


International Students in the U.S.: From 9/11/01 to the Trump Administration's Executive Orders

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Goals

- Compare current immigration environment as it impacts international students to post-9/11/01 environment.
- Discuss international students' reactions to Trump Administration's measures
- Discuss how to help international students who are concerned about the current immigration environment



Post-9/11/01 Changes in U.S. Immigration Environment



Enforcement of Previously Unenforced Immigration Regulations *(10/01)*

- Requirement for nonimmigrants to carry immigration documents at all times
- Requirement for nonimmigrants to report changes of address within 10 days of a move



Tightened Procedures at U.S.-Canada Border *(10/01)*

- Canadian Border Crossing Cards no longer accepted (not biometric)
- Canadian landed immigrants must carry passport as proof of identity for entry to U.S.
- Passports checked for six months' validity remaining
- Individuals who are required to have six months' validity on passport and lack it are denied re-entry.



Temporary Ban on Third-Country Visa Processing at U.S. Border Posts *(11/01)*

- Only Canadian and Mexican citizens and landed immigrants/permanent residents permitted to apply for U.S. visas in Canada and Mexico
- Ban was implemented unevenly, causing considerable confusion.
- Ban was unofficially lifted in summer 2002.



20-Day Background Checks for Selected U.S. Visa Applicants *(11/01)*

- Males
- Ages 16-45
- Countries: Afghanistan, Algeria, Bahrain, Djibouti, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen
- Ended in Summer 2003

Tightened Re-entry Regulations (4/02)

- “Automatic Revalidation of Visa” Benefit
 - Allows nonimmigrants to travel to contiguous territories for 30 days or less & re-enter U.S. with expired U.S. visa
- Benefit ended for individuals from:
 - Cuba Libya Syria
 - Iran North Korea
 - Iraq Sudan
- Benefit ended for individuals whose U.S. visa applications are pending or were denied.



Restrictions on Study for Individuals on Tourist Visas *(4/02)*

- Individuals who enter U.S. on B-1/2 (tourist) visas no longer permitted to study
- They must apply for and receive a change-of-status from the Immigration & Naturalization Service (INS) before they can study.

Background Checks on Applications for Immigration Benefits (4/02)

- Applications / Petitions for immigration benefits subjected to background checks
 - At time of arrival at INS Service Center
 - At time of adjudication
- Result: Severe delays due to lack of computers, Internet hook-ups & employees trained to handle “hits”

Ban on Part-time Commuting Canadian & Mexican Students (5/02)

- Canadian & Mexican students no longer permitted to commute to U.S. to study part-time
- Rationale: Such students' entries & exits could not be tracked.
- Result: Considerable protest from border colleges/universities, Canadian government and others

Ban on Part-time Commuting Canadian & Mexican Students

- INS Response ~ August 27, 2002
Workaround solution enabling I-20's to be issued to “border commuter” students
- Pending: INS regulations implementing legislation creating special F-3 visa category for border commuter students

Changes in Social Security Application Processing Procedures (7/02)

- Social Security Administration required to conduct INS background checks for card applicants.
 - Rationale: 15 of 19 hijackers reportedly had fraudulent Social Security Cards
 - Result: Minimal delays in some cases – severe delays in other cases
- International students cannot apply for SSNs unless they are enrolled full-time.



IPASS Program

- IPASS: Interagency Panel on Advanced Science & Security
- Visa applications for individuals in “sensitive” fields submitted to U.S. Department of State headquarters for review by IPASS committee
- 15,000-16,000 case backlog ~ Nov 02



ISEAS Program (9/11/02)

- ISEAS = Interim Student and Exchange Visitor Authentication System
- U.S. Embassies & Consulates require electronic notification from schools & exchange programs before issuing F, J or M visas.
- Interim measure to fulfill void prior to implementation of student & Exchange Visitor tracking program

ISEAS Program

- ISEAS implemented on same day it was announced
- ISEAS reporting – quick and easy, but neither secure nor dependable
- U.S. Embassies and Consulates frequently could not access record submitted by school.
- Some U.S. Embassies and Consulates required further verification by e-mail or fax.

