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Hot Topics Aver que
USCIS and DOS trends in family, humanitarian, and employment-based cases

Marisol L. Pérez
Nicole Simon

Marisol L. Pérez
De Mott, McChesney, Curtright, and
Armendáriz LLP
8023 Vantage Dr., Suite 800
San Antonio, Texas 78230
210-858-0310
Marisol@dmcausa.com

Nicole Simon
Landau, Hess, Simon, Choi, & Doebley,
Philadelphia, PA
190 N. Independence Mall West, Suite 602
Philadelphia, PA 19106
215-925-0705 Ext. 1238
nsimon@LHSCimmigration.com

Introduction

Since early 2017, the Trump Administration has brought relentless and continued attacks on family-based, employment-based, and humanitarian-based immigration procedures and practices. Now, with the onset of COVID-19, this administration has taken even more desperate measures to keep out family members, non-immigrants, and both immigrant and non-immigrant workers.

This article will give the latest update for various USCIS or DOS procedures, changes in certain immigration benefits, and will offer practice pointers to navigate the constant shift in our immigration practice.

Current Landscape: Statistics Related to the Current Administration's Practices Affecting Immigration

There are far less immigration benefits offered across the board for all types of immigration. These reductions have been mandated primarily through the exercise of executive powers and administrative procedures. It is estimated that by 2021, Trump will have cut immigration benefits overall by almost 50% since 2016.¹

This administration's newly implemented policies have led to unprecedented visa denials. For example, early numbers show an historic 12,179 visa rejections on public charge grounds as of the end of July 2020.² This is a dramatic increase from the 1,033 denials in FY2016.³

Table 1 below provides insight into the reduction for various immigrant categories since 2016. The table takes into consideration anticipated policy continuation into 2021.

Table 1: Legal Immigration Projections⁴

Persons Obtaining Lawful Permanent Residence	FY 2016 (Actual)	FY 2021 (Projected)	Decline 2016 to 2021
Asylees	37,209	25,000	-12,209 (-67%)
Diversity	49,865	0	-49,865 (-100%)
Employment-Based Preferences	137,893	220,000	+82,107 (+60%) ⁵

¹ Stuart Anderson, FORBES, *Trump Cuts Legal Immigrants by Half and He's Not Done Yet* (July 21, 2020) (1:03 AM).

² AILA, *Featured Issue: Public Charge Changes at USCIS, DOJ, and DOS*, AILA Doc. No. 19050634.

³ *Id.*

⁴ Anderson, *supra*, note 1.

⁵ National Foundation for American Policy, Dept. of Homeland Security assumes presidential proclamation on suspension of most immigrant visas and other Trump administration immigration policies continue in FY 2021 and a

Persons Obtaining Lawful Permanent Residence	FY 2016 (Actual)	FY 2021 (Projected)	Decline 2016 to 2021
Family-Sponsored Preferences*	238,087	19,000	-219,087 (-92%)
Immediate Relatives of U.S. Citizens	566,706	269,131	-297,575 (-53%)
Refugees (including Cuban Adjustment Act)	120,216	35,000	-85,216 (-71%)
Rest of Legal Immigration System	33,529	33,529	0 (0%)
OVERALL LEVEL OF LEGAL IMMIGRATION	1,183,505	601,660	-581,845 (-49%)

Processing and Case Adjudication: USCIS and DOS Delays, Processing Times, and COVID

Nationwide, millions of families, businesses, and individuals applying for humanitarian relief are waiting longer for U.S. Citizenship and Immigration Services (USCIS) to process and approve applications and petitions. The same applies to Department of State cases. USCIS data shows that USCIS's average processing time rose by 19 percent from FY2017 to FY2018, even while overall numbers of case receipts declined by 13 percent during that same period. This trend has continued.

Other factors have caused delay, including some policies at USCIS that are targeted to restrict legal immigration. For example, policies requiring USCIS officers to conduct duplicate reviews of past decisions, interview requirements for applicants that had not previously required an interview, and other executive actions by USCIS.

As a result of the pandemic, delays have worsened. USCIS continues to allege that they have experienced a significant loss of revenue because of the pandemic. At one point, USCIS threatened

spillover of unused numbers from FY 2020 family-based preferences will be used for employment-based category in FY 2021 up to the highest recent level of approximately 220,000 in FY 2005.

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