

2018

AIEA Annual Conference

*The Internationalization
Imperative in Turbulent Times*



The Confluence of Legal Issues, Public Policy and Messaging For SIO's In Light of Executive Orders:

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Welcome and Introductions

- Imara V. Dawson, University of Michigan
- Terence Miller, Marquette University
- Thomas Bogenschield, University of Oregon
- John Sunnygard, University of Colorado
Denver

Session Objectives

Forms of advocacy available to SIO's in both law and public policy against the backdrop of Immigration Executive Orders

Improving SIO's understanding of law and public policy issues

Communicating and Messaging Strategies for SIO's

Session Outline

1. Timeline and History of Executive Orders and Immigration Orders
2. Case Study: University of Colorado Denver & CU Anschutz Medical Campus
3. Immigration Executive Orders: Legal and Public Policy Perspective
4. Session Wrap-Up
5. Questions and Answers

Timeline and History of Executive Orders

- What are Executive Orders?
- Summary of Executive Orders Affecting International Relations
- Timeline of Immigration Executive Orders

What are Executive Orders?

"Executive orders, presidential memoranda, and proclamations are used extensively by Presidents to **achieve policy goals**, set uniform standards for managing the executive branch, **or outline a policy view** intended to influence the behavior of private citizens. The U.S. Constitution does not define these presidential instruments and does not explicitly vest the President with the authority to issue them. Nonetheless, such orders are accepted as an inherent aspect of presidential power. Moreover, if they are based on appropriate authority, **they have the force and effect of law.**"

Source: NAFSA Background of Executive Orders

Summary of Executive Orders Affecting International Relations

- “Border Security and Immigration Enforcement Improvements”

- Signed: January 25th, 2017
- Effective: January 25th, 2017

Action/Status: **Dictates that a wall will be built but Congress has not appropriated funds for it and no construction has begun**

- “Enhancing Public Safety in the Interior of the United States:

- Signed: January 25th, 2017
- Effective: January 25th – April, 2017

Action/Status: **“Sanctuary cities” who refused to comply with immigration enforcement measures would not be “eligible to receive Federal Grants, except as deemed necessary for law enforcement purposes.” In April of 2017, a federal court issued a nationwide preliminary injunction halting the order and on November 21st it was declared unconstitutional.**

Summary of Executive Orders Affecting International Relations cont.

- “Protecting the Nation from Foreign Terrorist Entry into the United States”
 - Signed: January 27, 2017
 - Effective: January 25th – March 15, 2017

Action/Status: **Commonly referred to as “The Muslim Ban,” this order originally lowered the number of refugees admitted to the U.S. to 50,000. This order has been repeatedly suspended by courts and remains that way to this day.**

- “Protecting the Nation from Foreign Terrorist Entry into the United States”
 - Signed: March 6, 2017
 - Effective: March 16, 2017

Action/Status: **This order revoked and replaced the above Order as it places limits on travel to U.S. from certain countries, and by all refugees who do not possess either a visa or valid travel documents. Was established by various courts that this order breached the United States Constitution and was placed on a number of suspensions, however, on December 4th, the Supreme Court allowed the ban to go into full effect, pending legal challenges.**

Summary of Executive Orders Affecting International Relations.

- “Imposing Additional Sanctions with Respect to North Korea”
 - Signed: September 21, 2017
 - Effective: September 21, 2017Action/Status: **USA is to cut from its financial system and/or freeze assets of any companies, individuals, etc. trading with North Korea.**
- Resuming the “United States Refugee Admissions Program” (USRAP) with **Enhanced Vetting Capabilities**
 - Signed: October 24, 2017
 - Effective: October 24, 2017Action/Status: **Program Resumption with further vetting capabilities for refugees from certain countries.**

Three Iterations of The Travel Ban

THREE ITERATIONS OF THE TRAVEL BAN

INSIDE
HIGHER ED

Since last January, the Trump administration has issued three versions of the travel ban, each with different implications for international students and scholars.

TRAVEL BAN 1

Issued January 27, 2017



90-day ban on entry for nationals of **Iran, Iraq, Libya, Somalia, Sudan, Syria** and **Yemen**. Included current visa holders from the affected countries, who would not be able to return if they left the U.S. Ultimately excluded lawful permanent residents, after initial confusion.



What happened to it: Enjoined by federal courts.
Superseded by second travel ban.

Infographic: *Inside Higher Ed*, 2/1/18

Three Iterations of the Travel Ban

TRAVEL BAN 2

Issued March 6, 2017



90-day ban on entry for nationals of **Iran, Libya, Somalia, Sudan, Syria** and **Yemen**. Excluded lawful permanent residents and individuals who already held valid visas, including student visas.



