**California Department of Education**

# **Report to the** **Legislature:** **Teacher Credentialing: Teacher Preparation Outside of the United States and H-1B Work Visas**



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**California Department of Education**

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**Report to the Legislature: Teacher Credentialing: Teacher Preparation Outside of the United States and H-1B Work Visas**

## **Executive Summary**

This report is required by California *Education Code* Section [44275.6](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=44275.6&lawCode=EDC). This statute was added by Assembly Bill 681 (Ch. 199, Stats. 2017), which created a pathway for the California Commission on Teacher Credentialing to determine whether the national teaching credential standards of another country are equivalent to the United States/California standards in order to expedite the credentialing process for out-of-country prepared teacher candidates. This report summarizes the H-1B work visa data collected annually from school districts, county offices of education, and charter schools. These data include the number of teacher visa applications for persons excluded from the term “immigrant,” for purposes of the federal Immigration and Nationality Act (Section 1101 of Title 8 of the *United States Code*), pursuant to Section 1101(a)(15)(H)(i)(b) of Title 8 of the *United States Code.*

This report contains the last year (2021–22) of H-1B work visa data from California local educational agencies (LEAs). The H-1B Federal Program was created to assist employers who cannot otherwise obtain needed skills and aptitudes from the United States workforce by sanctioning the temporary employment of experienced individuals who are not otherwise permitted to work in the United States.[[1]](#footnote-1) California LEAs epitomize the type of employer that may benefit from this federal program. This report includes the number of California work visa applications for persons excluded from the term “immigrant,” for purposes of the federal Immigration and Nationality Act (Section 1101 of Title 8 of the *United States Code*), pursuant to Section 1101(a)(15)(H)(i)(b) of Title 8 of the *United States Code* from 2021–22.

In 2021−22, 65 LEAs submitted a request for teacher work visas throughout California. A total of 179 work visas were requested by LEAs, and 154 work visas were granted. Only 25 requests for H-1B teacher work visas were denied in 2021−22. Similar to the data from the prior three years (2018−21), in 2021−22, the majority of submissions were generated by school districts. Specifically, school districts accounted for 42 out of the 65 LEAs that requested teacher work visas.

You will find this report on the California Department of Education Recruiting Teachers of Color web page at <https://www.cde.ca.gov/pd/ee/divteachrecruit.asp>. If you have questions or need a copy of this report, please contact Alexis Clift, Education Programs Consultant, Teacher and Leader Policy Office, Educator Excellence and Equity Division, at 916-319-0452 or [aclift@cde.ca.gov](mailto:aclift@cde.ca.gov).

### Assembly Bill 681 and Legislative Reporting Requirements

On September 1, 2017, Assembly Bill (AB) 681 (Chau) was chaptered and placed in the California *Education Code* (*EC*), creating a pathway for the California Commission on Teacher Credentialing (CTC) to determine whether the national teaching credential standards of another country are equivalent to the United States/California standards in order to expedite the credentialing process for out-of-country prepared teacher candidates. The bill authorized the CTC to determine that the national standards for coursework, programs, or degrees in a country other than the United States are equivalent to those offered by a regionally accredited institution in the United States. The legislation specifies that if the CTC determines that the other country’s national standards are equivalent, an individual who holds or is eligible for a credential in that country is presumed to have satisfied specified requirements for obtaining a credential. This bill requires a local educational agency (LEA), before issuing a temporary certificate or providing for the registration of a valid certification or other document authorizing the holder to serve in a position requiring certification qualifications as an employee of the school district, to obtain proof that the holder has obtained a credential, certificate, or permit authorizing the performance of services in public schools from the CTC.

Moreover, AB 681 created requirements for school districts, county offices of education (COEs), and charter schools to annually report to the California Department of Education (CDE) the number of visa applications for certain persons excluded from the term “immigrant,” for purposes of the federal Immigration and Nationality Act (Section 1101 of Title 8 of the *United States Code*), pursuant to Section 1101(a)(15)(H)(i)(b) of Title 8 of the *United States Code,* that the school district, COE, or charter school applies for on behalf of potential employees and the number of those visa applications that are granted. Moreover, *EC* Section 44275.6(b)(1) includes the requirement of an annual report from the CDE to the Legislature summarizing the number of H-1B work visa applications that are granted each year.

