARGE GROUNDS

The number of potential immigrants refused entry to the United States on the ineligibility grounds of 212(a)(4), known more commonly as “public charge,” increased from 3,237 in FY 2017 to 13,450 in FY 2018, an increase of 316% or 10,213. The increase is due to a restrictive change in the State Department’s Foreign Affairs Manual (FAM), which unlike the Department of Homeland Security’s proposed public charge regulation was not subject to the Administrative Procedure Act.

The changes in the Foreign Affairs Manual, made in January 2018, is likely responsible for the 7% decline in the Immediate Relatives category between FY 2017 and FY 2018 and a decline of 10,122 or 29% in the number of K-1 Fiancé(e) of U.S. Citizen visas issued between FY 2017 and FY 2018. It is possible the declines could continue throughout FY 2019 and FY 2020. (See Table 3.)

**Table 8
Visa Refusals (Ineligibility Findings) for Immigrants: FY 2017 to FY 2018**

Grounds for Refusal	FY 2017	FY 2018	Increase FY 2017 to FY 2018
Public Charge (Immigrant), 212(a)(4)	3,237	13,450	10,213 (+316%)
Application Does Not Comply with INA (Immigrant), 221(g)	254,478	341,128	86,650 (+34%)
Misrepresentation (Immigrant), 212(a)(6)(C)(i)	5,862	8,078	2,216 (+38%)
Smugglers of Aliens (Immigrant), 212(a)(6)(E)	2,521	5,379	2,858 (+113%)

Source: U.S. Department of State, National Foundation for American Policy.

LARGEST CATEGORY OF INELIGIBILITY GROUNDS FOR VISA REFUSALS

In FY 2018, the largest increase in visa refusals for immigrants was on the grounds of 221(g) “Application does not comply with provisions of the INA [Immigration and Nationality Act] or regulations issued pursuant thereto.” The number of determinations of visa ineligibility based on 221(g) grounds increased for immigrants from 254,478 in FY 2017 to 341,128 in FY 2018, an increase of 34% or 86,650.

“This ground of law is used to suspend processing of visa cases before a final decision is made on the case,” according to Jeffrey Gorsky, senior counsel at Berry Appleman & Leiden LLP and former Chief of the Legal Advisory Opinion section of the Visa Office in the U.S. Department of State. “It is most commonly used either when there is

State Department Visa Refusals in FY 2018

a request by the consular officer for further evidence, or when the consular officer puts the case into ‘administrative processing.’ Administrative processing is just a term the State Department uses when they do not want to tell the applicant the reason for the denial. It normally means either the case is being investigated due to concerns over visa eligibility or fraud; or that the case is being submitted to Washington agencies for clearance based on security or criminal ineligibility concerns. Most cases submitted for clearance, often due to lookout hits for persons with similar names, are eventually cleared.”⁶

INCREASE IN DETERMINATIONS ON OTHER GROUNDS FOR VISA REFUSAL

Two other grounds of ineligibility for immigrants showed significant increases in FY 2018. Determinations of “Misrepresentation” for immigrants, 212(a)(6)(C)(i), as a ground of ineligibility increased from 5,862 in FY 2017 to 8,078 in FY 2018, a 38% increase.

Determinations of “Smugglers of aliens,” 212(a)(6)(E), as a ground of ineligibility increased from 2,521 in FY 2017 to 5,379 in FY 2018, a 113% increase. “While this provision is called a ‘smuggling’ provision, it is usually used as a ground against persons who assisted others to get a visa or admission to the U.S., allegedly in violation of law,” said Gorsky. “It is not uncommon when someone is denied on 212(a)(6)(C)(i) grounds for a spouse or other relative who assisted them to be denied on 212(a)(6)(E) grounds.”⁷

OVERCOMING INELIGIBILITY FOR VISAS

Data on the grounds of ineligibility cited to refuse visas do not tell the entire story, since it’s possible for foreign nationals who are denied visas to attempt to “overcome” the grounds of ineligibility by submitting additional information or due to changed circumstances.

The number of immigrants who overcame ineligibility on public charge grounds increased 293%, from 2,016 to 7,932, between FY 2017 to 2018. However, this does not mean the State Department became more generous in allowing individuals to overcome visa ineligibility on public charge grounds. To the contrary, it is largely due to 10,213 more people in FY 2018 being refused immigrant visas on public charge grounds compared to FY 2017, which means many more people applied to overcome their visa refusals based on these grounds. “People denied visas based on this ground can present new evidence, such as higher income from the petitioner/sponsor, at any time after the initial denial,” said Jeffrey Gorsky. “Therefore, some or many of these “overcomes” were probably from earlier fiscal years.”⁸

⁶ Interview with Jeffrey Gorsky.

⁷ Ibid.

⁸ Ibid.

State Department Visa Refusals in FY 2018

The number of people who overcame ineligibility for immigrant visas on the grounds of 221(g) “Application does not comply with provisions of the INA [Immigration and Nationality Act] or regulations issued pursuant thereto” actually declined 6% from FY 2017 to FY 2018 – even though there were 86,650 more visa refusals on such grounds in FY 2018 compared to FY 2017.

CONCLUSION

Trump administration policies are making it more difficult for both immigrants and temporary visas holders to enter the United States. Recent [USCIS data](#) showed large increases in the denials and Requests for Evidence for high-skilled foreign nationals seeking to work in the United States. It appears “extreme vetting” and “merit-based immigration” are phrases that have translated into fewer people being allowed to enter the United States to live, work or study.

ABOUT THE NATIONAL FOUNDATION FOR AMERICAN POLICY

Established in 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) non-profit, non-partisan public policy research organization based in Arlington, Virginia, focusing on trade, immigration and related issues. Advisory Board members include Columbia University economist Jagdish Bhagwati, Cornell Law School professor Stephen W. Yale-Loehr, Ohio University economist Richard Vedder and former INS Commissioner James Ziglar. Over the past 24 months, NFAP's research has been written about in the *Wall Street Journal*, the *New York Times*, the *Washington Post*, and other major media outlets. The organization's reports can be found at www.nfap.com.
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