



## **Overview of 2021 Immigration Executive Orders, Proclamations, and Memorandum**

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1. [POTUS - Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change \(Feb. 4, 2021\)](#)

- revokes prior administration's executive orders that required "enhanced vetting" of refugees, that gave states/localities the option to opt out of resettling refugees, that required strict enforcement of inadmissibility grounds for refugees
- orders comprehensive review of all policies and guidance associated with the above revoked executive orders and recommendations and a report of recommendations **within 90 days**
- orders review of Iraqi and Afghan Special Immigrant Visas (SIV) to ensure proper administration, as well as a consideration of whether the SIV program should be expanded to other at-risk populations due to religion and service with the U.S. military
- orders appointment of National Security Council Senior Director to coordinate all agencies involved in USRAP
- orders Dep't of Homeland Security to review vetting/adjudication protocol of USRAP applicants, including the issuance **within 30 days** of a mechanism to improve fraud detection measures
- orders consideration of measures needed to increase USRAP capacity
- orders all USRAP agencies that vet refugees to produce data on number of staff doing the vetting and rates of objections to determine whether staffing levels must be changed
- orders consideration **within 180 days** of whether to institute USRAP policies ensure quality, integrity, fairness, and efficiency, including:
  - mechanisms to synthesize reliable country condition data
  - timely access of application records to refugees
  - legal representation for refugee at interviews (at no-cost to the government)
  - pseudo-appellate process to let refugees challenge non-security/non-fraud denials
- orders Dep't of Health and Human Services to create a plan **within 120 days** to enhance USRAP capacity by expanding community sponsorship models for resettlement agencies, and through public/private partnerships
- orders development of plan **within 120 days** to address USRAP processing backlog.
- orders issuance of a report on climate change and its impact on migration **within 180 days**, which should include:
  - int'l security implications of climate migration
  - resettlement options for individuals displaced because of climate change
  - mechanisms for identifying affected individuals
  - proposals for mitigating the negative effects of climate change
  - opportunity to collaborate internationally and with NGOs

2. [POTUS – Executive Order on the Establishment of Interagency Task Force on Reunification of Families \(Feb. 2, 2021\)](#)

- establishes a policy that respects families' value/integrity by protecting family unity except in the most extreme circumstances where necessary for the safety/wellbeing of the child or required by law
- creates Interagency Task Force on the Reunification of Families tasked to:
  - identify all children separated at the border between Jan. 20, 2017, and Jan. 20, 2021, under the Zero-Tolerance Policy
  - facilitate/enable reunification of separated families
- orders consideration of paroling/issuing visas to reunify separated families

- orders recommendations re: providing trauma and mental health services to separated families
- initial progress report required **within 120 days** with interim progress reports **every 60 days thereafter**

3. [POTUS - Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border \(Feb. 2, 2021\)](#)

- recognizes that the Southern Border humanitarian crisis can't be resolved without the root causes – i.e., violence, instability, lack of opportunity
- acknowledges that U.S. resources should be invested in actual threats, like drug cartels and human traffickers, and not wasted on attempting to stymie legitimate asylum seekers
- pledges to enhance lawful immigration pathways to restore/strengthen internal U.S. asylum systems
- orders coordination of efforts in El Salvador, Guatemala, and Honduras to:
  - combat corruption
  - promote human rights
  - counter/prevent violence/crimes perpetrated by gangs
  - combat gender-based violence
  - address economic security
  - assess/create internal/external resettlement capacities through funding and training
- orders review of mechanisms to identify Central and North American individuals eligible for refugee resettlement in the U.S.
- orders consideration of reinstating and improving CAM
- orders considering the exercise of discretionary parole authority to permit Northern Triangle nationals who are beneficiaries of approved family visa petitions to join families in the U.S. on a case-by-case basis
- orders evaluation & implementation of measures to enhance access to visa programs for Northern Triangle nationals
- orders review of MPP and consideration of its modification or rescission and to begin planning safe/orderly and phased entry strategy consistent with public health, safety, and capacity constraints for noncitizens subject to MPP
- orders review and consideration of rescinding the third country ban – i.e. interim final rule *Aliens Subject to Bar at Entry Under Certain Presidential Proclamations* and final rule *Asylum Eligibility & Procedural Modifications*
- orders prompt consideration of withdrawal from third-country resettlement agreements with Guatemala, El Salvador, Honduras
- rescinds Prompt Asylum Case Review and Humanitarian Asylum Review programs
- immediately revokes *Border Security and Immigration Enforcement Improvements, Addressing Mass Migration Through the Southern Border of the United States, Additional Measures to Enhance Border Security and Restore Integrity to Our Immigration System, Ending "Catch and Release" at the Border of the United States and Directing Other Enhancements to Immigration Enforcement* – i.e., ending, in toto, the asylum ban along the Southern Border and revoking policies to increase the arrest/detention along the Southern Border
- orders review/reconsideration of expedited removal designations

