



**AAMC**

Tomorrow's Doctors, Tomorrow's Cures®

# **Frequently Asked Questions: Executive Actions Restricting Entry to the United States**

Last Updated: February 3, 2020

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*Note: This document is intended for informational purposes only and should not be understood as providing legal advice.*

## A. Presidential Proclamation of January 31, 2020

### 1. What does the January 31, 2020 Proclamation do?

The January 31, 2020 Proclamation leaves in place the President’s prior entry restrictions and adds restrictions on entry to the United States for individuals from six countries. The new restrictions apply to individuals who seek to enter the United States permanently and do not apply to individuals who seek to enter the United States for a temporary period. See FAQ B.1.

### 2. Does the January 31, 2020 Proclamation restrict the entry of individuals from the six new countries for tourist, student, business, or other nonimmigrant purposes?

No, the January 31, 2020 Proclamation does not include any restrictions on nonimmigrants visas for individuals from the six new countries, including visas for students, J-1 Exchange Visitors, H-1B professionals, individuals attending a conference in the United States, or other nonimmigrant purposes.

### 3. What is the likely impact of the January 31, 2020 Proclamation on the 2020 Match?

Because incoming residents and fellows most commonly rely on J-1 and H-1B visas, which are unaffected by the January 31, 2020 Proclamation, the legal impact on individuals from the six new countries in The Match® is likely to be minimal.

Country	Student (F, M)	Exchange Visitor (J)	Professional (H1B)	Conference Attendee (B)
Eritrea				
Kyrgyzstan				
Myanmar/ Burma				
Nigeria				
Sudan				
Tanzania				

	No restrictions in the January 31, 2020 Proclamation
	Enhanced screening
	Entry suspended

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**4. What is the effective date of the January 31, 2020 Proclamation?**

The January 31, 2020 Proclamation takes effect on February 21, 2020.

**5. How long will the restrictions of the January 31, 2020 Proclamation stay in effect?**

Like the restrictions created by the 2017 Proclamation, the new restrictions are indefinite. See FAQ B.6.

**6. Does the January 31, 2020 Proclamation alter the status of an individual who already holds a valid visa?**

No, just like the 2017 Proclamation, the January 31, 2020 Proclamation is expressly limited to individuals who do not have a valid visa on the effective date, February 21, 2020. See FAQ B.8.

**7. How does the January 31, 2020 Proclamation affect the more extensive restrictions on entry imposed in the 2017 Proclamation?**

The entry restrictions from 2017 remain in effect. See FAQ B.2.

**8. What type of entry restrictions will be imposed on individuals from the six new countries?**

Immigrant visas will be almost completely barred for individuals from four countries — Nigeria, Myanmar (also known as Burma), Eritrea, and Kyrgyzstan — while individuals from Sudan and Tanzania will be barred from the U.S. diversity visa program, which awards green cards.

**9. What type of immigrant visa is still potentially available to individuals from Nigeria, Myanmar, Eritrea and Kyrgyzstan?**

The January 31, 2020 Proclamation restrictions do not apply to individuals from Nigeria, Myanmar, Eritrea, and Kyrgyzstan seeking visas as “Special Immigrants” whose eligibility is based on their having provided assistance to the United States Government.

**10. Who is exempt from the January 31, 2020 Proclamation’s restrictions on entry?**

The January 31, 2020 Proclamation maintains the exemptions included in the 2017 Proclamation. See FAQ B.7.

**11. Does the January 31, 2020 Proclamation include any waiver provision?**

The January 31, 2020 Proclamation maintains the waiver process included in the 2017 Proclamation. See FAQ B.9 and FAQ B.10.

### 12. What is the difference between an immigrant and a nonimmigrant?

An immigrant is an individual seeking entry to the United States on a permanent basis. A nonimmigrant is an individual seeking entry to the United States on a temporary basis, such as business visitors, tourists, students, exchange visitors, scholars, and temporary workers.

### B. Presidential Proclamation 9645 of September 24, 2017

#### 1. Whose entry into the United States is directly affected by Proclamation 9645 (September 24, 2017)?

The Proclamation directly affects entry into the United States by individuals from Iran, Libya, Syria, Yemen, Somalia, North Korea, and Venezuela. The restrictions vary by country of origin. See FAQ B.2.

