

IMMIGRATION STRATEGIES TO ADDRESS THE TEACHER SHORTAGE



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EXECUTIVE SUMMARY

A widespread teacher shortage in the United States has reached critical levels, accelerated by the COVID-19 pandemic. A lack of teachers in all subject areas, but especially STEM topics, has the potential to stunt learning outcomes and severely impact the American workforce in the future as the knowledge and skill requirements for employees rise.

Several visa programs in place enable school and district administrators to hire qualified teachers from abroad, and many school systems take advantage of them. However, the sheer scale of the need requires additional solutions.

Public and charter schools may be able to show they are exempt from the cap on H-1B visas by documenting a qualified relationship with a research institution, such as a college or university. As a cap-exempt organization, these schools are no longer required to participate in the strictly regimented H-1B lottery process for a limited number of visas. Instead, they can hire as many teachers as they need at any time.

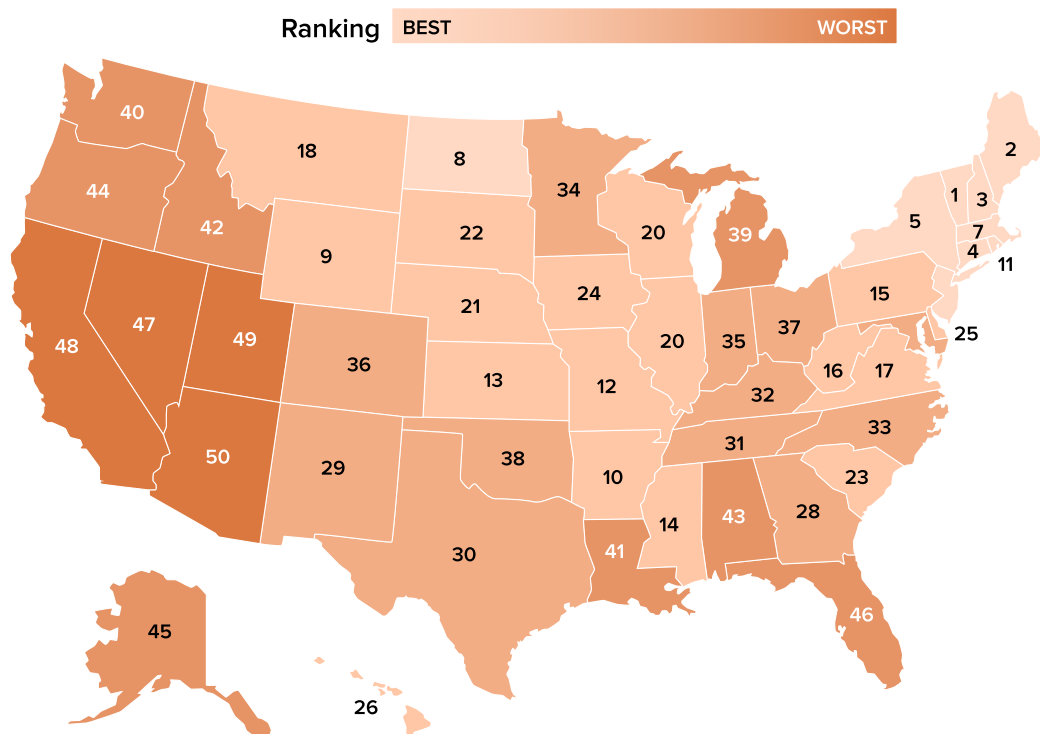
This white paper details the severity of the teacher shortage, existing visa options, and the route to becoming cap-exempt. It also touches on other logistical, organizational, and cultural factors that school and district administrators must consider when hiring teachers from abroad to support their well-being and success within the classroom and beyond.

