



THE NATION'S LEADING LGBTQ IMMIGRANT RIGHTS ORGANIZATION.

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## President Trump Executive Orders Frequently Asked Questions

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*Please note that immigration policy is changing frequently. Check back to these FAQs periodically for important updates. (Last update March 22, 2017).*

**\*\*\*Translations coming soon\*\*\***

In the first few months of 2017, President Trump issued several Executive Orders directly applicable to immigrants. The Orders affected foreign nationals already inside the U.S. and foreign nationals seeking to travel here. The Orders related to banning Muslims and Refugees from entering the U.S. have been put on hold by federal courts. However, other Orders are currently being implemented. Below are answers to frequently asked questions many of you have sent us. As always, Immigration Equality will look for every opportunity to fight to keep our community safe!

In many instances below, we note that international travel may be risky for some people. Nevertheless, we appreciate that there are times when travel may be a necessity. To know the individualized risk of international travel to you, please consult with a reputable immigration attorney before leaving the United States. [2] For additional guidance or for a referral to a culturally competent attorney, contact Immigration Equality at: [www.immigrationequality.org/contact](http://www.immigrationequality.org/contact). While we are committed to answering everyone's questions as soon as possible, please note that we have experienced a great increase in the demand for our legal services. Please be patient.

#### Travel and the Muslim and Refugee Bans

##### **What nations are included in the current Muslim and Refugee ban?**

Initially, President Trump banned entry of individuals from seven nations: Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. However, the President issued a second order removing Iraq from that list. The remaining six nations are still being targeted by the President.

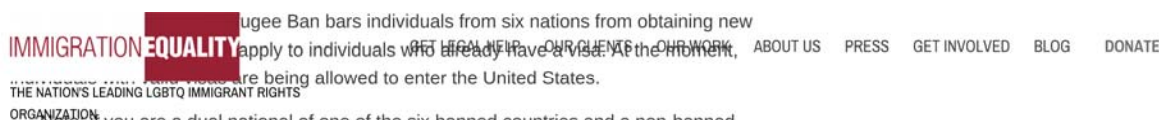
##### **I am originally from Iran, Libya, Somalia, Sudan, Syria, or Yemen, but now I am a U.S. citizen. Do the Muslim and Refugee Bans affect me?**

If you are a United States citizen, you may travel outside of the country even if you were originally from one of the banned nations, no matter what happens. U.S. citizens must always be allowed to re-enter the United States. At the same time, as a U.S. citizen, you cannot be subjected to deportation, ever. We recommend that you carry proof of your U.S. citizenship with you. If you are a citizen and you have had problems entering the U.S., please contact Immigration Equality immediately.

##### **I am originally from Iran, Libya, Somalia, Sudan, Syria, or Yemen, but now I am a permanent resident of the U.S. Does the Muslim and Refugee Ban affect me?**

The current Muslim and Refugee Ban instructs the U.S. government to bar individuals from six nations from entering the country. However, it does not apply to anyone who is a permanent resident (someone with a green card). We note nevertheless that many permanent residents from the six banned nations are reporting extensive questioning and long delays at the border even if they were eventually admitted.

##### **I am originally from Iran, Libya, Somalia, Sudan, Syria, or Yemen, and I have a valid visa that allows me to request entry into the United States. How does the Second Muslim and Refugee Ban affect me?**



Refugee Ban bars individuals from six nations from obtaining new visas. The ban also applies to individuals who already have a visa. At the moment, individuals from the following six countries are being allowed to enter the United States.

Note: If you are a dual national of one of the six banned countries and a non-banned country, you may still apply for a visa if you do so with a travel document issued by the non-banned nation.

### **I am NOT from one of the six banned countries. How does the Muslim and Refugee Ban affect me?**

If you are living in the United States with lawful status and you are not from one of the banned nations, your ability to enter or reenter the United States should not have changed. However, the travel bans were deeply disconcerting. That is, the President repeatedly indicated during his campaign that the purpose of the bans was to target Muslims, which is not a legitimate government interest. In addition, the Executive Orders state that more countries may be added to the list of banned nations in the future. Given how broad the previous Executive Orders have been, we have concerns about future Orders that may be issued. In short, international travel for anyone who is not a U.S. citizen may carry risks.