### Introduction: H-1B Work Visa Program

The H-1B Work Visa Program applies to employers seeking to hire persons excluded from the term “immigrant,” for purposes of the federal Immigration and Nationality Act (Section 1101 of Title 8 of the *United States Code*), pursuant to Section 1101(a)(15)(H)(i)(b) of Title 8 of the *United States Code,* as workers in specialty occupations of distinguished merit and ability. Specifically, a specialty occupation is one that necessitates the application of highly specialized knowledge and the possession of at least a bachelor’s degree or its educational equivalent. The overall objective of the H-1B program and its provisions is to aid United States employers who cannot otherwise acquire highly qualified and skilled domestic workers. Expressly, the program assists employers in acquiring individuals with desirable and necessary skills and abilities from outside of the United States workforce by authorizing the temporary employment of these qualified individuals who are not otherwise authorized to work in the United States.[[2]](#footnote-2) California LEAs embody the type of employer that may benefit from this federal program. California teachers meet the basic eligibility requirements of the H-1B program because teachers must hold a minimum of a bachelor’s degree or its equivalent and there is currently an extensive shortage of qualified educators in the state.

The H-1B work visa is a feasible option for primary, secondary, college, and/or university teachers with the required expertise and training. The H-1B work visa offers nonnative professionals the ability to work temporarily in the United States as long as they possess special skills and hold specific degrees and/or licenses.[[3]](#footnote-3) California teachers qualify for the H-1B Work Visa Program if they satisfy all of the following conditions:

* Possess a bachelor’s degree or higher for entry into teaching. However, an elementary school teacher, for example, would not require the same level of degree as a university professor.
* For degrees obtained outside of the United States, they must be the equivalent of a United States bachelor’s degree. This degree may also be subject to additional evaluation and/or verification.
* Retain and maintain any required licenses, certifications, and/or authorizations to work within their particular educational sector. If the teacher has not procured their license prior to arriving in the United States, they may have the ability to prove that they meet all of the current conditions for credentialing/licensing.
* The LEA or employer is required to submit a Labor Condition Application from the Department of Labor. This is to guarantee that the teacher will be treated fairly and paid at a wage rate equivalent to those paid to domestic workers with parallel experience, education, and/or credentials.[[4]](#footnote-4)

The H-1B visa is one of the most requested visas among non-native professional workers. This is due to several factors, including its convenience and overall benefits. However, it is important to note that there are some limitations associated with the H-1B Visa Program. The program includes an annual limit of 65,000 visas each year. This mandate was established by Congress and is administered by the Department of U.S. Citizenship and Immigration Services. Specifically, 20,000 visas are directly reserved for nonnative national applicants with a United States master’s degree or higher. It is important to note that, when the number of applications submitted is greater than the established numerical limit, the Department of U.S. Citizenship and Immigration Services randomly selects, through its computerized lottery system, 65,000 applications submitted by regular applicants and an additional 20,000 applications by advanced degree applicants (a total of 85,000 applications). LEAs apply for the H-1B visa on behalf of their non-native teacher candidates. Due to the numerical limitation and the current teacher shortage crisis, many United States employer school districts, COEs, charter schools, and institutions seek special H-1B visas exempt from the visa cap. Currently, there are three types of employer organizations that may seek the H-1B cap-exempt work visa, including a nonprofit or government research organization, an accredited college or university, and a nonprofit organization affiliated with a college or university. Many LEAs successfully establish an H-1B exempt status to hire teachers since most schools are public and qualify as a nonprofit organization.[[5]](#footnote-5)

### Monitoring Tool: The California Basic Educational Data System

The California Basic Educational Data System (CBEDS) is a system for collecting information about schools and school districts as well as some aggregate data on students and classified staff in the California public kindergarten through grade twelve school system. CBEDS data are collected once a year on the first Wednesday in October, which is designated as “Information Day.” CBEDS is the system and monitoring tool used to collect H-1B work visa information as required by [*EC* Section 44275.6](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=44275.6&lawCode=EDC).

