

Rescission of Muslim Ban

We are pleased that President-Elect Biden has committed to rescinding the Muslim Ban—specifically, Executive Orders 13769 and 13780 and Presidential Proclamations 9645 and 9983—on day one of his Administration.

The ban's rescission is a vital step in repudiating the racism and bigotry of the past four years. But it is not enough. Because the ban has been in effect for years, it has already imposed a severe burden on many visa applicants, and discouraged many others—sometimes with devastating results for families and lives. It is not enough merely to discontinue the ban. It is also necessary to start healing the damage done.

Beyond rescinding the Muslim Ban, Muslim Advocates therefore advises specific affirmative steps to undo its profound harms. Both the U.S. Department of Homeland Security (DHS) and the U.S. Department of State (DOS) must rigorously review their policies and practices to streamline and simplify requirements for those who have been needlessly separated from family members for years as a result of the Muslim Ban.

The Biden Administration should issue directives to DHS and DOS to provide guidance on immediate actions and administrative changes to restore and strengthen the expeditious and accurate processing of all visa applications from the affected countries.

Specifically, Muslim Advocates strongly urges the Administration to take the following actions:

- 1. Allocate additional resources to promptly process individuals and families impacted by the Muslim Ban.** The Muslim Ban has created a substantial backlog of pending immigrant and non-immigrant visa applications. DHS, DOS, and the Federal Bureau of Investigation should reallocate resources to effectively and expeditiously process existing applications on behalf of applicants from the affected countries and set a deadline of six months for completing processing of the backlog.
- 2. Immediately complete administrative processing of cases pending a waiver of the Muslim Ban.** According to DOS' Acting Deputy Assistant Secretary for Visa Services, Edward Ramotowski, in a Congressional hearing on September 24, 2019, DOS began using an automated administrative processing system in 2019 that can process cases in



a matter of days.¹ The Administration should adopt a deadline to clear the backlog of cases stuck in administrative processing within the first 60 days of the Administration.

- 3. Direct the re-opening of previously rejected immigrant visa applications upon request.** DOS should be directed to reopen within 90 days immigrant visa applications that were rejected on the basis of the Muslim Ban without requiring new applications or supporting documents. Those re-opened applications should be promptly processed and not be rejected or subject to a request for updated documentation if the visa application was approvable but for the Muslim Ban.
- 4. Request no new additional fees or interviews for non-immigrant visa applicants refused due to the Muslim Ban who have already paid fees or given interviews.** DOS should be directed to waive fees and interviews for non-immigrant visa applicants who previously paid fees and attended interviews related to applications refused as a result of the Muslim Ban. If an interview is required, the Administration should prioritize scheduling interviews for non-immigrant visa applicants refused due to the Muslim Ban over first time non-immigrant visa applicants.
- 5. Publish without delay all data related to the impact of the Muslim Ban.** All data related to the number of applicants covered by the Muslim Ban, broken down by nationality, should be published as expeditiously as possible and should be made widely available and easily accessible within 90 days; also publish all documentation pertaining to the reasons for the initial ban, the choice of nations covered by the ban, and the evidence of security shortfalls that were used to employed to justify the ban. Sufficient information should be made public to clarify the actual basis both for the ban and for the inclusion of specific countries and visa types.
- 6. Initiate an interagency audit of processing and security vetting procedures for applicants from countries affected by the Muslim ban and other Muslim-majority countries, as well as applicants perceived or classified as Muslim.** The Trump Administration has adopted policies and practices beyond the Muslim Ban that have delayed or denied applicants from Muslim-majority countries. Those policies and practices should be reviewed and modified as appropriate to ensure that applicants from Muslim-majority countries are subject to the same rules and processes as those from other countries.
- 7. Revise the Foreign Affairs Manual.** Within 60 days, the Foreign Affairs Manual must be restored to its pre-2017 guidance, wherein additional administrative processing beyond the standard security checks was required only in specific circumstances and not for

¹ *Oversight of the Trump Admin.'s Muslim Ban: Joint Hearing Before the Subcomm. on Immigration & Citizenship of the H. Comm. on the Judiciary & Subcomm. on Oversight & Investigations of the H. Foreign Affairs Comm.*, 116th Cong. 2 (2019) (statement of Edward Ramotowski, Deputy Assistant Sec'y, Bureau of Consular Affairs, U.S. Dep't of State), <https://docs.house.gov/meetings/JU/JU01/20190924/109976/HHRG-116-JU01-Wstate-RamotowskiE-20190924.pdf>.

every visa applicant from the affected countries. The Foreign Affairs Manual should also be revised to permit the approval of immigrant and non-immigrant visas from countries identified in the ban without in-person interviews if the beneficiary is prima facie eligible and to otherwise streamline the processing of applications by individuals affected by the Muslim Ban.

- 8. Eliminate “extreme vetting” in all its manifestations, including Form DS-5535.** DOS must restore pre-2017 vetting for all visa applicants on day one of the administration. There is no evidence that “extreme vetting” has improved our national security. It has instead resulted in a large backlog, substantial delays, and an overly burdensome system for the U.S. Government and visa applicants alike.
- 9. Eliminate the policy of finding Iranian nationals inadmissible on terrorism grounds for having served compulsory military service in the Iranian Revolutionary Guard Corps (IRGC) before the IRGC was designated as a foreign terrorist organization (FTO).** Under current policy, Iranian nationals who completed compulsory military service as far back as 45 years ago are being found inadmissible to the United States on terrorism grounds. The IRGC was designated an FTO in April of 2019, and the terrorism grounds of inadmissibility are being applied retroactively to those who served decades earlier. DOS must reopen cases for applicants denied visas on terrorism grounds exclusively due to completion of compulsory military service in the IRGC prior to April 2019.
- 10. Appoint a senior-level White House coordinator** to coordinate federal agencies and other stakeholders around rebuilding the consular processing of the affected countries and ensuring that policies and practices that impose greater burdens on applicants from Muslim-majority countries, or on applicants who are perceived as Muslim, are eradicated. The coordinator should conduct outreach and consultation with affected communities within the United States.
- 11. Pass the No Ban Act.** The nation’s commitment to creating an immigration system free of anti-Muslim bigotry requires that a prohibition against future bans be enshrined in law.

We applaud the Biden Administration for its stated commitment to restoring a fair immigration system and our standing around the world. The Muslim Ban is inconsistent with our core American values. We stand with the Biden Administration in its efforts to remove the stain of the Muslim Ban from the soul of America.

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Muslim Advocates is a national civil rights organization working in the courts, in the halls of power, and in communities to halt bigotry in its tracks. We ensure that American Muslims have a seat at the table with expert representation so that all Americans may live free from hate and discrimination.