



TRUMP'S WORK VISA BAN CAUSING HAVOC TO FAMILIES INCLUDING CHILDREN

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On June 29th, 2020, issued a [Proclamation](#) to amend [Proclamation 10052](#) of June 22, 2020 (Suspension of Entry of Immigrants and Nonimmigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak).

The amended Proclamation modifies Section 3(a)(ii) of the June 22 Proclamation to read as follows:

“(ii) does not have a nonimmigrant visa, **of any of the classifications specified in section 2 of this proclamation and pursuant to which the alien is seeking entry**, that is valid on the effective date of this proclamation; and”

In the June 22 Proclamation, Section 3(a)(ii) had read as:

“(ii) does not have a nonimmigrant visa that is valid on the effective date of this proclamation; and”

Under the language of the original provision (see [The Real Threat to the US Economy is Trump's Proclamation, Not the Nonimmigrant Workers it Bans](#)), having a valid visa of any category was sufficient to exempt an individual from the Proclamation. The amendment renders the Proclamation even more restrictive, specifying that the visa must be a valid H-1B, H-2B, L, or certain J visas, and that the individual must be entering the United States pursuant to that visa to qualify for an exemption.

This amendment will cause irreparable harm to countless individuals who relied on the language of the original Proclamation to their detriment. Interpreting the original provision, an individual with a valid B-2 visa, for

example, may have assumed that they were exempt from the Proclamation, and chosen not to return to the United States by June 24th. Now, trapped by the administration's sudden narrowing of the exemption, that individual is stuck outside the United States. Further, individuals who had a valid H-1B, H-2B, L or J visa on the effective date of the original Proclamation (June 24, 2020), may not, based on a literal reading of the amended section, be able to get a new visa when their old one expires if they were outside the United States on June 24th, 2020.

Already, the Proclamation is resulting in irreparable harm and separated families. The [Washington Post](#) told the poignant story of Vihaan, a young boy who traveled to India with his mother in February to visit a seriously ill relative. First unable to return to the United States due to the pandemic, and now ensnared by the amended Proclamation, Vihaan and his mother are separated from Vihaan's father and their home in Dallas, Texas, for the foreseeable future. Many [other families](#), some of whom have lived in the United States for years, find themselves in the same situation.

The Proclamation has been the source of other points of confusion, as well. Some immigration lawyers have [questioned](#) whether individuals who were in the United States on the effective date of the Proclamation and, thus, exempt, could be impacted by the Proclamation if they travel internationally. On [Twitter](#), the State Department seemed to confirm that an individual in this situation could become subject to the ban, stating: "If you depart the US, you need a valid visa to return and we will not be issuing H-1B, H-2B, L, or certain J visas, and derivatives through Dec 31 unless there's an exception". Aside from the devastating impact that the amended Proclamation will have on individuals who are stranded overseas or unable to travel, it will also cause irreparable harm to U.S. businesses who have employees stuck outside the United States and unable to perform the jobs they were hired to do, or are unable to travel for business.

This Proclamation, along with the harsher amendment, do very little to achieve their stated goal of protecting jobs for American workers. As our colleague Jeffrey Gorsky [noted](#), the Proclamations ban some individuals who are not even able to work in the United States and pose no threat to the labor market, including spouses of H-1B workers, many of whom are not eligible for employment authorization, and spouses of H-2B workers and children, who are

never eligible for employment authorization. They have the perverse effect of banning a new born child too. Gorsky notes that a mother could have a valid L-1 visa on June 24 and is thus not banned, but if she gives birth to a child after June 24, 2020, this hapless child will be banned for not having a valid visa on June 24, 2020. We argued in our prior [blog](#) that family members, such as this child, who are accompanying or following to join a nonimmigrant whose entry has not been suspended should be permitted to obtain a dependent visa. Unfortunately, those in charge of implementing the Proclamations in the Trump administration, such as arch xenophobe Stephen Miller, are more concerned about keeping out nonimmigrants (including babies) to the maximum extent possible under the guise of protecting American jobs. Unless a court intervenes, the Proclamations will cause irreparable harm to individuals who may have been living and working in the United States for years, the U.S. businesses that employ them as well as cause further damage America's reputation in the eyes of the world.

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