

Alert
JULY 14, 2017

Important Announcement

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Executive Order on Visas

On June 26, 2017, the United States Supreme Court issued an order agreeing to hear the Administration's appeals of two rulings by Federal Appeals Courts regarding Executive Order 13780 and partially granting the government's request to stay the lower courts' injunctions. We will keep those traveling to the United States and partners in the travel industry informed as we implement the order in a professional, organized, and timely way.

As of June 29, 2017, we began implementing the Executive Order at our embassies and consulates abroad in compliance with the Supreme Court's decision and in accordance with the Presidential Memorandum issued on June 14, 2017. Our implementation is in full compliance with the Supreme Court's decision.

On July 13, 2017 the U.S. District Court in Hawaii issued a ruling regarding the definition of "close familial relationship," as that phrase was used in the Supreme Court's June 26, 2017 order on implementing Section 2(c) of E.O. 13780. A close familial relationship for that purpose was previously defined under U.S. Government guidance as a parent (including parent-in-law), spouse, fiancé, child, adult son or daughter, son-in-law, daughter-in-law, sibling, whether whole or half, and including step relationships. The District Court ruled that, in addition to those relationships, grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts and uncles, nephews and nieces, and cousins also be included in the definition of "close familial relationship."

We do not plan to cancel previously scheduled visa application appointments. In accordance with all applicable court orders, for nationals of the six designated countries, a consular officer will make a determination in the course of the interview whether an applicant otherwise eligible for a visa is exempt from the E.O. or, if not, is eligible for a waiver under the E.O., and may be issued a visa.

The E.O. provides specifically that no visas issued before its effective date will be revoked pursuant to the Executive Order, and the E.O. does not apply to nationals of affected countries who had valid visas on June 29, 2017.

The E.O. further instructs that any individual whose visa was marked revoked or cancelled solely as a result of the original E.O. issued on January 27, 2017 (E.O. 13769) will be entitled to a travel document permitting travel to the United States, so that the individual may seek entry. Any individual in this situation who seeks to travel to the United States should contact the closest U.S. embassy or consulate to request a travel document.

[FAQs on the Executive Order - Department of Homeland Security](#)

Frequently Asked Questions

What does the Supreme Court's decision mean for applicants for U.S. visas?

The Supreme Court's order specified that the suspension of entry provisions in section 2(c) of Executive Order 13780 may not be enforced against foreign nationals who have a credible claim of a bona fide relationship with a person or entity in the United States. All other foreign nationals of the designated countries are subject to the provisions of the Executive Order, which will be implemented worldwide as of June 29, 2017, at 8:00 pm, EDT, taking into account the Supreme Court decision. The Executive Order prohibits the issuance of U.S. visas to nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen unless they are either exempt or are issued a waiver. Consular officers first determine whether the applicant qualifies for the visa class for which they are applying before considering whether an exemption to the executive order applies or whether the applicant qualifies for a discretionary waiver.

What nonimmigrant visa classes are exempted from the Executive Order, based on the Supreme Court's order?

The Supreme Court's order specified that the suspension of entry in section 2(c) of Executive Order 13780 (E.O.) may not be enforced against foreign nationals who have a credible claim of a bona fide relationship with a person or entity in the United States. Applicants seeking B, C-1, C-3, D, or I visas will need to make a credible claim to a consular officer at their visa interview that they

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have a bona fide close familial relationship with a person in the United States or of a bona fide, formal, documented relationship with an entity in the United States that was formed in the ordinary course, rather than for the purpose of evading the E.O., for the visa applicant to be exempt from the E.O. based on the Supreme Court order. Alternatively, some applicants may qualify for an exemption, and others may qualify for a waiver, in accordance with the E.O. itself. Qualified applicants in nonimmigrant visa categories not listed above are considered exempt from the E.O., because a credible claim of a bona fide relationship with a person or entity in the United States is inherent in the requirements for the visa classification. In all visa adjudications, consular officers may seek additional information, as warranted, to ensure underlying relationships are bona fide, rather than being established for the purpose of unlawfully obtaining a visa, including by evading the E.O.

What immigrant visa classes are exempted from the Executive Order, based on the Supreme Court's order?

Qualified applicants in the immediate-relative and family-based immigrant visa categories are exempt from the E.O. under the Supreme Court's order, because having a credible claim of a bona fide close familial relationship is inherent in the requirements for the visa. Likewise, qualified employment-based immigrant visa applicants generally are exempt from the E.O., because they have a credible claim of a bona fide, formal, documented relationship with an entity in the United States formed in the ordinary course. Unlike other employment-based immigrant visa applicants, certain self-petitioning employment-based first preference applicants with no job offer in the United States and special immigrant visas under INA section 101(a)(27) may be subject to the E.O., unless they have a credible claim of a bona fide close familial relationship with a person in the United States or of a bona fide, formal, documented relationship with an entity in the United States that was formed in the ordinary course, rather than for the purpose of evading the E.O. Applicants not exempted based on the Supreme Court's order still may qualify for an exemption, or may qualify for a waiver, in accordance with the E.O. itself. Likewise, diversity visa applicants will need a credible claim of a bona fide close familial relationship with a person in the United States or of a bona fide, formal, documented relationship with an entity in the United States that was formed in the ordinary course, to be exempted under the provisions of the E.O., or qualify for a waiver, before they can be issued a visa during the suspension, because a relationship with a person or entity in the United States is not required for such visas.