What happened to it: After lower courts blocked the ban, the Supreme Court allowed a modified version to go into effect, except in the cases of "foreign nationals who have a credible claim of a bona fide relationship with a person or entity in the United States." The court cited a student with an admission offer to a U.S. university or a lecturer invited to address an American audience as two examples of such "bona fide" relationships. **The 90-day period has expired.**

Infographic: *Inside Higher Ed*, 2/1/18

Three Iterations of Travel Ban

TRAVEL BAN 3

Issued September 24, 2017



Travel restrictions vary by country:

Chad, Libya and Yemen: indefinitely suspends all immigrant travel and travel by nonimmigrants on B (short-term business and tourism) visas.

Iran: indefinitely suspends all immigrant and nonimmigrant travel except for travel by students and exchange visitors on F, J and M visas "subject to enhanced screening and vetting requirements."

Iraq: recommends additional scrutiny of all Iraqi travelers.

North Korea and Syria: indefinitely suspends all immigrant and nonimmigrant travel.

Somalia: indefinitely suspends all immigrant travel and subjects all nonimmigrant travel by Somalis to additional scrutiny.

Venezuela: indefinitely suspends travel by certain government officials and their immediate family members on B (short-term business and tourism) visas.



What happened to it: Court challenges are ongoing. **The Supreme Court has agreed to take on the case.**

Infographic: *Inside Higher Ed*, 2/1/18

Resources for Understanding Executive Orders?

American Bar Association:

- https://www.americanbar.org/groups/public_education/resources/educational_resources/executive_orders.html

NAFSA-Professional Resources:

- http://www.nafsa.org/Professional_Resources/Browse_by_Interest/International_Students_and_Scholars/Immigration_Executive_Actions_Under_the_Trump_Administration/
- http://www.nafsa.org/Professional_Resources/Browse_by_Interest/International_Students_and_Scholars/Executive_Order_Travel_Ban_NAFSA_Resources/

US Government Website for Executive Orders:

- <https://www.digitalgov.gov/resources/omb-memos-circulars-executive-orders-and-other-policies/>

National Immigration Law Center:

- https://www.nilc.org/about-us/what_we_do/

Resources for Understanding Executive Orders cont.?

Books on Executive Orders:

- Dodds, Graham, *Take Up Your Pen: Unilateral Presidential Directives in American Politics* (University of Pennsylvania Press, 2013)
- Phillip J. Cooper, *By Order of the President: The Use and Abuse of Executive Direct Action* (Univ. Press of Kansas, 2014 2ndEd)
- Kenneth r. Mayer, *By the Stroke of a Pen: Executive Orders and Presidential Power* (Princeton Univ. Press, 2001)

Case Study from University of Colorado Denver and Immigration Executive Orders

- NAFSA Advocacy States are:
 - Arizona
 - California
 - **Colorado**
 - Ohio
 - Texas and;
 - Wisconsin
- Brief Case Study on constituencies at the University of Colorado Denver and how they responded.

CU Denver Case Study

- Comprehensive International Office Serving Two campuses –
 - Downtown Denver –
 - 15K students;
 - 7.6% intl. BA/BS => PhD
 - 100 International Scholars
 - Anschutz Medical Campus –
 - 4,400 students
 - 100 International Students
 - 400 Intl. Scholars

CU Denver Case Study

- Response Directives:
 - Fact based – no speculation, direct sources, internal & external legal counsel
 - Unbiased
 - Context where appropriate
 - Identify and Engage All Impacted Constituents –
 - Multi-modal Delivery
 - Continuous Evaluation and Updating

CU Denver Case Study

- **Core Constituents –**
 - International Students + families
 - International Scholars + families
 - Student Services Offices
 - HR, Legal
 - University Leadership
 - CU Government Affairs
 - Sponsoring agencies
- **Multi-Modal Delivery**
 - Written messages - e-mail
 - Campus Presentations – 4x downtown; 2x AMC
 - Prospective student outreach and continuous engagement
 - Web posting and updates

Immigration Executive Orders: Public Policy and Legal Perspective

- Discussion on the Confluence of the Legal and Policy Challenges of the Immigration Orders:
 - How can we as a profession and professional organizations deal with Presidential Direct Action?
 - How do we deal the confluence of legal and public policy perspectives related to this issue but also to future concerns that will impact our profession?

Conclusions

- As SIO's we deal with ambiguity and often times work in the "grey-area" and these Executive Orders are reflective of that ambiguity with no real definitive answers to address this current situation and future situations;
 - Intersectionality of Public Policy and Law
- Core Values will sustain us through these trying times
 - Institutional Level
 - Professional Organizations
 - Universally Held beliefs
 - **Shared Values as members of this profession and collective advocacy.**

Questions and Answers

- How are you dealing with these issue at a:
 - Institutional level
 - Professional level
- What Challenges have your faced in addressing this issue and how did you over come them
- Success Stories