The U.S. Teacher Shortage: History, Causes, and Impact



Staffing challenges are pervasive in primary and secondary education across the United States, where there is expected to be a deficit of approximately 200,000 public school teachers by the 2025-2026 school year.¹

While the problem may be more severe in rural areas, it affects school districts in urban and suburban areas as well.² Every single state reports a significant shortage of teachers, with the states most in need (as measured by the ratio of students to teachers) being Utah, Nevada, Florida, Arizona, and California.³ Schools report being unable to fill vacant positions in every subject area, but there is a particular need for teachers in STEM subjects as well as special education, foreign languages, and English as a second language.⁴



Source: USAToday

Link to original: America's teacher shortage broken down by state, from Florida to Utah (<http://usatoday.com>)

This state of affairs is due to multiple factors, including teachers leaving the profession.⁵ A faltering pipeline of new teachers is another: Between 2012-13 and 2019, the number of people enrolled in traditional teacher preparation programs fell by 30 percent.⁶ Many colleges and universities have ended their undergraduate programs in teaching due to a lack of interest.⁷

The ongoing shortage has created a vicious cycle: Fewer teachers make more work for current teachers, which leads to more stress and burnout, which causes more teachers to leave, which makes more work for the teachers left behind. It also creates a less-than-ideal learning environment for students, who face larger class sizes⁸ and teachers who are less engaged in their work or unable to provide the attention each student needs.

While the problem was severe even before the COVID-19 pandemic and subsequent lockdowns that closed schools across the country, that event greatly exacerbated it. Teachers struggled to adapt classes to the online environment and get through mandated coursework and tests. They also faced increasing levels of mental distress among their students as well as their own issues managing isolation and a lack of guidance or clarity from administrators and federal and state education agencies.⁹ Eight percent of all U.S. public school teachers left the profession between the 2020-2021 and 2021-2022 school years,¹⁰ which aligns with the height of pandemic lockdowns, accelerating the shortage.

The impact of the disruption from the pandemic continues to reverberate: It is estimated that the early literacy skills of over a million fourth graders around the country were delayed by more than two years.¹¹ These delays can have long-lasting effects on students, including their readiness for college or other types of post-secondary education or training. The teacher shortage makes it even harder for those students to catch up.

This is highly concerning for several reasons, not least the impact on a national scale. The years from grade school through high school are formative ones that build a foundation for essential knowledge as well as skills in critical thinking, problem-solving, and creativity. As technology advances and jobs become more complex in the knowledge economy, the intellectual demands on people will only grow. The teacher shortage threatens not just our moral imperative to provide children with a meaningful, wide-ranging, and useful education but also our nation's ability to compete in the global marketplace of ideas and innovation in the years and decades to come.

The Solution: Recruiting Teachers from Abroad



School systems and districts are turning to creative ways of filling shortages, including emergency certifications, easing certification requirements, and dropping the requirement for a bachelor's degree.¹² However, these are at best stop-gap solutions. To ensure public school students receive an adequate level and quality of instruction to support their personal and career goals, it is essential to fill the teacher workforce pipeline with qualified candidates.

Many systems have had success addressing the issue by hiring teachers from other countries. The number of foreign nationals employed by U.S. school districts rose 69 percent from 2015 to 2021, with the greatest numbers coming from the Philippines, Spain, and Jamaica.¹³

Aside from filling critical gaps, hiring teachers from other countries can bring significant benefits. Students gain greater cultural awareness and understanding, valuable qualities as the U.S. population becomes more diverse and all types of institutions and businesses operate in an increasingly international environment. Teachers from other countries also bring different perspectives and experiences to their work, which can lead to schools exploring new possibilities or more effective approaches to teaching and learning. Overall, research on diverse organizations consistently shows positive outcomes, including greater job satisfaction and productivity.¹⁴

In addition, retention rates may be higher among teachers hired from abroad because moving to the U.S. tends to attract adventurous and confident individuals as well as more experienced educators.¹⁵ Salaries are also generally higher in the U.S. than teachers can earn in their home countries, which can be a significant factor in encouraging them to stay for the duration of their visa and potentially pursue permanent residency through green card sponsorship.

Traditional Teacher Immigration Strategies



There are several visa options that public schools can and have used to recruit and hire teachers from abroad, although most have notable limitations.

J-1. This is one of the most widely used routes, as there is a well-established federal program that helps match teachers with employers. The drawbacks are that the visa is only valid for three years (with a possible extension of up to two years), and it is difficult to transfer recipients to other visa types, so this is not an option for long-term employment. Teachers may be able to repeat the visa program, but it may require a two-year stay in their home country between visas. This means that schools must hire new teachers or submit paperwork for renewal every few years.

Q-1 visa. This route is designed for cultural exchange programs, so it is limited to schools with a particular language or cultural focus. It can take up to 15 months to get approval and the stay is limited to 30 months. There is also no family visa option for dependents, potentially making this pathway unattractive or unacceptable to candidates with spouses and families.