If a principal visa applicant qualifies for an exemption or a waiver under the E.O., does a qualified derivative also get the benefit of the exemption or waiver?

Yes, eligible derivatives of these classifications are also exempt.

Does this Order apply to dual nationals?

This Executive Order does not restrict the travel of dual nationals, so long as they are traveling on the passport of an unrestricted country and, if needed, hold a valid U.S. visa.

Our embassies and consulates around the world will process visa applications and issue nonimmigrant and immigrant visas to otherwise eligible visa applicants who apply with a passport from an unrestricted country, even if they hold dual nationality from one of the six restricted countries.

Does this apply to U.S. Lawful Permanent Residents?

No. As stated in the Order, lawful permanent residents of the United States are not affected by the Executive Order.

Are there special rules for permanent residents of Canada?

Permanent residents of Canada who hold passports of a restricted country can apply for an immigrant or nonimmigrant visa to the United States if the individual presents that passport, and proof of permanent resident status, to a consular officer. These applications must be made at a U.S. consular section in Canada. A consular officer will carefully review each case to determine whether the applicant is affected by the E.O. and, if so, whether the case qualifies for a waiver.

Will you process waivers for those affected by the E.O.? How do I qualify for a waiver to be issued a visa?

As specified in the Executive Order, consular officers may issue visas to nationals of countries identified in the E.O. on a case-by-case basis, when they determine: that issuance is in the national interest, the applicant poses no national security threat to the United States, and denial of the visa would cause undue hardship.

What is a close familial relationship for the purposes of determining if someone is subject to the E.O.?

In light of the July 13, 2017 U.S. District Court of Hawaii ruling regarding the definition of "close familial relationship" as that phrase was used in the Supreme Court's June 26, 2017 order on implementing Section 2(c) of E.O. 13780, a close familial relationship is defined as a parent (including parent-in-law), spouse, fiancé, child, adult son or daughter, son-in-law, daughter-in-law, sibling, grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts and uncles, nephews and nieces, and cousins. For this purpose, "cousins" are limited to first-cousins (i.e., each cousin has a parent who is a sibling of a parent of the other cousin). For all relationships, half or step status is included (e.g., "half-brother" or "step-sister"). "Close familial relations" does not include any other "extended" family members, such as second-cousins.

My visa was refused under the Executive Order, but I have family members in the United States who I think may qualify as “close familial relations” for purposes of establishing a “bona fide” relationship with a person in the United States. What should I do?

Individuals whose applications for U.S. immigrant and nonimmigrant visas were refused solely based on Executive Order 13780, as informed in writing at the time of the visa interview, who believe they meet the requirement of having a credible claim of a bona fide relationship with a close familial relation in the United States should contact the U.S. embassy or consulate where they applied for a visa with this information. In light of the District Court’s July 13, 2017 order, a close familial relationship is defined as a parent (including parent-in-law), spouse, fiancé, child, adult son or daughter, son-in-law, daughter-in-law, sibling, **grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts and uncles, nephews and nieces, and first cousins.**

I sponsored my family member for an immigrant visa, and his interview appointment is after the effective date of the Order. Will he still be able to receive a visa?

The Supreme Court’s order specified that section 2(c) of the Executive Order may not be enforced against foreign nationals who have a credible claim of a bona fide close familial relationship with a person or a formal, documented relationship with an entity in the United States that was “formed in the ordinary course, rather than for the purpose of evading [the Executive Order].” One example cited in the Supreme Court’s decision was a foreign national who wishes to enter the United States to live with or visit a family member, thereby demonstrating a bona fide relationship with a person in the United States. Applicants for immigrant visas based on family relationships are excluded from the E.O. under the Supreme Court’s decision if they otherwise qualify for the visa.

Can those needing urgent medical care in the United States still qualify for a visa?

The Executive Order provides several examples of categories of cases that may qualify for a waiver, to be considered on a case-by-case basis when in the national interest, when entry would not threaten national security, and denial would cause undue hardship. Among the examples provided, a foreign national who seeks to enter the United States for urgent medical care may be considered for a waiver.

An individual who wishes to apply for a waiver should apply for a visa and disclose during the visa interview any information that might qualify the individual for a waiver. A consular officer will carefully review each case to determine whether the applicant is affected by the E.O. and, if so, whether the case qualifies for a waiver.

I’m a student or short-term employee that was temporarily outside of the United States when the Executive Order went into effect. Can I return to school/work?

If you have a valid, unexpired visa, the Executive Order does not apply to your return travel.

If you do not have a valid, unexpired visa, the Supreme Court’s decision specified that section 2(c) of the Executive Order may not be enforced against foreign nationals who have a credible claim of a bona fide relationship with a person or entity in the United States. One example cited in the Supreme Court’s decision was a student from a designated country who had been admitted to U.S. university, thereby demonstrating a credible claim of a bona fide relationship with an entity in the United States.

An individual who wishes to apply for a nonimmigrant visa should apply for a visa and disclose during the visa interview any information that might demonstrate that he or she is exempt from section 2(c) of the Executive Order. A consular officer will carefully review each case to determine whether the applicant is affected by the E.O. and, if so, whether the case qualifies for a waiver.

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