The data are collected from three different forms. Each LEA completes a form, known as the County/District Information Form, that provides information about classified staff, estimated teacher hires, and H-1B work visa applications. Each public school completes the School Information Form (SIF), which provides information about classified staff, kindergarten program types, educational calendars, and multilingual instructional programs. Charter schools also report information on the SIF regarding H-1B work visa applications and estimated teacher hires. Districts participating in the District of Choice (DOC) Program complete the DOC Supplemental form providing select information about their DOC Program.

CBEDS data are used to produce state and federal reports required by the California *EC* and by federal statutes. CBEDS data are also made available for other uses by schools, districts, parents, government groups, control agencies, CDE staff, the media, and the general public. The public may view data in a variety of formats from the CDE Accessing Educational Data web page at <https://www.cde.ca.gov/ds/ad/index.asp>. The CDE takes the H-1B teacher work visa information submitted by LEAs and collected via CBEDS to evaluate teacher work visa data and to compile reports for the Legislature.

### 2021–22 H-1B Work Visa Information

**Table 1: H-1B Visas Requested and Granted for 2021–22**

| Total LEAs | Districts | Charter Schools | Total Requested Work Visas | Granted Work Visas | Denied  Work Visas |
| --- | --- | --- | --- | --- | --- |
| 65 | 42 | 23 | 179 | 154 | 25 |

In 2021−22, districts accounted for the majority of the denials, with 22 out of the 25 total denials, while charter schools accounted for only three denials. Moreover, one district—Monterey Peninsula Unified—represented the bulk of the denials, with 13 out of the total 25 work visas denied. Monterey Peninsula Unified requested 14 work visas and was granted one. The reason(s) for the 13 denials are unknown. However, while Monterey Peninsula Unified received the largest number of denials, the largest number of requests came from West Contra Costa Unified. West Contra Costa Unified requested a total of 24 teacher work visas and was granted 24 teacher work visas. San Jose Unified also requested a large number of teacher work visas. San Jose Unified requested 22 work visas and was granted 22 work visas. Therefore, the two districts of West Contra Costa Unified and San Jose Unified together requested and obtained 46 teacher work visas, or 30 percent of the teacher work visas permitted in California during the 2021−22 school year. In regard to regional representation, the number of requests for teacher work visas was fairly even across the state. Nine more northern California LEAs submitted requests for work visas (with a total of 37) than southern California LEAs (with a total of 28). To view the data for all LEAs in 2021–22, please see Appendix 1.

### Trends in Data 2018−22

**Table 2: H-1B Visas Requested and Granted for** **2018–19**

| Total LEAs | Districts | Charter Schools | Total Requested Work Visas | Granted Work Visas | Denied  Work Visas |
| --- | --- | --- | --- | --- | --- |
| 58 | 36 | 22 | 193 | 151 | 42 |

**Table 3: H-1B Visas Requested and Granted for** **2019–20**

| Total LEAs | Districts | Charter Schools | Total Requested Work Visas | Granted Work Visas | Denied  Work Visas |
| --- | --- | --- | --- | --- | --- |
| 59 | 41 | 18 | 143 | 128 | 15 |

**Table 4: H-1B Visas Requested and Granted for** **2020–21**

| Total LEAs | Districts | Charter Schools | Total Requested Work Visas | Granted Work Visas | Denied  Work Visas |
| --- | --- | --- | --- | --- | --- |
| 44 | 26 | 18 | 108 | 102 | 6 |

The first time H-1B work visa data was collected was in 2018–19. Data from 2018 through 2021 (2018−19, 2019−20, and 2020−21) were covered in the 2021 legislative report. In observing the H-1B work visa data from 2018 through 2022, some insights and patterns emerge. Over the past four years, more northern California LEAs have submitted requests for H-1B teacher work visas compared to southern California LEAs. However, while the total number of requests for work visas had been decreasing each year from 2018 to 2021, this year there were more requests for H-1B teacher work visas (179) than there have been in 2019–20 and 2020–21 (note: only 2018–19 was higher at 193 requests). Moreover, this last year (2021−22) included the highest number of LEAs submitting H-1B work visa requests. Overall, there were 65 LEAs that submitted a request (compared to 44 from just last year). It is also significant to note that the highest number of work visas were granted this year at 154.

