

# Immigration changes to look for under the Biden administration

By **Eli M. Kantor and Jonathan D. Kantor**

**P**resident-elect Joe Biden has already highlighted some of the immigration policies that he would like to implement during his upcoming presidency. His team plans on placing a 100-day freeze on deportations; ending the travel ban from 13 primarily Muslim countries; limiting immigration arrests; increasing the number of refugees resettled in the U.S.; and removing restrictions blocking protections for asylum seekers.

Biden also plans on eliminating the backlog of over 2 million cases in immigration courts. He

wants to separate the immigration courts from the Department of Justice and modernize America's immigration system, and tackle the root cause of irregular migration.

The Biden administration has stated he will immediately reverse Trump administration policies that separate parents from their children at the border, including ending the prosecution of parents for minor immigration violations as an intimidation tactic, and prioritize the reunification of any children still separated from their families. Biden has stated he will double the number of immigration judges, court staff, and interpreters.

## Political Asylum

Biden has stated that he plans on using asylum officers to review political asylum petitions rather than immigration judges. He also plans on bringing back protections for victims of gang and domestic violence for determining credible fear in political asylum petitions. Biden has also pledged that he will end the program that requires asylum seekers to wait in Mexico for their hearings in U.S. immigration court.

Biden has promised to reassert America's commitment to asylum seekers and refugees. He has stated he will surge asylum officers to review the cases of recent border crossers and keep cases with positive credible-fear findings with Asylum Division. Migrants who qualify for asylum will be admitted to the country through an orderly process and connected with resources that will help them care for themselves. Migrants who do not qualify will have the opportunity to make their claim before an immigration judge, but, if they are unable to satisfy the court, the government will help facilitate their successful reintegration into their home countries. Biden has promised to end the mismanagement of the asylum system, which

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fuels violence and chaos at the border.

### **Temporary Protected Status**

Biden's transition team is weighing whether to grant temporary protected status to more than a million immigrants from Honduras and Guatemala. The program allows people already in the U.S. at the time of the designation to stay and work legally if their home countries have been affected by natural disasters, armed conflicts, or other events that prevent their safe return. The designations last six to 18 months and can be renewed. Temporary protected status covers both immigrants in the United States illegally and those on legal visas. The program bars certain applicants with criminal convictions and those deemed as security threats. Biden's transition team has stressed that no decisions were expected until after Biden takes office on Jan. 20 and staff are in place to conduct formal evaluations.

Biden has stated that holders of temporary protected status or deferred enforced departure who have been in the country for an extended period of time in the U.S. will be offered a path to citizenship through legislative immigra-

tion reform.

### **Non-Immigrant Visas**

Biden plans on reforming the visa program for temporary workers in select industries. He will work with Congress to reform the current system of temporary visas to allow workers in these select industries to switch jobs, while certifying to labor market's need for foreign workers. Employers will be able to supply data showing a lack of labor availability and the harm that would result if temporary workers were unavailable.

Biden will work with Congress to first reform temporary visas to establish a wage-based allocation process and establish enforcement mechanisms to ensure they are aligned with the labor market and not used to undermine wages. Then Biden plans on supporting the expansion on the number of high-skilled visas and eliminating the limits on employment-based visas by country which create long backlogs. Biden also plans on increasing the number of visas offered to permanent, work-based immigration based on macroeconomic conditions.

### **DACA and Path to Citizenship**

Biden has repeatedly stated that

he planned to fully restore the Deferred Action for Childhood Arrivals program which protects undocumented immigrants brought to the U.S. as minors from deportation. He also plans on sending an immigration bill to Congress for "comprehensive immigration reform," with a pathway to citizenship for over 11 million undocumented immigrants in America.

### **The Border and Beyond**

Biden has said he will halt construction of President Donald Trump's border wall, although he does not plan on tearing down what has been built so far. Biden's border security plan calls for increased screening at the ports of entry, particularly for illegal drugs coming up through Mexico, along with more investment in surveillance technology. He also wants to work on economic and security measures with Mexico and Central American Countries — ideas he backed when he voted for the Secure Border Fence Act of 2006.

As Jan. 20, 2021, is coming, look for Biden to implement significant immigration decisions during his first days in office, that will make America a more welcoming nation. ■