- orders comprehensive review of asylum rules, regulations, precedential decisions, and memoranda governing asylum adjudication/determination of refugee status to evaluate whether the US provides protection for those fleeing domestic violence or gang violence consistent with international standards **within 180 days**
- orders promulgation of joint regulations addressing “circumstances in which a person should be considered a member of a ‘particular social group’” **within 270 days**

4. [POTUS - Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans \(Feb. 2, 2021\)](#)

- White House Domestic Policy Council will now “coordinate” the government’s “efforts to welcome and support immigrants, including refugees, and to catalyze State and local integration and inclusion efforts” and will create a Task Force on New Americans
- orders review of regulations, orders, memoranda, and policies inconsistent with strategies to “promote integration, inclusion, and citizenship,” **within 90 days** and to propose changes **within 180 days**, including:
  - identifying barriers to immigration benefits, fair/efficient adjudication
  - identifying agency actions that don’t comport with the promotion of fair immigration legal system, such as the fee increase rule
- orders review of the public charge inadmissibility regulations - including their effects on public health - and to provide report to POTUS **within 60 days**
- orders improvement of the naturalization process, including reducing processing times and considering a potential application fee reduction **within 90 days** orders facilitating naturalization by those born abroad and members of the military revokes *Enforcing the Legal Responsibilities of Sponsors of Aliens* (May 23, 2019)
- orders the heads of relevant agencies to revise any agency actions developed pursuant to that memorandum consistent with the policy set forth of the order.

5. [Dep’t of Homeland Security - Withdrawal of Proposed Regulation, Special Immigrant Juvenile Petitions \(Jan. 26, 2021\)](#)

- originally published in 2011, reopened for comment in 2019 and has remained pending
- CCCS commented

6. [Dep’t of Homeland Security - Withdrawal of Proposed Regulation, Employment Authorization Certain Classes of \[Noncitizens\] with Final Orders \(Jan. 26, 2021\)](#)

- public comment period ended Dec. 21, 2020
- CCCS commented

7. [Dep't of Justice - Withdrawal of Proposed Regulation, Inadmissibility and Deportability on Public Charge Grounds \(Jan. 26, 2021\)](#)

\*\* Dep't of State and Dep't of Homeland Security public charge rules remain in effect \*\*

- proposed rule never published for comment

8. [Dep't of Justice - Rescinding the Zero-Tolerance Policy for Offenses Under 8 U.S.C. § 1325\(a\), Memorandum of January 26, 2021](#)

- rescinds the policy to arrest and charge all noncitizens improperly entering the U.S.

9. [POTUS - Proclamation on Ending Discriminatory Bans on Entry to The United States \(Jan. 20, 2021\)](#)

- revokes the “Muslim Ban” and expanded travel and visa bans
- resumes visa processing for nationals of previously banned countries<sup>1</sup> and orders clearing the visa ban waiver backlog<sup>2</sup>
- requires the Sec’y of State to provide POTUS – within 45 days of the proclamation – a report that includes:
  - the number of visa applicants who have been considered for a visa ban waiver
    - including a plan to expedite the adjudication of the pending visa applications
  - a proposal to ensure reconsideration of denied visa applications
  - a plan to ensure that the denied visa applicants are not prejudiced because of the denial
- orders review and report of information-sharing relationships (and a plan to strengthen the relationships) within 120 days

10. [POTUS - Executive Order on Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census \(Jan. 20, 2021\)](#)

- rescinds the previous administration’s policy of excluding undocumented individuals from the 2020 census count
- “. . . the executive branch has always determined the population of each State, for purposes of congressional representation, without regard to whether its residents are in lawful immigration status.”
- “At no point since our Nation’s founding has a person’s immigration status alone served as a basis for excluding that person from the total population count used in apportionment.”