In addition, the data over the three-year period clearly illustrate that school districts are much more likely to have their work visa requests denied. Over the last four years (from 2018 through 2022), only six charter schools received denials overall. Thus, while the charter schools did not submit as many requests for teacher work visas when compared to school districts, it is still important to note that they are still far less likely to receive denials and much more likely to receive an approval when compared to school districts. Specifically, over the four-year period, school districts accounted for 93 percent of the denials while charter schools accounted for only 7 percent of the total denials.

### Appendix 1: Table 5: 2021–22 H-1B Work Visa Data

| **County-District- School (CDS) Code** | **County Name** | **District Name** | **School Name** | **Submitted** | **Granted** |
| --- | --- | --- | --- | --- | --- |
| 1100170124172 | Alameda | Alameda County Office of Education | Yu Ming Charter | 6 | 6 |
| 1611920000000 | Alameda | Hayward Unified | District Office | 2 | 1 |
| 1611920108670 | Alameda | Hayward Unified | Leadership Public Schools—Hayward | 1 | 1 |
| 1612590000000 | Alameda | Oakland Unified | District Office | 4 | 4 |
| 1612590126748 | Alameda | Oakland Unified | LPS Oakland R & D Campus | 1 | 1 |
| 7616300000000 | Contra Costa | Acalanes Union High | District Office | 1 | 1 |
| 7616480000000 | Contra Costa | Antioch Unified | District Office | 1 | 1 |
| 7617540000000 | Contra Costa | Mt. Diablo Unified | District Office | 1 | 1 |
| 7617960000000 | Contra Costa | West Contra Costa Unified | District Office | 24 | 24 |
| 9618380137919 | El Dorado | Buckeye Union Elementary | Buckeye Union Mandarin Immersion Charter | 5 | 5 |
| 9619030000000 | El Dorado | Lake Tahoe Unified | District Office | 1 | 1 |
| 15638000000000 | Kern | Taft City | District Office | 4 | 4 |
| 16101650000000 | Kings | Kings County Office of Education | District Office | 1 | 1 |
| 19645500000000 | Los Angeles | Garvey Elementary | District Office | 3 | 0 |
| 19645680000000 | Los Angeles | Glendale Unified | District Office | 3 | 3 |
| 19645840000000 | Los Angeles | Gorman Joint | District Office | 1 | 1 |
| 19647330000000 | Los Angeles | Los Angeles Unified | District Office | 12 | 10 |
| 19647330102541 | Los Angeles | Los Angeles Unified | New Designs Charter | 3 | 3 |
| 19647330117978 | Los Angeles | Los Angeles Unified | Goethe International Charter | 2 | 0 |
| 19647330120071 | Los Angeles | Los Angeles Unified | New Designs Charter School—Watts | 1 | 1 |
| 19647330137612 | Los Angeles | Los Angeles Unified | Valley International Preparatory High | 1 | 1 |
| 19647330140004 | Los Angeles | Los Angeles Unified | El Rio Community | 1 | 0 |
| 19647331996610 | Los Angeles | Los Angeles Unified | Los Angeles Leadership Academy | 2 | 2 |
| 19647336112536 | Los Angeles | Los Angeles Unified | Accelerated | 1 | 1 |
| 19648810000000 | Los Angeles | Pasadena Unified | District Office | 9 | 9 |
| 19649070000000 | Los Angeles | Pomona Unified | District Office | 1 | 1 |
| 19649800000000 | Los Angeles | Santa Monica-Malibu Unified | District Office | 1 | 1 |
| 20651930000000 | Madera | Chowchilla Elementary | District Office | 2 | 2 |
| 27660350000000 | Monterey | Greenfield Union Elementary | District Office | 1 | 1 |
| 27660920000000 | Monterey | Monterey Peninsula Unified | District Office | 14 | 1 |
| 27661590000000 | Monterey | Salinas Union High | District Office | 2 | 2 |
| 27754730000000 | Monterey | Gonzales Unified | District Office | 3 | 3 |