Note: Not all immigration statuses allow for international travel; be sure you're allowed to travel before leaving the United States.

Unfortunately, we have heard some reports of visa holders, green card holders, and some citizens targeted by border patrol for invasive questioning. However, most of the reports we have heard were from individuals who were eventually admitted into the United States. Immigration Equality is committed to fighting the Muslim and Refugee Bans and any new restrictions on LGBTQ and HIV-positive immigrants. If you or your family members have been stopped at the border for more than three hours, contact Immigration Equality for help.

### **Refugees and Asylum Seekers**

#### **Does the Muslim and Refugee Ban affect LGBTQ and/or HIV-positive refugees who have been cleared to resettle in the United States?**

The current Muslim and Refugee Ban stops the U.S. government from designating any new refugees for 120 days. It also halts the State Department from resettling refugees through the United States Refugee Admissions Program. However, individuals who have already been designated as refugees who travel to the U.S. through some other means are likely to be allowed to enter. The Second Ban also reduces the number of refugees that the U.S. may resettle in 2017 from 110,000 to 50,000.

However, these policies have been temporarily halted by the federal courts. For now, LGBTQ and HIV-positive refugees are being allowed to resettle in the U.S. Refugees approved for resettlement in the United States often wait for years for the opportunity to start a new life here. All of them are heavily vetted by the U.S. government for months to assess whether they pose any risk to the American people. To date, almost no resettled refugee has been found to be a national security threat. For the thousands who are deemed to be eligible for resettlement, it is our legal duty and our moral obligation to provide them with a safe place to call home.

#### **I am an LGBTQ and/or HIV-positive asylum seeker. Will the Executive Orders affect my application?**

Despite the Executive Orders, many important aspects of the asylum framework remain the same. For example, the U.S. will continue to protect asylum seekers on the basis of sexual orientation and gender identity if they have a reasonable fear of persecution from their country of origin.

However, the Executive Orders may affect how asylum cases are adjudicated in the United States. For example, they call for prioritizing the cases of people in detention over other cases. This will likely mean that the very long wait time to have an asylum case adjudicated will increase for those who are not detained.

Note: If you have filed for asylum and your case is NOT in court, you can check the average wait time here: <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-scheduling-bulletin>. If your case IS in immigration court, you may check the date of your next hearing by calling toll free: 1-800-898-7180. Please have your alien registration (or A number) ready.

Furthermore, the Executive Orders instruct the Department of Homeland Security to target for deportation anyone who has been convicted of a crime, who has been charged with a crime, or

that could be deemed a "chargeable offense." This language is very broad and could be interpreted in a way that would prevent you from applying for asylum. If you have any concerns about whether you may be at risk for being accused of a crime or a "chargeable offense," you should speak with a reputable immigration attorney for advice.

The American asylum system is an absolute necessity for LGBTQ and HIV-positive people from all parts of the world. Everyone should have the right to express their sexual orientation and gender identity proudly and openly. At the same time, no one should ever be subjected to stigma or punishment because they are living with HIV. Our nation has long been a beacon of hope for those in need of protection. It must remain so. Immigration Equality will work every day to protect and preserve the asylum system for our community.

**I am an LGBTQ person and/or a person living with HIV in the United States and I am from a nation where I cannot safely live. Should I apply for asylum?**

If you are inside of the United States and you are eligible for asylum, we recommend that you apply. Despite rapid changes and shifts in the Administration's priorities, it is probably better for an eligible applicant to apply and have an application pending than to have nothing pending at all. However, many factors are considered in determining eligibility for asylum. A fear of persecution alone may not be sufficient for you to be successful. It is very important that you speak to a reputable immigration lawyer before you file any paperwork. Seeking an attorney's advice is particularly important for anyone who has been accused of, charged with, or convicted of a crime.

