

Trump Executive Order Travel Ban

CUNY Citizenship Now!

Graduate Center

March 16, 2017

March 6, 2017 Executive Order

- President Trump issued Executive Order titled “*Protecting the Nation from Foreign Terrorist Entry into the United States*”
- This new order revokes and replaces his January 27th executive order with the same title.

Trump Travel Ban 2.0 Blocked by Judge

- March 15, 2016
- U.S. District Court Judge Derrick Watson issued 43-page ruling and a temporary nationwide restraining order against Trump's travel ban.
- The practical effect of the Judge's restraining order is that travelers from the six predominantly Muslim countries that are covered under the travel ban may still travel to the United States.

What does the new Executive Order Do?

- Bans from admission into the United States for **90 days** nationals of six predominantly Muslim countries:
 - Iran
 - Libya
 - Somalia
 - Sudan,
 - Syria, and
 - Yemen
- It removes Iraqi nationals from the ban (but they are under higher scrutiny)

Categories Exempt from the Ban

- Lawful permanent residents (green card holders).
- Anyone admitted or paroled into the United States on or after the effective date of the executive order (March 16, 2017).
- Anyone with valid entry or parole documents issued after 3/16/17.
- Dual nationals traveling on passport of a non-designated country.
- Traveling on diplomatic-type visas, NATO, C2, G-1 through G-4 visas.
- People granted asylum, previously admitted as refugees, granted withholding of removal, protection under the Convention Against Torture, or granted Advance Parole.

Others Exempt from Ban

- U.S. government can on a case-by-case basis permit entry of a national from one of the six designated countries:
 - If the foreign national demonstrates to the U.S. that
 - (1) denial of entry during the suspension period will cause undue hardship,
 - (2) Her/his entry will not pose a threat to national security, **and**
 - (3) Her/his entry would be in the national interest.

How Does the Ban Impact Students?

- Nationals of the **six** banned countries, who are
 - Outside the United States on March 16, 2017, and
 - Did not have a valid visa on 01/27/2017, and
 - Did not have a valid visa on 03/16/2017
- Are banned for **90 days** from 03/16/2017 (through 06/14/2017) from admission to the United States
- So, if you had a valid visa on 1/27/2017 OR you had a valid visa on 03/16/2017, you are NOT barred from admission to the U.S.
- No visa will be revoked based solely on this executive order.

How does this ban Impact students?

- It applies **ONLY** to nationals of the six designated countries.
- For nationals of those countries, it does not apply to people:
 - With green cards (lawful permanent residents),
 - With valid visas on 3/16/17,
 - Granted Asylum in the United States,
 - Previously admitted to the United States as refugees,
 - Previously granted Advance Parole,
 - Previously granted Withholding of Deportation, and
 - Previously granted protection under the Convention Against Torture

How does the Ban Impact Students?

- Students with valid visas (such a F, J, or M) on March 16, 2017 may still travel to the United States if their visas are otherwise valid and the students are otherwise admissible.
- Therefore, faculty, scholars, and students from the six designated countries in the United States on valid visas on March 16, 2017 can depart the United States and re-enter as long as their visa is still valid.
- U.S. government can also grant waiver of the ban for nationals of the six designated countries – on a case-by-case basis, for example, if the national had previously been in the United States to work or study, is outside the U.S. on 3/16/17 and seeks to re-enter the U.S. to continue that work or study and denial of entry would impair that activity.

If you are not from one of the six banned countries:

- You are not covered by Trump's Travel Ban, which means you are not barred from traveling to the United States or barred from departing and re-entering if you are otherwise eligible to return on a visa.
- There is no indication at this time that the Trump Administration will add additional countries to the list of six banned countries.
- Countries that fail to provide the U.S. information requested to help in the screening and vetting of their nationals may be placed in the future on the list along with the six currently banned countries.

What Change Impacts other Non-Citizens?

