

PRESIDENT TRUMP'S EXECUTIVE ORDERS ON IMMIGRATION

Disclaimer: This advisory has been created by The Legal Aid Society, Immigration Law Unit. This advisory is not legal advice, and does not substitute for the advice of an immigration expert.

As of January 30, 2017, President Trump has issued three executive orders which threaten immigrant communities in different ways. One focuses on individuals within the United States, another on individuals apprehended at the border, and a third on banning refugees and others from countries deemed dangerous by the President.

There are three other **draft** orders, which have not yet been signed. Based on the drafts we have seen: one would end the DACA program and change priorities for removal, a second would change the way the receipt of certain government benefits affects immigrants and their sponsors, and a third would affect foreign workers.

NOTE: Some of the provisions in the various signed and draft orders may be beyond the power of the President or may be in violation of the Constitution. As a result, these may later be curtailed by the federal courts.

I. WHAT HAS ALREADY HAPPENED

Interior Enforcement Order (signed on January 25, 2017)

Among other things, this order directs the federal government to:

- Increase deportation enforcement efforts to include people who:
 - have criminal convictions,
 - have been charged with crimes even though the criminal court proceedings have not been completed,
 - committed criminal acts that have not even been charged,
 - engaged in fraud with any government agency,
 - received welfare benefits unlawfully,
 - have a final order of removal but never left, and
 - otherwise pose a threat to public safety or national security.
- Hire an additional 10,000 deportation officers.
- Punish states and localities who refuse to allow local law enforcement to cooperate with federal immigration authorities by withholding federal funds.
- Help victims of crime by undocumented immigrants.
- Collect unpaid fines from undocumented immigrants.

Order Excluding Muslims and Others (signed on January 27, 2017)

Among other things, this order directs the federal government to:

- Stop most refugee admissions for at least 120 days, with exceptions permitted for those

fleeing religious persecution if their religion is a minority in their country of nationality.

- Reduce refugee admissions for FY2017 to 50,000 from President Obama's goal of 110,000.
- For 90 days, ban entry for all immigrants and nonimmigrants for designated countries, such as Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen.
- Screen all immigrant and non-immigrant applications for fraud and national security concerns.
- Expedite completion of a biometric entry-exit system.
- Suspend the Visa Interview Waiver Program, and require all visa applicants to attend an interview unless not required by statute.
 - This does not affect the Visa Waiver Program, which waives the requirement of obtaining a visitor visa.
- Consider ending all waivers of terrorism-related inadmissibility grounds, regardless of how immaterial or insubstantial the individual's support of a purported "terrorist organization" may have been.

Border Security and Deportation Order (signed on January 25, 2017)

Among other things, the order directs the federal government to:

- Build a wall along our southern border.
- Secure the southern border, so that no one can enter without permission.
- Create new detention facilities near the southern border.
- End the "catch-and-release" policy for people who enter without permission, so that people will be detained during their deportation cases.
- Hire 5,000 additional Border Patrol officers.
- Increase scrutiny of asylum applications so that more asylum applications may be denied.
- Punish states and localities who refuse to allow local law enforcement to cooperate with federal immigration authorities.

II. WHAT MAY HAPPEN SOON

DRAFT DACA, DAPA, and Enforcement Priorities Order (not yet signed, as of January 30, 2017)

So far, President Trump has indicated that young people who registered for Deferred Action for Childhood Arrivals (DACA) will not be an enforcement priority, meaning he is not seeking to deport people who have DACA. **The draft we have seen has not yet been signed.** The draft Executive Order, could end DACA. Among other things, the order would direct the federal government to:

- Rescind the June 15, 2012 memorandum establishing the DACA program.
- Allow any Employment Authorization Documents (work permits) issued under DACA to remain valid until the date of expiration of each work permit.
 - However, current DACA work permits may not be extended.
- Discontinue the grant of Advance Parole (travel permission) to DACA registrants.

- Rescind the November 20, 2014 memorandum creating the Deferred Action for Parents of Americans and Permanent Residents (DAPA) program.
- Withdraw certain enforcement priorities memoranda.
- Allow DACA to still be granted on a case-by-case basis.

DRAFT Order Affecting Recipients of Government Benefits (not yet signed, as of January 30, 2017)

We have seen only a **draft** of this Executive Order, which has not yet been signed. It would most immediately affect immigrants with sponsors. The current federal welfare law allows the government to charge affidavit of support sponsors for the cost of certain benefits received by the sponsored immigrant, but for the most part, this law has not historically been enforced in New York State. The Executive Order would direct the federal government to start enforcing the law by seeking to collect the cost of certain benefits from sponsors.

The Executive Order would also direct the issuance of new rules after a period of notice and comment. This means that the new rules would not go into effect immediately, and we would have time to prepare a response and advice for our clients to follow. These new rules would be about who is considered a "public charge" - under what circumstances someone who receives government benefits is at risk of removal or being denied admission to the U.S. The new rules would also redefine the list of which federally-funded benefits could put someone at risk of removal or being denied admission.

DRAFT Order Concerning Foreign Workers (not yet signed, as of January 30, 2017)

Among other things, the **draft** of this Executive Order, which has not yet been signed, directs the federal government to:

- Revise parole policies, and probably eliminate the ability to adjust one's status to permanent resident after entry on parole, including after travel on advance parole.
- Make various changes to different foreign worker visa categories, including but not limited to:
 - Limiting the ability to adjust one's status.
 - Changing to a merit-based system.
 - Protecting U.S. workers from being disadvantaged by foreign workers.
 - Making the H2A agricultural worker program more efficient.
- Expand the use of E-Verify.
- Investigate any injury caused to any U.S. worker by any foreign worker.
- Report on the number of work permits issued to foreign-born persons, and on the number of foreign-born persons authorized to work in the U.S.

III. OTHER

Temporary Protected Status (TPS)

- President Trump has not said whether he will or will not continue designating countries that have Temporary Protected Status (TPS).
- Termination of TPS designations would require 60-days' notice.
- The following countries currently have TPS: El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Sierra Leone, Somalia, South Sudan, Syria, Yemen

Non-Citizens with Criminal Convictions

- You should contact a reputable attorney or legal services provider for advice if you have a criminal conviction(s).
- If you are in criminal proceedings now or in the future, you should inform your attorney that you are a non-citizen and concerned about the immigration consequences of a criminal conviction or charge.

You Have Rights

- Right to Remain Silent: do not speak to immigration agents or to the police, and do not sign anything, without first talking to an attorney.
 - Do nothing more than give your name and address.
 - Do **not** give your country of birth or country of citizenship/nationality.
 - Do **not** lie or give incorrect information.
 - Say only "I won't answer any more questions until I have an attorney." Then stay silent!
- Do not open your door and do not let the police come in unless they have a criminal arrest or search warrant.
- City agencies are not supposed to ask about your immigration status, unless it's necessary to see if you qualify for certain benefits.
- Police are not supposed to ask about your immigration status, unless it is relevant to their investigation.
- Call your consulate if you are arrested.
- Do not carry your home-country passport or consular card as identification, if you have other photo identification.

Plan Ahead

- Make an emergency plan in case of detention and deportation:
 - Appoint someone to take care of your children.
 - Leave copies of your identity documents (passport, birth certificate, etc.) with someone you trust.

If you have any questions or need assistance, please call our Immigration Hotline at 844-955-3425 on Fridays from 9:30am-12:30pm.