On April 10, 2018, the President issued Presidential Proclamation 9723 which lifted Proclamation 9645's entry restrictions on Chad (which restricted entry as immigrants and as temporary visitors on business or tourist visas).

#### 2. What are the Proclamation 9645 country-specific restrictions on entering the United States?

**Iran:** Entry as immigrants and nonimmigrants is suspended, except for those entering under student (F, M) and exchange visitor (J) visas who will be subject to enhanced screening.

**Libya:** Entry as immigrants and as temporary visitors on business or tourist visas is suspended.

**Syria:** Entry of all immigrants and nonimmigrants is suspended.

**Yemen:** Entry as immigrants and as temporary visitors on business or tourist visas is suspended.

**Somalia:** Entry as immigrants is suspended. Nonimmigrants will be subject to enhanced screening.

**North Korea:** Entry of all immigrants and nonimmigrants is suspended.

**Venezuela:** Entry of specific government officials and their families as visitors on business or tourist visas is suspended.

#### 3. What is the status of the Supreme Court case challenging Proclamation 9645?

On June 26, 2018, the [Supreme Court \(by a 5-4 vote\) upheld Presidential Proclamation 9645](#) stating that it was within the president's statutory discretion.

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## 4. What concerns did the AAMC express about Proclamation 9645?

The AAMC, joined by 34 organizations representing a wide range of health care professions and medical specialties, filed an [amicus brief](#) on March 27, 2018 urging the Supreme Court to reinstate the injunction against the implementation of the Proclamation. With the Court’s holding that the Proclamation was within the president’s statutory discretion, the debate now shifts to Congress. The AAMC will continue its efforts to educate legislators about the direct link between fair immigration policies and the health of Americans, and to advocate for immigration policies that recognize the critical role that health professionals from other countries play in safeguarding the nation’s health security.

## 5. How will the restrictions in Proclamation 9645 apply to the most common visas held by aspiring and practicing physicians and scientists from the affected countries?

The following table shows effects on the most common visa categories for individuals in academic medicine:

Country	Student (F, M)	Exchange Visitor (J)	Professional (H1B)	Conference Attendee (B)
Iran	Enhanced screening	Enhanced screening	Entry suspended	Entry suspended
Libya	No restrictions in Proclamation 9645	No restrictions in Proclamation 9645	Entry suspended	Entry suspended
Somalia	Enhanced screening	Enhanced screening	Enhanced screening	Enhanced screening
Syria	Entry suspended	Entry suspended	Entry suspended	Entry suspended
Yemen	No restrictions in Proclamation 9645	No restrictions in Proclamation 9645	No restrictions in Proclamation 9645	Entry suspended
North Korea	Entry suspended	Entry suspended	Entry suspended	Entry suspended
Venezuela*	No restrictions in Proclamation 9645	No restrictions in Proclamation 9645	No restrictions in Proclamation 9645	Entry suspended

\*Suspension of B-1/B-2 entry for Venezuelan nationals is limited to specified officials of Venezuelan government agencies (and their immediate family members) only. All Venezuelan visa holders could be subject to additional screening measures to ensure currency of traveler information.

	No restrictions in Proclamation 9645
	Enhanced screening
	Entry suspended

## 6. How long will the restriction on entry be in force?

Unlike the prior Executive Orders which provided for 90-day suspension periods, Proclamation 9645’s restrictions on entry are indefinite. The Secretary of Homeland Security is to make periodic re-assessments and recommendations to the President as to whether to continue or modify the restrictions.

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### 7. Who is exempt from Proclamation 9645?

The following individuals who are nationals of the countries identified are exempt from Proclamation 9645:

- Lawful permanent residents of the United States (“green card” holders).
- Those admitted (or paroled) after the Proclamation’s effective date.
- Those with an otherwise valid entry document (transportation letter, boarding foil, advance parole document) on the Proclamation’s effective date.
- Dual nationals when traveling on a passport issued by an unaffected country.
- Those traveling on a diplomatic visa.
- Those granted asylum, admitted as a refugee, or granted withholding of removal, advance parole, or protection under the Convention Against Torture.
- Those who have a valid visa on the Proclamation’s effective date.
- Those who are inside the United States on the Proclamation’s effective date.