R-1 visa. These are for individuals coming to the U.S. to serve as “a minister or in a religious vocation or occupation,” which can include educators at schools affiliated with a religious denomination. However, this visa is limited to individuals of the same religion as the school, and there must be a ministerial or religious focus on the subject area they are teaching to quality.

H-1B cap sponsorship. This is another very popular option because it allows visa holders to live and work in the U.S. for three years, with a potential three-year extension. During this period, schools may be able to sponsor teachers for a green card, enabling permanent residency.

However, the United States Citizenship and Immigration Services (USCIS) places a limit or cap of 85,000 “new” H-1Bs per fiscal year. All employers, with limited exceptions, are subject to this annual H-1B limit. Adding to the difficulty, in recent years the H-1B lottery has become extremely competitive: the agency reported it received 780,884 H-1B registrations for the 2024 fiscal year, an increase of 61% over 2023.¹⁶

This means school systems cannot rely on this option to hire foreign teachers, or at least not in any significant numbers. In addition, the timeline for registration and sponsorship is strict and may not align with schools’ deadlines and schedules for hiring in time for the school year: the H-1B takes effect on October 1st, limiting its utility for hiring teachers from abroad who are not already working at a school in the U.S.

It can take considerable resources to decide which of these options is most practical and achievable, as well as to identify potential candidates, manage and monitor the visa application process, and other administrative and operational requirements. To optimize their limited resources, school systems must invest in the option that offers the most return.

The H-1B Cap Exemption Strategy



The above options may not be appropriate or sufficient for many public schools and districts that need to fill a large number of vacancies. Fortunately, there is another approach to hiring foreign nationals for teaching positions that has not been widely used: qualifying as exempt from the cap on H-1B visas.

Organizations that qualify as cap-exempt are not subject to the H-1B limit, which means there is no limit on the number of visas they can apply for. Applications under the exemption are also not subject to the H-1B lottery timetable or schedule. Schools can submit an application at any time, allowing for more flexibility to time hiring to align with the beginning of the school year.

Qualifying as cap-exempt is not difficult, but there are specific requirements.

- ① Schools must be nonprofit entities, including public schools, private schools, and charter schools.
- ② Schools or districts must be related to or affiliated with a college, university, or research institution such as a lab or a museum. Many schools have existing agreements or arrangements with such organizations that meet the requirements. Some examples of activities and programs include:
 - Arrangements with local colleges and universities so that students in teacher preparation programs can gain experience and credit to graduate
 - Institutions that collect or use school or student data for research
 - Programs that provide early college opportunities or university-level classes for high school students

These programs must be sufficiently documented to qualify as an acceptable affiliation. Acceptable documentation includes a written agreement, a memorandum of understanding, or a record of communication corroborating that the affiliation is active, such as emails or other paperwork.

- ③ The individuals to be hired must be qualified teachers with a relevant degree to the field the individual will teach in.
- ④ Schools must be able to prove that they can pay teachers either prevailing wages or the actual wages they pay to similarly qualified workers, whichever is higher. The prevailing wage is defined as the amount paid to most workers within a geographic area and occupation type. Note that if teachers at the school or in the district have a contract through a union, the salary stipulations in the contract override the prevailing wage requirement.

Visas offered under the H-1B cap-exempt program are valid for up to three years per approval, with a maximum duration of six years. Schools and districts may later decide to sponsor certain teachers on this visa for green cards, which grant the right to live and work in the U.S. permanently.

The cap-exempt approach offers several advantages:

- ⇒ Schools and districts can recruit and hire multiple teachers to fill several vacancies all at once.
- ⇒ Since schools can bypass the lottery, staffing can be confidently planned in advance.
- ⇒ The generous visa periods reduce teacher turnover, lessening the administrative and time-consuming burden of constantly searching for new teachers to fill repeated vacancies. An individual in possession of a cap-exempt H-1B cannot move to a cap-subject employer without first going through the lottery.

- ⇒ Students have a more consistent learning experience, while teachers are more likely to develop supporting working relationships and a positive school community during long-term employment.