| 28662660000000 | Napa | Napa Valley Unified | District Office | 4 | 3 |
| 30664310000000 | Orange | Anaheim Union High | District Office | 1 | 1 |
| 30665970000000 | Orange | Newport-Mesa Unified | District Office | 1 | 1 |
| 33670330000000 | Riverside | Corona-Norco Unified | District Office | 1 | 1 |
| 33670900000000 | Riverside | Jurupa Unified | District Office | 1 | 1 |
| 34674390000000 | Sacramento | Sacramento City Unified | District Office | 1 | 1 |
| 36676520000000 | San Bernardino | Chaffey Joint Union High | District Office | 1 | 1 |
| 36750773631207 | San Bernardino | Apple Valley Unified | Academy for Academic Excellence | 1 | 1 |
| 37679670000000 | San Diego | Alpine Union Elementary | District Office | 1 | 1 |
| 37683380111898 | San Diego | San Diego Unified | Albert Einstein Academies | 1 | 1 |
| 37683380122788 | San Diego | San Diego Unified | School for Entrepreneurship and Technology | 1 | 1 |
| 37683386039812 | San Diego | San Diego Unified | Keiller Leadership Academy | 1 | 1 |
| 37683386040190 | San Diego | San Diego Unified | King-Chavez Primary Academy | 1 | 1 |
| 38684780107300 | San Francisco | San Francisco Unified | City Arts and Tech High | 1 | 1 |
| 38684786040935 | San Francisco | San Francisco Unified | Thomas Edison Charter Academy | 1 | 1 |
| 38769270000000 | San Francisco | SBE—The New School of San Francisco | District Office | 1 | 1 |
| 38769270132183 | San Francisco | SBE—The New School of San Francisco | The New School of San Francisco | 1 | 1 |
| 41688900000000 | San Mateo | Cabrillo Unified | District Office | 4 | 4 |
| 41690050000000 | San Mateo | Redwood City Elementary | District Office | 3 | 3 |
| 42692110000000 | Santa Barbara | Hope Elementary | District Office | 1 | 1 |
| 43693690000000 | Santa Clara | Alum Rock Union Elementary | District Office | 1 | 1 |
| 43695830000000 | Santa Clara | Morgan Hill Unified | District Office | 1 | 0 |
| 43696170000000 | Santa Clara | Mount Pleasant Elementary | District Office | 1 | 1 |
| 43696660000000 | Santa Clara | San Jose Unified | District Office | 22 | 22 |
| 43696900000000 | Santa Clara | Sunnyvale | District Office | 1 | 1 |
| 43733870000000 | Santa Clara | Milpitas Unified | District Office | 1 | 0 |
| 45699480134122 | Shasta | Columbia Elementary | Redding School of the Arts | 2 | 2 |
| 47736840000000 | Siskiyou | Butte Valley Unified | District Office | 1 | 1 |
| 48104880139030 | Solano | Solano County Office of Education | Elite Public | 1 | 1 |
| 48705810000000 | Solano | Vallejo City Unified | District Office | 2 | 2 |
| 48705810137380 | Solano | Vallejo City Unified | MIT Griffin Academy Middle | 1 | 1 |
| 48705810139816 | Solano | Vallejo City Unified | Griffin Academy High | 1 | 1 |
| 55105530000000 | Tuolumne | Tuolumne County Superintendent of Schools | District Office | 1 | 1 |

1. . “H-1B Program: Overview.” *U.S. Department of Labor: Wage and Hour Division*, <https://www.dol.gov/agencies/whd/immigration/h1b>. [↑](#footnote-ref-1)
2. . “H-1B Program: Overview.” *U.S. Department of Labor: Wage and Hour Division*, <https://www.dol.gov/agencies/whd/immigration/h1b>. [↑](#footnote-ref-2)
3. . “H-1B Visas for Teachers: Position Specifications: H-1B for Teachers.” *Visa Nation*, <https://www.immi-usa.com/h1b-visa/h1b-visa-for-teachers/>. [↑](#footnote-ref-3)
4. . “H-1B Visas for Teachers: The Complete Guide.” *Visa Nation*,

   <https://www.immi-usa.com/h1b-visa/h1b-visa-for-teachers/>. [↑](#footnote-ref-4)
5. . “H-1B Limitations.” *Teachers Council*, <https://teacherscouncil.com/h-1b-visa/>. [↑](#footnote-ref-5)