“Special Registration”

(began on 9/11/02)

- NSEERS: National Security Entry-Exit Registration System
- Individuals meeting certain criteria submit to “Special Registration”
 - Male
 - Over a certain age
 - Born in or citizen of one of designated countries
 - Admitted after certain date into U.S.
 - Will remain in U.S. until certain date
 - *Exceptions: Foreign government representatives & individuals who applied for asylum before a certain date*

Special Registration (cont.)

- Requirements:
 - Report to local INS office to be fingerprinted, photographed & interviewed
 - Undergo special registration upon entry to U.S.
 - Comply with change-of-address reporting requirements
 - Report to INS office annually for special re-registration
 - Depart through designated Ports of Entry

Special Registration (cont.)

- Group 1 Countries

- Iran
- Iraq
- Libya
- Sudan
- Syria

- Group 2 Countries

- Afghanistan
- Algeria
- Bahrain
- Eritrea
- Lebanon
- Morocco
- North Korea
- Oman
- Qatar
- Somalia
- Tunisia
- UAE
- Yemen

Special Registration (cont.)

- Group 3 Countries

- Armenia*
- Pakistan
- Saudi Arabia

* *Armenia was later removed from the list.*

- Group 4 Countries

- Bangladesh
- Egypt
- Indonesia
- Jordan
- Kuwait

SEVIS

- SEVIS = Student & Exchange Visitor Information System
 - Reengineered student and Exchange Visitor process
 - Information system which contains data on:
 - F-1 and M-1 students
 - F-2 and M-2 dependents
 - J-1 exchange visitors
 - J-2 dependents
- SEVIS
 - Final rule published ~ December 11, 2002
 - Final rule went into effect ~ January 1, 2003
 - First compliance date ~ January 30, 2003
 - Second compliance date ~ August 1, 2003



Reorganization of Immigration & Naturalization Service

- INS broken up and moved to Department of Homeland Security
- Key Offices in DHS
 - Department of Border & Transportation Security
 - (Bureau of) Customs & Border Patrol (CBP)
 - (Bureau of) Immigration & Customs Enforcement (ICE)
 - (Bureau of) Citizenship & Immigration Services (BCIS/CIS – later changed to USCIS)



More Changes in Visa Processing

- Visa Condor Program ~ Late Spring 2003
 - Consular officer required to request Security Advisory Opinion (SAO) for visa applicants meeting certain criteria
- Mandatory Visa Interviews ~ August 1, 2003
 - All applicants for nonimmigrant visas are required to have a visa interview



U.S. VISIT System

- All individuals entering U.S. will be fingerprinted and photographed
 - Exception: Individuals on Visa Waiver Program who have machine-readable passports
- Implementation began on December 31, 2003



National Security Entry-Exit Registration System (NSEERS)

- Ended on April 28, 2011
- Criticisms
 - Program focused mainly on Muslim countries
 - Inability to identify terrorist threats
 - Alienation of Muslim communities in U.S. whose cooperation was needed by law enforcement
 - Negative impact on foreign policy
 - Severe penalties faced by those who failed to comply
 - Became an immigration trap for some who complied
 - Redundancy of program due to implementation of U.S. VISIT and SEVIS



Trump Administration's Executive Orders

Executive Order: “Protecting the Nation from Foreign Terrorist Entry into the United States”

- Executive Order signed on January 27, 2017
- Ban on entry to the U.S. for a period of 90 days for people from seven countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, Yemen)
- Suspension of the U.S. Refugee Admissions Program for 120 days
- Indefinite suspension of the entry of Syrian refugees to the U.S.
- Prioritization of refugee claims based on religion
- Reduction in the total number of refugees admitted to the U.S. from 110,000 to 50,000 (fiscal year 2017)
- Immediate suspension of the Visa Interview Waiver Program
- Expedited completion of the biometric Entry-Exit System

Executive Order “Travel Ban” (cont.)

