



# What HR Professionals Need to Know about the President's Executive Orders

By GREG SISKIND

Barely a week into his new Administration, President Trump has already signed three executive orders on immigration and several other immigration topics are in the news. Here's a run-down of the major changes so far.

## Enhancing Public Safety in the Interior - 1/25/17

The first executive order signed deals with Immigration and Customs Enforcement and how removal policy as it affects the interior of the country (as opposed to border enforcement).

- Removes prosecution guidelines set out by Obama Administration emphasizing the removal of serious criminal offenders and instructs ICE to use "all lawful means" to remove everyone that is removable (virtually the entire undocumented population is covered).
- Sets enforcement priorities to be criminal aliens, those charged with crimes not yet resolved, those that have committed crimes that constitute a criminal offense, have committed fraud, abused any federal benefits program, have final orders of removal
- Calls for the hiring of 10,000 more ICE officers
- Re-starts programs to have the states and cities signed up to help enforce immigration laws
- Allows the Secretary of Homeland Security to designate cities as "sanctuary cities" if they are deemed to have a policy of not turning over immigrants to Immigration and Customs Enforcement; such cities may be barred from receiving Federal grants
- Calls for the government to issue regular reports on the number of immigrants committing crimes

Immigration lawyers are already hearing reports of worksite raids being conducted since the order was signed. Such raids largely were replaced by I-9 audits early in the Obama Administration so employers are advised to prepare for the possibility that ICE could conduct an unannounced action at their worksite.

## Border Security and Immigration Enforcement Improvements - 1/25/17

The headliner in the second Executive Order is the border wall, but there were other important new policies announced as well.

- Detain all individuals apprehended

- Expedite determinations of claims of eligibility to remain in US for individuals (including children) who claim asylum
- Assign all available asylum officers to the prisons to accelerate the credible fear screenings
- Come up with plan to build a border wall within 180 days
- Take all appropriate action to construct, operate, control or contract with prisons to detain individuals caught entering the US illegally
- Immediately assign all available Immigration Judges to the new border prisons
- Cancels 'catch and release' policy and implement a new policy guidance to "ensure detention of all immigration violators until their removal proceedings are concluded"
- Hire 5,000 more Border Patrol agents
- Every Federal government department head must report within 30 days all aid or assistance to Mexico in the past 5 years (presumably in connection with a plan to make Mexico "pay for the wall")
- Stop "abuse" of "parole and asylum" provisions including limiting the use of parole for humanitarian purposes
- Provide immigration officers training on how to legally and quickly deport unaccompanied minors

## Travel Ban - 1/27/17

While the other two Executive Orders were major news, the travel and refugee ban made worldwide headlines and led to massive protests across the United States after it was rolled out without notice. The news media covered the ban extensively including how companies were being impacted. Dozens of major companies across the US criticized the ban and others announced protest actions including Starbucks' plans to hire 10,000 refugees at its stores around the world and Lyft donating \$1,000,000 to the American Civil Liberties Union.

- Suspend the issuance of visas and other immigration benefits for people from Iran, Iraq, Yemen, Libya, Syria, Sudan, and Somalia (the "ban countries")
- Suspend the entry to the US as immigrants or nonimmigrant persons from the ban countries for 90 days
- Demand certain security-related information from all foreign governments within 60 days

- Citizens of the countries that don't comply will be banned from entering the US
- Exceptions can be made on a case-by-case basis for people from banned countries
- Suspends all refugee admissions for 120 days
- Bans Muslim Syrian refugee admissions indefinitely but leaves loophole for Christians
- Limits total refugee admissions to 50,000 (versus the 100,000 already approved for the fiscal year by President Obama)
- Expedite completion of the biometric entry/exit tracking system which was approved in 2005 but has never been funded
- Resumes mandatory interviewing at consulates
- Publish semi-annual reports to the American public how many foreign nationals are charged with terrorism-related activities, the number who are radicalized after entry, and the number of acts of violence against committed by foreign nationals.

Dozens of lawsuits have been filed challenging the order. On February 3rd, a district court judge in Seattle issued a nationwide temporary restraining order and as of the time of the writing of this article, an appeals court is weighing the continuation of the order. If they do, travel should continue as before the order until the case is decided on its merits. Many expect the case to eventually be heard by the Supreme Court.

Lawyers are also hearing reports of Global Entry being revoked for both US citizens and permanent residents, something that could be very costly for companies that send employees abroad. Customs and Border Protection is also now regularly seizing phones and laptops and downloading the data on the devices so companies should plan accordingly.

Finally, the Administration is expected to take additional actions on skilled worker programs like the H-1B visa and on the DACA deferred action program which provides nearly three-quarters of a million young people with work cards. But no definitive details have been released.

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