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<sup>1</sup> i.e., Iran, Libya, Somalia, Syria, Yemen, Venezuela, North Korea, Kyrgyzstan, Eritrea, Nigeria, Tanzania, Sudan, Myanmar

<sup>2</sup> must be consistent with COVID-19 restrictions and protections

11. [POTUS - Preserving and Fortifying Deferred Action for Childhood Arrivals \(DACA\) \(Jan. 20, 2021\)](#)
  - restores DACA to its initial June 2012 iteration
  - orders the Sec’y of Homeland Security and the Att’y General to take the necessary measures to “preserve and fortify DACA”
  
12. [POTUS - Proclamation on the Termination of Emergency with Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction \(Jan. 20, 2021\)](#)
  - rescinds the prior administration’s declaration of a national emergency at the Southern Border
  - pauses construction on the border wall
  - requires an assessment of the legality of the border wall’s funding and contracts
  
13. [POTUS - Reinstating Deferred Enforced Departure for Liberians \(Jan. 20, 2021\)](#)
  - extends Deferred Enforced Departure (DED) and its employment authorization for Liberians through June 30, 2022
    - required as a “stopgap” for noncitizens who have yet to adjust status under the Liberian Refugee Immigration Fairness (LRIF) provision
    - previous DED extension expired on Jan. 10, 2021
  - eligibility requires presence in the U.S. under DED as of Jan. 10, 2021
  - extension is not applicable to noncitizens who:
    - are not eligible for TPS because of a national security bar
    - applied for adjustment under LRIF but were denied
    - his/her removal is in the best interest of the U.S.
    - his/her presence/activities in the U.S. would have potentially serious adverse foreign policy consequences
    - voluntarily returned to Liberia for an aggregate of 180 days or more
    - were deported, excluded, or removed prior to Jan. 20, 2021
    - are subject to extradition
  
14. [POTUS - Executive Order on the Revision of Civil Immigration Enforcement Policies and Priorities \(Jan. 20, 2021\)](#)
  - revokes the prior administration’s Enhancing Public Safety in the Interior of the United States executive order, which:
    - created increased enforcement priorities
    - increased use of state/local law enforcement agencies to enforce immigration laws
    - expanded ICE
    - punished “sanctuary cities”
    - increased criminal prosecution of border crossers
    - revived Secure Communities

15. [Dep't of Homeland Security - Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies \(Jan. 20, 2021\)](#)

\*\* enjoined by the District Court for the Southern District of Texas, 6:21-cv-00003 (Jan. 26, 2021) \*\*

General

- interim policy directive
- directs USCIS, ICE, and CBP to review enforcement policies
- temporarily reallocates resources to the southern border to “ensure safe, legal and orderly processing, to rebuild fair and effective asylum procedures that respect human rights and due process . . .”

Comprehensive Review of Enforcement Policies and Priorities

- directs USCIS, ICE, and CBP to develop policies concerning:
  - “use of enforcement personnel”
  - detention facilities
  - prosecutorial discretion
  - detention policies
  - cooperation with state/local law enforcement agencies

Interim Civil Enforcement Guidelines

- removal enforcement priorities (effective as of February 1, 2021)
  - national security
    - noncitizens engaged in/suspected of terrorism and/or espionage
  - border security
    - noncitizens apprehended at the border on/after Nov. 1, 2020
  - public safety
    - noncitizens convicted of an aggravated felony (as defined in the INA)
- applicability of priorities
  - issuance/cancellation of a Notice to Appear
  - discretionary enforcement determinations
    - “whom to stop, question, and arrest”
    - “whom to detain or release”
    - “whether to settle, dismiss, appeal, or join in a motion on a case”
    - “whether to grant deferred action or parole”
  - enforcement/detention determinations must be consistent with COVID protocols

Immediate 100-Day Pause on Removals

- interim moratorium on removal of noncitizens with final orders of removal for 100 days (effective Jan. 22, 2021)
- does not apply to noncitizens who:
  - are national security risks
  - were not physically present in the U.S. before Nov. 1, 2020
  - have waived the right to remain in the U.S. and have “been given a meaningful opportunity to access counsel prior to signing the waiver”
  - upon an individualized determination removal is required by law



- orders ICE to develop operational guidance for individualized review/consideration “of the appropriate disposition for individuals who have been ordered removed for 90 days or more”
  - must include “assessment of alternatives to removal” (i.e., staying/reopening cases, “alternative forms of detention,” “custodial detention,” deferred action)

16. [POTUS - Memorandum on Deferred Enforced Departure for Certain Venezuelans \(Jan. 19, 2021\)](#)

- temporarily pauses removal of eligible Venezuelans in the U.S. and provides work authorization
- applies to Venezuelans present in the U.S. as on Jan. 20, 2021, except to individuals who:
  - voluntarily returned to Venezuela
  - haven’t continuously resided in the U.S. since Jan. 20, 2021
  - are inadmissible/removable because of security grounds
  - have been convicted of a felony or two or more misdemeanors in the U.S.
  - have persecuted others
  - have participated in other activities or criminal behavior
  - were deported, excluded, or removed before Jan. 20, 2021
  - are subject to extradition
  - his/her presence in the U.S. is not in the U.S.’s interest or is a danger to public safety
  - his/her presence/activities in the U.S. would have potentially serious adverse foreign policy consequences