



## **Biden Administration's January 20 Executive Actions on Immigration**

On President Joe Biden's first day of office, January 20, 2021, the new administration [issued a series of executive actions on immigration](#) to overturn Trump administration policies and chart a new path on immigration. The January 20 executive actions, which are expected to be supplemented by additional actions [later in the month](#), are in addition to the administration's endorsement of broad immigration [reform legislation](#) that would provide a pathway to citizenship for most of the undocumented population.

Below are summaries of the key January 20 executive actions affecting immigration:

### **[Preserving and Fortifying Deferred Action for Childhood Arrivals \(DACA\)](#)**

- Requires the DHS secretary, in consultation with the attorney general, to take all appropriate steps to “preserve and fortify” [Deferred Action for Childhood Arrivals \(DACA\)](#), consistent with applicable law.

### **[Proclamation on Ending Discriminatory Bans on Entry to the United States](#)**

- Revokes Trump administration travel bans impacting individuals from several majority-Muslim countries and several countries in Africa. This executive order overturns, Executive Order (EO) [13780](#), and proclamations [9645](#), [9723](#), and [9983](#).
- Resumes visa processing and clears the backlogs created by those executive actions.
- Requires the Secretary of State to provide a report to the President within 45 days that includes information about plans to quickly clear existing waiver requests, reopen the visa applications process, reconsider denied visas with a possible additional processing fee, and allow for unprejudiced visa re-applications.
- Requires the Secretaries of State and Homeland Security, in consultation with the Director of National Intelligence, within 120 days, to provide the President with a report including information about current screening and vetting procedures for immigrant and non-immigrant entry, review of foreign government screening information sharing practices, recommendations to improve the screening and vetting process, and recommendations regarding social media identifiers in the screening and vetting process.

### **[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](#)**

- Terminates [Proclamation 9844](#), which had allowed President Trump to use emergency powers to divert funds towards construction of barriers on the U.S.-Mexico border.
- Pauses border barrier construction to the extent legally possible and calls for a review of all contractual obligations.

- Calls for the Department of Defense, Department of Homeland Security, and the Office of Management and Budget to come up with a plan within 60 days to redirect all available funds that had previously been allocated for the construction of border barriers.

### **DHS Statement on the Suspension of New Enrollments in the Migrant Protection Protocols Program**

- Suspends all new enrollments in the [Migrant Protection Protocols](#) (MPP), also known as the “Remain in Mexico” program.
- Calls for current MPP participants to remain in Mexico pending further announcements.
- Keeps other restrictions on those seeking asylum at the border, including the use of Title 42 expulsions, in place.

### **Executive Order on the Revision of Civil Immigration Enforcement Policies and Priorities**

- Sets out Biden administration mission statement on interior enforcement, focused on, “protect[ing] national and border security, address[ing] the humanitarian challenges at the southern border, and ensur[ing] public health and safety.” The executive order is aimed at “adher[ing] to due process of law” and “safeguard[ing] the dignity and well-being of all families and communities.”
- Pledges to “reset” immigration enforcement policies and practices to bring enforcement policies in line with these values and priorities.
- Revokes President Trump’s [executive order on interior immigration enforcement](#) and provides for review of any agency actions arising from that EO.

### **Memorandum: Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities**

- Under the terms of this memorandum, which was signed by Department of Homeland Security (DHS) acting secretary David Pekoske, DHS will conduct a review of its immigration enforcement policies over the next 100 days, and provide recommendations for revised policies no later than the end of the 100 days. Relevant policies under review include those relating to the prioritization of enforcement personnel, detention space, and removal assets, as well as policies concerning the use of prosecutorial discretion, detention, and interaction with state and local law enforcement.
- Requires DHS to implement a 100-day pause on removals by 1/22/21, with certain exceptions. The pause is intended to prioritize limited DHS resources towards enhancing border security, conducting immigration and asylum processing “fairly and efficiently,” and maintaining COVID-19 protocols to protect the health and safety of DHS personnel and the public.
- Excludes the following from the 100-day moratorium on deportations:
  - Terrorists/spies/national security threats, etc.
  - People who arrived in the U.S. on or after 11/1/2020
  - “Opt-outs,” those who voluntarily waive rights to remain in the U.S. after having been provided meaningful access to counsel, and
  - People required to be removed by law in accordance with an individualized determination made by the acting director of ICE.

- Rescinds various Trump administration immigration enforcement policies and memos, including February 2017 [guidance implementing](#) the Trump administration executive orders on immigration enforcement, and a June 2018 [memo](#) on the Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens.
- Creates interim enforcement priorities, which go into effect on 2/1/2020. Those interim enforcement priorities, which will be superseded by new priorities issued after the 100-day review is complete, emphasize national security, border security, and public safety.

### **Reinstating Deferred Enforced Departure for Liberians**

- Defers the removal of any Liberian national through June 30, 2022 who had protection under DED through January 10, 2021.
- Grants the same Liberians employment authorization through June 30, 2022.
- Directs the Secretary of Homeland Security to make prompt notice of this in the Federal Register and provide replacement documents as need.
- Sets forth who would not qualify such as those ineligible for TPS, those who voluntarily returned to Liberia, those deported, excluded or removed, those subject to extradition.

### **Executive Order on Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census**

- Provides extensive background on the constitutional and legal underpinnings of the U.S. Census, including the longstanding requirement that all persons are counted for purposes of apportionment, regardless of immigration status.
- States as a matter of policy that the census count be accurate, reliable and based on "high-quality data." Orders the Secretary of Commerce to "take all necessary steps, consistent with law" to ensure an accurate count of all persons residing in the U.S. on the census date.
- Revokes President Trump's [July 21, 2020 census memorandum](#), which sought to exclude undocumented persons from the apportionment count.

### **Regulatory Freeze Pending Review**

- Requires rules sent to the Office of the Federal Register (OFR) but not yet in Federal Register to be immediately withdrawn consistent with OFR procedures.
- Requires department and agency heads to consider postponing for 60 days rules published in the federal Register but not yet in effect pending review, and allows for a 30-day comment period. A delay beyond the 60 days may also be considered.
  - After the 60-day review actions could be taken such as having the rule go into effect, or notifying the Director of the Office of Management and Budget (OMB) for consultation and action.
- The following freeze is subject to exceptions by the Director of the Office of Management and Budget (OMB), including for emergency situations or other urgent circumstances relating to health, safety, environmental, financial, or national security matters.
- The definition of a "rule" in this memorandum includes rules defined in section 551(4), title 5, of the United States Code, but also regulatory action, substantive action by an agency such as policy on statutory, regulatory or technical issues or the interpretation of such issues.