- Trump's executive order requires all foreign nationals applying for a nonimmigrant (temporary) visa to the United States to undergo an in-person interview for their visa.
- Except for foreign nationals visiting the United States on:
 - Diplomatic visas
 - North Atlantic Treaty Organization (NATO) visas,
 - C-2 visa for travel to the United Nations,
 - G-1 through G-4 visas (travel for international organization)

What Changes Impact other Non-Citizens?

- Trump's executive order calls for the expedited completion and implementation of a biometric entry-exit tracking system.
 - This would permit government to monitor the entry and exit of all foreign nationals in the United States.
- Once completed, this system would require foreign nationals to report to the immigration authorities when exiting the United States.

Can I travel Outside the United States?

- If you are from one of the six designated countries covered under the Travel Ban, it is recommended that you not travel outside the United States during the suspension period.
- If you are not from one of the six designated countries, you may travel outside the United States if your visa permits the departure and re-entry to the United States (but if your visa expires while you are outside the United States you must apply to renew your visa).

Can I Apply for a New Visa if Mine has Expired or I Changed to my Current Status?

- If you are from one of the six designated countries covered by the Muslim 2.0 ban, it is recommended that you not depart the United States *during the suspension period*. It is unclear whether the government will grant a new visa.
- Instead, look into extending your stay in nonimmigrant status or changing status.
- If you are not from one of the six designated countries and you are in valid nonimmigrant status, you can apply to renew your visa or you can apply to extend your stay in nonimmigrant status.

What if I am Stopped at a Port of Entry?

- U.S. Customs officials have authority to stop and search, without a warrant, any person or personal item at a port of entry. If you have legal status in the United States, you should show your documentation to prove your legal status (e.g., green card, etc.).
- Immigration officials at port of entry have authority to ask people about their immigration status and to ask them for documentation to prove they are admissible to the United States.
- If you are pulled into secondary inspection for an officer to ask you more questions and determine whether you can be admitted, non-U.S. citizens do not have a right to an attorney. You should still have an attorney's number available in case you are detained.

Can CBP search my cell phone & lap top?

- Yes, CBP can search cell phones, lap tops, and other digital devices at ports of entry and the border. The CBP officer should conduct the search in front of you and in front of supervisor.
- CBP can seize a device with or without suspicion that the device has evidence of a crime or is the fruit of a crime. They can copy information from the device.
- CBP officers should not detain the device for more than five days but with supervisory approval the device can be detained longer.

What can CBP search on my phone?

- Anything stored on your device or in the cloud:
- Your contacts,
- Your email,
- Your apps,
- Your location history,
- Your photos,
- Your Facebook, Twitter, Tinder, Dropbox, and other social media.

What happens if I refuse to provide my password?

- It is unclear if CBP officers have the legal authority to force you to provide your password to access the device, but if you do not provide the password they can
 - Detain you,
 - Seize your device, or
 - Deny you entry into the United States (if you are not a U.S. citizen or green card holder).

What is Expedited Removal?

- A provision of the immigration law that permits the immigration authorities to summarily deport – without a hearing before an immigration judge -- foreign nationals, who arrive in the United States without necessary immigration documents OR who use fake or someone else's documents to attempt to enter the United States.
- Expedited removal has an exception for foreign nationals who ask to apply for asylum or express a fear of persecution if they are sent back to their home countries. They should be given an opportunity to pursue asylum.

Expand Expedited Removal

- At some point, DHS will publish in the *Federal Register* a new *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(a)(iii) of the Immigration and Nationality Act*.
- The notice will expand expedited removal to include FNs, who were not inspected or paroled into the United States (EWI) and **WHO CANNOT SHOW THAT THEY HAVE BEEN CONTINUOUSLY PHYSICALLY PRESENT IN THE UNITED STATES FOR AT LEAST TWO YEARS.**
- Foreign nationals lawfully admitted as temporary visitors (e.g., students), should not be subject to expedited removal because they were inspected and admitted into the United States.