



US Immigration Today and Tomorrow

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Overview

- Changes to US Immigration Under Trump
- Changes to US Immigration Under Biden So Far
- Proposed Legislation
- COVID-19 and Global Immigration

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Changes to US Immigration Under Trump

- President Trump's First Days in Office
 - Executive Actions:
 - The so-called Muslim travel bans
 - Change in policies at the US-Mexico border
 - Reduce the number of refugees admitted to the US
 - Buy American Hire American (BAHA)

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Changes to US Immigration Under Trump

- President Trump's First Days in Office
 - BAHA executive order:
 - Bugged down the immigration system overall
 - Changed a number of policies, such as deference to prior adjudications
 - Extensive delays
 - Significant increases in requests for evidence and
 - Significant increases in denials

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Changes to US Immigration Under Trump

- Changed enforcement priorities, leading to increased ICE enforcement and deportations
- Sought to end:
 - Deferred Action for Childhood Arrivals (“DACA or Dreamers”)
 - Temporary Protected Status (TPS) for certain countries
 - Employment authorization for spouses of certain H-1B visa holders

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Changes to US Immigration Under Trump

- Introduced regulations to:
 - Change how the required wages were calculated for H-1B and permanent residence purposes
 - Give preference in the H-1B lottery for companies that can pay higher wages
- Introduced an electronic system for the H-1B lottery
- Modified the H-1B lottery selection order to give greater preference to individuals with US master’s degrees

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Changes to US Immigration Under Trump

- COVID Response
 - Introduced a number of travel bans
 - Country-specific travel bans
 - Bans prohibiting the issuance of new H-1B, L1 and certain immigrant visas

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Changes to US Immigration Under Biden So Far

- President Biden's First Days in Office
 - Sought to undo much of what had been done by the Trump Administration
 - Changed policies with respect to:
 - US-Mexico border
 - Refugees
 - TPS
 - DACA
 - Deportations

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Changes to US Immigration Under Biden So Far

- President Biden's First Days in Office
 - Left the COVID-related travel bans in place and has actually expanded them
 - Revoked non-COVID related travel bans and BAHA
 - Withdrew or delayed several proposed regulatory changes including:
 - The USCIS public charge rule
 - Wage calculation rules

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Changes to US Immigration Under Biden So Far

- Executive order on “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans”
- USCIS has returned to giving deference to prior adjudications:
 - Slowly starting to resolve the backlog of cases
 - Fewer requests for evidence
 - Fewer denials

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Proposed Legislation



What is the number of immigration-related bills introduced so far in the 117th Congress?

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Proposed Legislation

- Last two comprehensive immigration bills to be enacted:
 - Immigration Reform and Control Act of **1986**
 - Illegal Immigration Reform and Immigrant Responsibility Act of **1996**

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Proposed Legislation



- US Citizenship Act of 2021
 - Provide pathways to citizenship
 - Strengthen labor protections
 - Reform the legal immigration system (including addressing permanent residence backlogs and inefficiencies)
 - Reform the employment verification process
 - Provide additional rights to immigrants at the workplace
 - Prioritize smart border controls

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Proposed Legislation



- US Citizenship Act of 2021
 - Eliminate employment-based per-country caps for employment-based visas in order to equalize wait times for applicants
 - Raise family-based, diversity-based, and employment-based visa caps
 - Eliminate the 3- and 10-year bars that currently prevent many undocumented individuals from ever qualifying for a lawful status

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Proposed Legislation

- US Citizenship Act of 2021
 - Pathways to Citizenship
 - Would provide Lawful Prospective Immigrant status to all undocumented individuals who arrived in the U.S. before January 1, 2021
 - After five years in this temporary status, immigrants would have access to a green card and lawful permanent residence if they meet certain requirements
 - After another three years as lawful permanent residents, they would be able to apply for citizenship
 - Would be available to certain individuals who were deported on or after January 20, 2017 and who meet certain other conditions

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Proposed Legislation

- Other bills:
 - The American Dream and Promise Act
 - Would create a path for citizenship for individuals covered by DACA
 - Passed House 228-197
 - The Farm Workforce Modernization Act
 - Would provide a path to legal status for undocumented farm workers
 - Passed House 247-174
- Neither bill is as extensive as the US Citizenship Act of 2021

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COVID-19 and Global Immigration

- With COVID-19 Travel Restrictions and COVID-related consular closures, global immigration will continue to be a problem
 - It is difficult to get visa appointments
 - Presidential Proclamations related to COVID generally prevent travel directly from certain countries to the US

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COVID-19 and Global Immigration

- Consular Posts Reopening
- Tiered approach to prioritizing immigrant visa appointments
 - Immediate relative intercountry adoption, age-out cases, special immigrant visas
 - Immediate relatives, fiancé visas, returning resident visas
 - Family preference visas, immigrant visas for certain employees of the US government abroad
 - All other, including employment preference and diversity visas

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COVID-19 and Global Immigration

- Presidential Proclamations 9984, 9992, 10143
 - Ban entry into US to foreign nationals traveling from
 - China
 - Iran
 - Schengen Zone
 - United Kingdom
 - Ireland
 - Brazil
 - South Africa

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COVID-19 and Global Immigration

- Presidential Proclamation 10199
 - Bans travel to US to foreign nationals traveling from India
 - Effective date: May 4, 2021

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COVID-19 and Global Immigration

- National Interest Exception (NIE)
 - Applicant must prove that their entry into the United States is a matter of national interest
 - Has undergone a number of shifts since the travel restrictions were implemented.
 - New guidance on eligibility issued by the Department of State on May 27, 2021
 - Presently covers certain travel related to critical US infrastructure, such as healthcare or national defense, and travel to the US to provide a significant economic benefit to the economy.
 - Students continuing a course of study and individuals traveling to the US for humanitarian reasons also are eligible for NIEs

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COVID-19 and Global Immigration

- Initially, all NIEs were issued for single entries and for short durations.
- On July 6, 2021, the Department of State (DOS) posted guidance that NIEs issued in the last 12 months are being automatically extended for 12 months from the date of approval, and for multiple entries, as long as they are used for the purpose under which they were granted.
- NIEs issued by Customs and Border Protection (CPB) are not covered by this new guidance.

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Questions?

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Thank You!

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