Additional Issues to Consider



While hiring teachers from other countries can ultimately help schools and districts fill critical gaps and support improved learning outcomes and student engagement, they should also keep certain factors in mind before pursuing this strategy.

Budget and resources. Global recruiting takes time, money, and expertise. Many schools and districts hire specialized immigration law or recruitment firms and consultants. These professionals have the experience, contacts, and resources to conduct searches and engage in outreach and initial qualification quickly and efficiently. They can also assist candidates and schools in navigating the visa system and may also be able to help newly hired teachers with the complexities of arranging their arrival in the U.S. Administrators will need to account for the costs of such firms in annual budgets.

Licensing. School and district administrators must also be aware of state licensing requirements and timelines for achieving licensing credentials. In some states, licensing may be waived under certain circumstances or it may be granted automatically if the individual shows that they meet all of the conditions to obtain a license. Either way, the recruiting and hiring timeline should account for this process to ensure that the teacher can begin work at the start of the school year or when otherwise planned.

Cultural orientation. School systems should be prepared to help newly hired teachers from abroad adapt to a new culture with workshops or training programs. Topics can range from help finding housing, setting up utilities, navigating public transportation, getting a driver's license, and other everyday tasks to sharing details about American societal norms and customs in the workplace and other settings. Other resources to consider providing include:

- ⇒ guides to the community with locations of grocery stores, hospitals and urgent care; facilities, places of worship, recreational centers, etc.;
- ⇒ a mentor or “buddy” they can go to with questions or concerns;
- ⇒ and Employee Resource Groups for support and tips from other international employees.

Offering these services and information upfront can help them feel less isolated and settle into the community faster.

Summary: A Better Approach to the Teacher Shortage



Without swift action, the teacher shortage in the United States will only become worse. We are failing in our duty to provide children with the knowledge and tools they need to thrive personally and professionally. The impact of this inadequacy has the potential to reverberate across all aspects of our society if students are not prepared to meet the demands of an increasingly complicated world.

While solving the shortage will require action on multiple fronts, hiring foreign talent is one way that school systems and districts can and do address their immediate needs. There are numerous visa options administrators can leverage to recruit teachers from other countries, although some have significant constraints, such as very specific requirements, long waits for processing, and a cap on the number of visas that are issued per year.

One avenue that gives schools and districts more flexibility is qualifying as exempt from the cap on H-1B visas. This involves establishing or documenting a relationship with a research institution. Many schools already have such relationships, such as a student-teaching arrangement with universities that offer teacher preparation programs. With the exemption, schools do not need to enter the H-1B lottery to compete for a limited amount of visas: they submit multiple applications at any time. This allows them to recruit and hire qualified teachers when they need them and align the process with the beginning of the school year.

However, districts must account for licensing requirements as well as the costs of international recruitment efforts. They should also be proactive about addressing issues around cultural orientation by assuring that newly hired teachers from foreign countries have the resources and support they need to succeed at work and to feel welcome in the community.

Since this process can be complex and time-consuming, it is highly recommended to work with a law firm that specializes in immigration. These attorneys have the experience and expertise to help school systems and districts identify the visa solutions that best meet their needs and comply with immigration requirements, processes, and timelines. Many firms can also help find and recruit qualified candidates.

Serious problems like the teacher shortage require innovative solutions. Exploring new approaches to hiring educators from outside the U.S. can help administrators fill vacancies more quickly, while increased diversity can bring additional benefits to both school systems and students. American children deserve a quality education. Exploring these avenues can help schools provide it.

About Meltzer Hellrung

Meltzer Hellrung fuses high-touch legal expertise with innovative technology to help clients build global immigration strategies for recruiting and retaining the world's best talent. These include scalable policies with customized processes that support consistency, efficiency, and visibility in corporate immigration programs. Our streamlined and strategic approach empowers U.S. businesses to develop their workforce more efficiently while continuing to focus on their core mission.

Key to these efforts is Voyager, our proprietary immigration management software. This all-in-one platform includes an easy-to-use dashboard for employers and employees and automated workflows that empower U.S. businesses to seamlessly recruit, hire, sponsor, onboard, and manage foreign national talent.

Whether working with a Fortune 500 corporation, a venture-backed unicorn, or large nonprofit organizations, we combine high-touch immigration services with enterprise-level technical capabilities to provide the best immigration experience to U.S. businesses, employees, and their families.

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