**How will the Executive Orders affect an applicant trying to apply for asylum at the border?**

The new Executive Orders should not change an applicant's right to apply for asylum at the border. However, even before the Executive Orders were released, it was very difficult to apply for asylum at the border. We have heard many reports that asylum seekers are regularly turned away at the border even if they expressed a fear of persecution to border patrol officials. You do not need to apply for asylum at the border if you are admitted or if you cross the border without permission. That is, anyone inside the U.S. may apply for asylum from within the country. For now, most asylum applicants who apply from inside the U.S. are not being detained. Most applicants are also allowed to remain in the U.S. until a decision is made on their claim.

Note: all ports of entry, including international airports in the United States, are considered to be "the border." If you fly into the U.S., and you announce your intent to file for asylum at the airport, the U.S. government is very likely to detain you. If you leave the airport and file for asylum from the interior of the U.S., you are unlikely to be detained.

If you are detained by border patrol agents, and you would like to seek asylum in the United States, you should ask for a credible fear interview. Please note that if you are scheduled for a credible fear interview, you may wait for weeks or months in a detention facility before a judge makes a decision on your case. President Trump's Executive Orders also focus additional resources on the creation of more detention facilities and make it much harder for detained asylum seekers to secure their release from detention.

Immigration Equality has received many reports from detained asylum seekers that their parole requests are being denied and that they are not being given the option of a bond. The refusal of the Department of Homeland Security to release LGBTQ and HIV-positive asylum seekers is reckless and wrong. While immigration detention is inhumane for all people, it is especially dangerous for LGBTQ immigrants. Immigration Equality will do everything in our power to secure the release of our community.

**How will the Executive Orders affect my application for work authorization?**

For now, there is no indication that a person's eligibility for work authorization will be changed in any way. Much of the authority for work authorization comes from federal statutes that can only be changed by an act of Congress. Nevertheless, you may continue to expect delays in the processing of work authorization documents. This has been a trend, even before President Trump took office.

**I have an asylum application pending, can I travel internationally?**

If you have an application pending, and you leave the United States, your asylum application is likely to be deemed abandoned. So if at all possible, do NOT travel abroad. While there is some possibility to obtain permission to travel (through a process called advanced parole), such



ed. We also strongly recommend that you do NOT travel to U.S.

co or the U.S. Virgin Islands. If you do not have a passport, you

purpose, please contact Immigration Equality for a free consultation.

**DACA, green card, and citizenship applications**

### **I am eligible for Deferred Action for Childhood Arrivals (DACA), should I apply or reapply?**

For now, DACA is continuing unchanged. The President has been inconsistent in his statements about DACA, and so it is unclear what he will do in the future. We have urged the President to continue the DACA program in order for the 750,000 individuals who now have DACA to continue to live, work, and study in the U.S. without fear of deportation.

For now, we recommend that you renew DACA if you have previously applied and you are eligible to renew your status. However, we are generally recommending that a person not file a brand new application if you have never filed before. Of course, you may have compelling reasons to file a new application, and if you do, you should consult with a reputable immigration attorney before filing any papers. While it is still possible for someone with DACA to travel internationally through advanced parole, doing so may be risky. Consult with a reputable immigration attorney before leaving the United States.

### **Will the Executive Orders affect my marriage or my marriage-based green card case?**

The marriage battles that we have won over the last ten years are unlikely to be completely overturned under the new Administration. The Supreme Court issued two landmark decisions recognizing the rights of same-sex couples to marry in 2013 and 2015. While the Supreme Court occasionally overrules itself, it does so rarely and generally only after a very long time has passed. However, President Trump may also issue an Executive Order that encourages or empowers discrimination against lawfully married couples. Such an order would likely be unlawful and probably unconstitutional. Even if such an order is issued, sponsorship of a same-sex spouse for immigration benefits should remain an option unless there is a substantial, unconstitutional shift of power in the federal government.

Note: if you entered the United States originally without permission, you should consult with a reputable attorney before filing any immigration paperwork.

Immigration Equality stands with binational same-sex couples and their families! Our direct legal services are reserved for those who cannot afford to pay for a lawyer, and so we continue to represent low-income families every day. In addition, we have culturally competent referrals to private counsel for those who can afford to pay an attorney. If you are thinking about marrying a partner and about filing for a family-based immigration papers, we can help.

### **Will the Executive Orders affect my ability to obtain a fiancé(e) visa?**

For now, all fiancé(e) visas are being processed normally. While fiancé(e) visas were targeted by the Muslim and Refugee bans (just like all other visas), federal courts have temporarily blocked those Orders from being implemented.