### 8. Will visas be revoked under the Proclamation?

No, Proclamation 9645 is expressly limited to individuals who do not have a valid visa on the effective date of the Proclamation.

### 9. Who may be admitted under a waiver?

Proclamation 9645 authorizes a consular official or the Commissioner of Customs and Border Protection or the Commissioner’s designee, in their discretion, to grant waivers on a case-by-case basis if an individual demonstrates that (A) denying entry would cause the foreign national undue hardship; (B) entry would not pose a threat to the national security or public safety of the United States; and (C) entry would be in the national interest.

### 10. What circumstances does Proclamation 9645 recognize as potential grounds for a waiver?

The following are among those listed as potential grounds for a waiver:

- Those previously admitted for a continuous period of work, study, or other long-term activity.
- Those with previously established significant contacts with the United States but who were outside the United States for work, study, or other lawful activity on the effective date.
- Those seeking to enter for significant business or professional obligations.
- Those seeking to visit or reside with a close family member in lawful U.S. immigration status and the denial would cause the individual undue hardship.
- Those who are an infant, a young child, an adoptee, or in need of urgent medical care or those whose entry is otherwise justified by the special circumstances of the case.

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- Those employed by the U.S. Government and eligible dependent family members.
- Those traveling with purposes related to business with the U.S. Government, or at the request of the U.S. Government for legitimate law enforcement, foreign policy, or national security purposes, or those traveling on behalf of certain international organizations.
- Those traveling as a U.S. Government-sponsored exchange visitor.

### 11. What is the relationship between Proclamation 9645 and the prior Executive Orders suspending entry of individuals from specific countries into the United States?

The prior Executive Orders suspended entry for individuals from specific countries for a limited period and directed the Government to undertake a review and assessment of its immigration screening and vetting systems. The Proclamation suspends entry for individuals from specific countries for an indefinite period, with some variation depending on visa status, subject to future reviews and recommendations by the Department of Homeland Security.

## C. Resources

### 1. Where may I access the official Presidential Proclamations and related U.S. Supreme Court decision?

1/31/20 Proclamation	<a href="https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-immigrants-nonimmigrants-persons-pose-risk-transmitting-2019-novel-coronavirus/">https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-immigrants-nonimmigrants-persons-pose-risk-transmitting-2019-novel-coronavirus/</a>
4/10/18 Proclamation 9723	<a href="https://www.govinfo.gov/content/pkg/FR-2018-04-13/pdf/2018-07864.pdf">https://www.govinfo.gov/content/pkg/FR-2018-04-13/pdf/2018-07864.pdf</a>
9/24/17 Proclamation 9645	<a href="https://www.govinfo.gov/content/pkg/FR-2017-09-27/pdf/2017-20899.pdf">https://www.govinfo.gov/content/pkg/FR-2017-09-27/pdf/2017-20899.pdf</a>
6/28/18 Supreme Court Decision	<a href="https://www.supremecourt.gov/opinions/17pdf/17-965_h315.pdf">https://www.supremecourt.gov/opinions/17pdf/17-965_h315.pdf</a>

### 2. Where may I find resources designed for IMGs potentially affected by these executive actions?

ECFMG	<a href="http://www.ecfm.org/annc/presidential-proclamation/">www.ecfm.org/annc/presidential-proclamation/</a>
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## D. Impact on Academic Medicine

### 1. Why are fair, predictable, and reasonably efficient immigration processes critical to academic medicine's ability to prepare a healthcare workforce to meet the nation's needs?

The nation's medical schools, teaching hospitals, and other institutions sponsoring programs in graduate medical education are responsible for preparing a healthcare workforce drawn from

around the world to care for an increasingly diverse population both in the United States and abroad. Additionally, medical researchers are relied upon to discover cures for diseases that know no national boundary.

Historically, our healthcare institutions have drawn the best and brightest from around the world as learners, trainees, researchers, and faculty, some of whom ultimately provide care to underserved communities throughout the country. Nearly one in four physicians in the United States is an international medical graduate (IMG). IMGs who are not U.S. citizens must comply with a variety of U.S. immigration processes, and academic medicine as a whole relies on a reasonably efficient and predictable immigration system.