- EO was signed at 4:30 p.m. on Friday, January 27, but it was leaked in advance and some people (including airlines and DHS employees) thought it was already in effect
- EO was announced with little or no consultation with or warning to airlines or Departments of State, Justice, Defense and Homeland Security
- EO went into effect immediately, causing a lot of disruption and affecting people who
 - were outside the U.S. and planning to return shortly
 - were in the air enroute to the U.S.
 - were at stopover airports waiting for connecting flights
- EO lacked clarity:
 - What was meant by individuals “from” the listed countries
 - Whether dual nationals and U.S. Permanent Residents were included
 - Whether it affected the adjudication of immigration benefit applications pending with U.S. Citizenship & Immigration Services



Executive Order “Travel Ban” (cont.)

- Judges in Boston issued temporary stays on EO
- Judge in Seattle issued nationwide Temporary Restraining Order (TRO)
- U.S. Court of Appeals for the Ninth Circuit denied Trump Administration’s request to place an immediate hold on federal district judge’s TRO
- Federal Appeals Court ruled to keep in place TRO

Executive Order: “Protecting the Nation from Foreign Terrorist Entry into the United States”

- Executive Order signed on March 6, 2017
- Effective March 16, 2017
- Ban on entry to the U.S., and review of visa issuance and immigration benefit application adjudication procedures for a period of 90 days for people from six countries (Iran, Libya, Somalia, Sudan, Syria, Yemen)
- Suspension of the U.S. Refugee Admissions Program for 120 days
- Reduction in the total number of refugees admitted to the U.S. from 110,000 to 50,000 (fiscal year 2017)
- Suspension of Visa Interview Waiver Program
- Expedited completion of the biometric Entry-Exit System



Executive Order “Travel Ban” (cont.)

- Judges in Hawaii and Maryland blocked EO
- U.S. Court of Appeals for the Fourth Circuit affirmed Maryland judge’s decision to stop ban from taking effect on constitutional grounds
- U.S. Court of Appeals for the Ninth Circuit upheld the injunction and declined to reinstate the EO, stating that EO did not provide sufficient national security justification
- Trump Administration plans to appeal EO to Supreme Court

Treatment of Out-of-Status Nonimmigrants

- “Catch and Release”
 - Individual assessed for flight risk, national security risk and risk to community,
 - If no risk, individual given court date and released
- “Operation Reservation Guaranteed”
 - Announced by President Bush in July 2006
 - All out-of-status nonimmigrants will be detained
- “Catch and Release”



Executive Order: Border Security and Immigration Enforcement Improvements

- Sec. 6. Detention for Illegal Entry. The Secretary shall immediately take all appropriate actions to **ensure the detention of aliens apprehended for violations of immigration law pending the outcome of their removal proceedings or their removal from the country to the extent permitted by law.** The Secretary shall issue new policy guidance to all Department of Homeland Security personnel regarding the appropriate and consistent use of lawful detention authority under the INA, including **the termination of the practice commonly known as "catch and release,"** whereby aliens are routinely released in the United States shortly after their apprehension for violations of immigration law.



Executive Order: Border Security and Immigration Enforcement Improvements

- Sec. 10. Federal-State Agreements. It is the policy of the executive branch to **empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.**



Executive Order: Enhancing Public Safety in the Interior of the United States

- (b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to **authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States** under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.



International Students' Reactions

- Concerned about both real developments and leaked information that may not materialize
- Making future decisions based on these concerns

Tips

- When international students express concerns, find out exactly what worries them.
- Address any misconceptions about U.S. government, U.S. Presidential power, U.S. legal system, etc.
- Avoid over-communication about the current immigration environment as it can cause even more alarm, especially when so much is uncertain and in flux.
- Be sure that any information you provide is accurate and factual, not speculative.
- Refer students to ISSS, Talbert Hall 210 for regulatory interpretation, questions about their immigration status, etc.
- Refer students to other campus resources (e.g. Counseling Services) for support.