However, during the short time that the Muslim and Refugee Bans were being implemented, all visas – including fiancé(e) visas for U.S. citizens – were being denied or cancelled from the nations targeted by President Trump. This was an unconstitutional injustice for many families, but it was especially damaging to LGBTQ Americans seeking to sponsor their future spouses. This is because none of the banned nations recognize marriage equality. As such, same-sex binational couples could not marry in the foreign national's country nor in the U.S. This left couples with almost no options. While some same-sex couples may be able to travel to a third country that recognizes marriage equality, many cannot.

It is unclear for how long the federal courts will block the Muslim and Refugee Bans. As such, if you are interested in filing a fiancé(e) visa for your partner, you should consult with a reputable immigration attorney as soon as you can.

### **I am eligible to apply for a green card or for naturalization, should I wait?**

If you are eligible for a green card, or to become a citizen, you should apply to do so promptly. Becoming a permanent resident or a citizen substantially increases your security to live in America. However, if you have ever been accused of, charged with, or convicted of a crime, or if you have ever filed incomplete or inaccurate immigration or visa papers in the past, or if you came to the U.S. without permission, you should consult with a reputable attorney before filing any paperwork.

### **Enforcement Priorities**



## " and how will the Executive Orders affect them?"

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o as "sanctuary jurisdictions" in the Executive Orders) are states, or nations, or cities that use their own resources to facilitate the deportation of immigrants. For example, in a sanctuary city, local authorities often will not hold a person for immigration agents to pick them up unless they are a danger to their community.

The Executive Orders imply that local authorities must help Immigration and Customs Enforcement (ICE) to enforce the President's mass deportation plans. This is wrong. Both the Department of Homeland Security and several courts have confirmed that the President cannot require local law enforcement to aid in someone's deportation. Furthermore, for local law enforcement, the practice of detaining people without a warrant is problematic at best and unconstitutional at worst.

The Executive Orders also threaten to punish sanctuary cities by withholding federal funds from them. The President cannot legally do this. It would be unconstitutional to force state and local governments to carry out federal responsibilities, and attempt to extort them in order to do so.

Many sanctuary cities, including New York, Los Angeles, Chicago, New Haven, Syracuse and Austin, and many more, have committed to staying firm to protect the immigrants living in their jurisdictions.

### **I am an undocumented immigrant who has been accused of, charged with, or convicted of a crime. Am I considered an "enforcement priority"?**

"Enforcement priorities" describe which immigrants the President has instructed the U.S. government to focus its deportation efforts on. Under the Obama Administration, government officials were instructed not to target immigrants with no criminal history, who had lived a long time in the U.S., and who had strong ties to America. The Trump Executive Orders dismantle this system, and put many more people at risk.

While the U.S. government has long made individuals who have been convicted of a crime a priority for deportation, the Executive Orders appear to expand the definition of a conviction. One Order implies that just being accused of a chargeable offense is sufficient to make someone a deportation priority. How exactly this change would be carried out is still unclear. However, if you have had any negative interactions with law enforcement agents, the police, or immigration enforcement agents, seek legal counsel immediately.

The President's presumption of guilt for immigrants who are only accused or charged with a crime is at odds with one of the most fundamental principles of the U.S. legal system. In America, you are presumed innocent until you are proven guilty. These provisions in the Executive Orders are overbroad and inhumane. Immigration Equality will make every effort to fight their implementation. But, until these provisions are revoked or struck down, they may well be used against LGBTQ or HIV-positive immigrants. If you are seeking to apply for naturalization, a family-based green card, for asylum, or for any other immigration benefit, we recommend you speak to a reputable attorney before filing any papers.

#### Our Focus

Immigration Equality is the nation's leading LGBTQ immigrant rights organization. We represent and advocate for people from around the world fleeing violence, abuse, and persecution because of their sexual orientation, gender identity, or HIV status.

[Our sitemap](#)

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Our legal team has won asylum for hundreds of LGBTQ and HIV-positive immigrants while maintaining a 99% success rate. Your gift will make a unique difference.

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