

## Overview of Biden Executive Actions on Immigration Related to Higher Education and Students<sup>1</sup>

January 24, 2021

### I. INTRODUCTION

President Joe Biden announced executive actions on immigration, many of which will impact immigrant and international students, staff, and faculty in higher education. These actions include a variety of mechanisms, including presidential proclamations, executive orders, and memoranda, that direct agencies to issue regulations, review processes, or update existing guidance. The Presidents' Alliance created this resource to provide a guide to those executive actions with specific implications for immigrant and international populations in higher education.

### II. EXECUTIVE ACTIONS

#### 1. [\*\*Preserving and Fortifying Deferred Action for Childhood Arrivals \(DACA\)\*\*](#) (January 21, 2021)

This White House memorandum to the U.S. Department of Homeland Security (DHS) Secretary directs him to preserve and strengthen DACA. In response, the Secretary will likely: (a) officially rescind the July 28, 2020, memorandum [\*Reconsideration of the June 15, 2012 Memorandum Entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children"\*](#) narrowing the scope of DACA; (b) implement some of the recommendations discussed in [\*Letter to President-Elect Biden and Secretary-Designate Alejandro Mayorkas with DACA Recommendations\*](#); and (c) may possibly issue a new memorandum updating and expanding the criteria for the [2012 DACA memorandum](#). The decision [will benefit](#) over 645,000 current DACA recipients as well as an additional 1.3 million people who meet the criteria to apply. Of note, [due to court decisions](#) in the latter part of the previous administration, DACA is currently open to initial and renewal requestors; along with the ability to travel with advance parole.

#### 2. [\*\*Proclamation on Ending Discriminatory Bans on Entry to The United States\*\*](#) (January 20, 2021) (Reversing the Muslim and Africa bans)

This presidential proclamation revokes [Executive Order 13780](#) (permission for states and localities to refuse refugees) and Proclamations [9645](#), [9723](#), and [9983](#) (bans on visas for largely African and Muslim-majority countries). The Secretary of State is also [directed to reconsider](#) all applications denied under these proclamations. [Over 42,000](#) people were unable to enter the United States since 2017 due to the bans, and thousands of families were separated. For more information, see [Travel Ban: NAFSA Resources](#) by NAFSA and the [FAQ](#) by PennState Law Center for Immigrants' Rights Clinic & partners.

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<sup>1</sup> For questions regarding this overview, please contact [info@presidentsalliance.org](mailto:info@presidentsalliance.org).

### 3. [\*\*\*Freeze and Review of All Pending Regulations\*\*\*](#) (January 20, 2021)

This White House memorandum [directs](#) the Director of the Office of Management and Budget (OMB) to direct all agencies to freeze the implementation of any pending Trump regulations in order to check and remedy them for “substantial questions of fact, law, or policy.” This means that all proposed rules from the previous administration will not be published or finalized, including [proposed regulations](#) to eliminate [duration of status](#) and efforts to revise the accrual of [unlawful presence](#). All final rules already published to the Federal Register, but not yet in effect, are to be postponed for 60 days, including [H-1B visa rules](#) and the [H-1B visa lottery rule \(wage-based selection\)](#).

### 4. [\*\*\*Reinstating Deferred Enforced Departure \(DED\) for Liberians\*\*\*](#) (January 20, 2021)

This White House memorandum to the DHS Secretary announces the extension of DED for Liberia through June 30, 2022, and directs the Secretary to equally [extend](#) work authorization for Liberians who held DED as of January 10, 2021. It also directs the Secretary to ensure that U.S. Citizenship and Immigration Services (USCIS) facilitates ease of application and timely adjudication for Liberians applying for residency under the Liberian Refugee Immigration Fairness (LRIF) program. While the number of Liberians who held DED by January 10, 2021, is unclear, USCIS estimates that though [10,000](#) Liberians were originally eligible for DED by the Bush administration, about [3,600](#) were likely beneficiaries and roughly [2,532](#) have now applied for LRIF. The memorandum only applies to Liberians who still held DED on January 10, 2021.

### 5. [\*\*\*Reversing Trump’s Executive Order Excluding Undocumented Immigrants from the 2020 Census Reapportionment Count\*\*\*](#) (January 20, 2021)

This Executive Order reverses the previous memorandum on [Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census](#), which attempted to exclude the roughly [10.5 million](#) undocumented immigrants living in the United States from the 2020 Census apportionment count used to calculate the number of representatives in the U.S. House of Representatives. The order also directs that all counts reported to state governors and those responsible for drawing districts to include all residents regardless of immigration status.

### 6. [\*\*\*Revising Civil Immigration Enforcement Policies and Priorities\*\*\*](#) (January 20, 2021)

This executive order revokes Trump’s previous executive order [Enhancing Public Safety in the Interior of the United States](#) that directed harsh immigration enforcement in the interior. The order directs the DHS Secretary to implement civil enforcement priorities that align with the values of border security, humanitarian issues, and public health and safety. In response, the Secretary will likely implement enforcement priorities that reflect [Obama era policy](#), which largely targeted those with serious criminal backgrounds for immigration enforcement. If followed strictly, it would provide a degree of protection from deportation for an estimated [87 percent](#) of undocumented immigrants, or over 9 million people.

### 7. [\*\*\*Modernizing Regulatory Review\*\*\*](#) (January 20, 2021)

This memorandum directs all agencies to identify opportunities for improving and modernizing regulatory review (e.g., the drafting, publication, notice and comment, and final issuance). This memorandum will likely lead to processes that will bolster the rescission of various regulations promulgated during the previous administration and that will implement a more fact- and data-based analysis that will lead to positive rule and regulation outcomes for immigrants and higher ed institutions.