### 2. **What is the typical immigration-related process for non-U.S. citizens applying to medical school and residency?**

For medical school, non-U.S. citizens who do not have a green card typically obtain a student visa (F-1 visa) which allows them to remain in the United States while they are attending medical school.

For residency and fellowship programs, non-U.S. citizens who are not lawful permanent residents (LPRs) typically secure a nonimmigrant visa status that allows for clinical training activities, such as H-1B (specialty occupation) status sponsored by a petitioning GME program, or J-1 (exchange visitor) status sponsored by ECFMG.

### 3. **If I need individualized advice with whom should I consult?**

We are not in a position to provide individualized advice or assistance. You should consult a support office within your institution if available and an attorney if you need legal advice or representation.

## **E. Immigration Terminology**

### 1. **What are the different lawful statuses a person can have under U.S. immigration law?**

A person can be in the United States in lawful status in one of three main categories: (1) nonimmigrant (such as J-1 or H-1B); (2) lawful permanent resident (LPR), or a “green card” holder; or (3) U.S. citizen.<sup>1</sup>

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<sup>1</sup> Some people are in the United States without accruing unlawful presence pursuant to alternative categories, such as Temporary Protected Status or a Period of Stay Authorized by the Attorney General (POSABAG). These categories are not typical of most non-U.S. citizens in GME.

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### 2. What is the difference between a nonimmigrant and an LPR?

While both nonimmigrants and LPRs may be referred to as “aliens,” there are differences in how “permanent” their stay in the United States is expected to be.

Generally, a nonimmigrant has permission to stay in the United States only temporarily. An example of a nonimmigrant is someone with a visa, such as H-1B (temporary employment in a specialty occupation), J-1 (exchange visitor), or F-1 (student). In addition, J-1 status and F-1 status do not permit an individual to have “immigrant intent,” meaning the intent to reside in the United States permanently.

An LPR has been granted permission to live in the United States on a permanent basis. LPR status extends beyond the expiration date on a given LPR card, or “green card”. The government is required to take proactive measures if it seeks to revoke LPR status.

### 3. What do the terms “foreign national” and “alien” refer to?

A foreign national is a person without U.S. citizenship or nationality. An alien is any person who is not a citizen or national of the United States.

The terms as used in the Executive Actions essentially mean the same thing. Each refers to an individual who is neither a citizen nor a national of the United States. Generally, the term “alien” is used in statutes and the term “foreign national” is used elsewhere.

### 4. What is the difference between citizenship and nationality?

Citizenship is a legal status reflecting a set of rights and duties as between an individual and a political unit, such as a country. Nationality refers to the country where an individual was born.

### 5. What are the differences between an H-1B visa and a J-1 visa?

An H-1B temporary employment visa allows a foreign national sponsored by an employer (such as a hospital) to work in a specialty occupation (such as medicine) in the United States for a specific period. An H-1B visaholder is permitted to have “dual intent”, meaning both an intent to carry out a temporary stay and a long-term intent to later remain in the United States permanently. It is not uncommon for H-1B visaholders to subsequently pursue lawful permanent residence and obtain a green card.

A J-1 training visa is designed to foster global understanding through educational and cultural exchanges, with the general expectation that the visaholder will return to his or her home country. Medical residents on a J-1 visa are sponsored by ECFMG to participate in approved GME programs conducted at ACGME-accredited host institutions.

### **6. What is the Conrad State 30 J Waiver Program?**

All J-1 physicians sponsored for participation in U.S. GME are subject to a two-year “home country return requirement.” J-1 physicians must return to their home countries for a period of two years before being eligible to apply for certain other U.S. visa statuses. The Conrad State 30 J Waiver Program allows a limited number of J-1 physicians to obtain a waiver of that requirement if recommended by a state health department to practice medicine full-time in H-1B status in a medically underserved community [i.e., Medically Underserved Area (MUA), Health Professional Shortage Area (HPSA), or Medically Underserved Population (MUP)] for a minimum of three years. The Conrad 30 J Waiver program supports both primary care physicians and specialists.