

## **Travel Ban Frequently Asked Questions** Updated as of August 21, 2018<sup>th</sup>

The answers to these Frequently Asked Questions (FAQ) were prepared by the Harvard Immigration and Refugee Clinical Program at the Harvard Law School. The responses below are informational and do not constitute legal advice. Every case is different, and advice will vary depending on the individual circumstances of each student or staff member. This guidance is valid as of **August 21, 2018**. **Please note that the situation with respect to travel is fluid, and we will update these FAQs as frequently as possible.**

**If you are a non-U.S. citizen Harvard student with questions related to travel, please contact the [Harvard International Office](#) as soon as possible.** We strongly recommend that you **\*do not\* leave the country** without first consulting an immigration expert at the Harvard International Office, the Harvard Immigration and Refugee Clinical Program, or elsewhere. In addition, all Harvard students, faculty, and staff should register their travel with the Harvard Travel Registry, available through [Global Support Services](#).

If you would like to set up a consultation with an attorney at HIRC, please contact our paralegal, Nilce Maldonado, at 617-495-6648 or [nmaldonado@law.harvard.edu](mailto:nmaldonado@law.harvard.edu).

### **PLEASE NOTE:**

On June 26, 2018, the Supreme Court upheld the administration's ban on entries of certain foreign nationals (the "Travel Ban") — a Presidential Proclamation entitled "[Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats](#)."

The Travel Ban has taken full effect. As such, the below FAQs address issues and concerns arising from the implementation of the newest iteration of the Travel Ban.

### **Which countries are currently identified by the President's Proclamation for suspension or restriction of entry into the United States and why?**

The Proclamation identified eight countries, listed below, as targets for the ban.

- **Iran:** The Proclamation cited the country's lack of cooperation with the United States in counterterrorism efforts, its failure to receive its nationals subject to final orders of removal from the United States, its designation as a state sponsor of terrorism, and the existence of significant terrorist threats emanating from Iran.
- **Libya:** The Proclamation noted the country's difficulties in sharing information regarding public safety and terrorism, its lack of cooperation in receiving its nationals subject to final orders of removal from the United States, inadequacies in its identity management practices, and the presence of violent extremist groups within the country's territory.

- **Somalia:** The Proclamation pointed to the lack of international recognition of Somali identity documents, the presence of terrorist groups within Somalia’s borders, and the country’s lack of capacity to sustain military pressure or investigate suspected terrorists.
- **Syria:** The Proclamation cited the country’s failure to cooperate with the United States in identifying security risks, designation as a state sponsor of terrorism, significant inadequacies in its identity-management protocols and information sharing, and the existence of significant terrorist threats emanating from the country.
- **Yemen:** The Proclamation noted the country’s significant identity-management challenges, its failure to adequately share public safety and terrorism-related information, and the presence of terrorist groups within the country’s borders.
- **North Korea:** The Proclamation cited the country’s lack of cooperation with the United States and failure to satisfy any information-sharing requirements.
- **Chad:** The Proclamation included in its description the country’s failure to adequately share public safety and terrorism-related information and the presence of several terrorist groups on and around the country’s territory. Chad was, however, subsequently [removed from the list of banned countries](#).
- **Venezuela:** The Proclamation noted the country’s lack of cooperation with respect to receiving its nationals subject to final orders of removal from the United States and its failure to adequately share public safety and terrorism-related information.

**What are the specific travel restrictions placed on the eight<sup>1</sup> countries that were identified in the most recent Proclamation?**

The Proclamation placed various restrictions on nationals of 8 countries, including the following:

- a) Syria and North Korea: Entry as permanent immigrants and all temporary non-immigrants is suspended.
- b) Chad<sup>2</sup>, Libya, and Yemen: Entry as permanent immigrants and temporary nonimmigrants on business (B-1), tourist (B-2), and business/tourist (B-1/B-2) visas is suspended.
- c) Iran: Entry is suspended for permanent immigrants and all temporary non-immigrants **except** non-immigrants under F, M, and J visas, although this group will be subject to enhanced screening.
- d) Venezuela: Entry is suspended for certain temporary non-immigrants on business (B-1), tourist (B-2), and business/tourist (B-1/B-2) visas who are officials of government agencies involved in screening and vetting procedures, or their immediate family members.
- e) Somalia: Entry as permanent immigrants is suspended and visa adjudication for nonimmigrants will be subjected to additional scrutiny.

**My country is not on the list. Can I travel freely to and from the United States?**

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<sup>1</sup> Although Iraq was removed from the listed of banned countries identified in the earlier version of the Executive Order, the current Proclamation provides for heightened scrutiny of Iraqi nationals.

<sup>2</sup> Chad has since been [removed from the list](#).

The Proclamation provides that the Secretary of Homeland Security, the Secretary of State, or the Attorney General may “submit to the President the names of additional countries for lawful restrictions or limitations deemed necessary for the security or welfare of the United States.” We are not at this moment aware of any further nations that will be added to the Travel Ban.

We note, however, that apart from the Travel Ban, the U.S. government, like any sovereign state, retains discretion to admit or deny foreign nationals seeking to pass through its border. Issuance of a visa confers upon the recipient conditional authorization to enter the country, but it does not establish a legal right to enter—indeed, visas may be revoked.

If you are not a U.S. citizen or green card holder, are present in the United States and considering traveling abroad, and have questions about your particular case we highly recommend that you speak with the Harvard International Office **prior to leaving the country**.

### **My country is on the list, but I have to leave the United States. What should I do?**

We strongly advise that you consult with the Harvard International Office, the Harvard Immigration and Refugee Clinical Program, or a [reputable immigration attorney](#) prior to leaving the country. It is highly recommended that persons from listed countries consider the possibility that they will not be allowed to re-enter, should they travel, and make their decision to travel weighting that possibility. Individuals with visas should consult with the International Office and make sure that their visas are valid and in good standing and that they plan to return well before their visa expires.

When you plan to travel, [it is recommended](#) that you have a U.S. immigration attorney’s contact information with you and that you be in touch with the attorney as soon as possible prior to departure, so he or she can advise you through every step of the journey and can be aware of how your case is being handled. [It is also recommended](#) that you prepare for the possibility that you may be prevented from boarding your flight back to the U.S., depending on a range of factors. It is important that all Harvard students, faculty, and staff register their travel with the Harvard Travel Registry, available through [Global Support Services](#).

If an immigration officer asks you to sign a document or surrender your green card or visa, [it is recommended](#) that you decline to do so and request to speak to your attorney. A completed G-28, or Notice of Entry of Appearance as Attorney or Accredited Representative, is a form that can be used to demonstrate that your immigration matters are being handled by a particular attorney.

For an online directory of U.S. immigration organizations, see [www.immigrationlawhelp.org](http://www.immigrationlawhelp.org). An online directory of private attorneys is available through the American Immigration Lawyers Association at [www.aialawyer.com](http://www.aialawyer.com). There are additional steps you can take to prepare for your flight into Boston Logan Airport listed [here](#). People flying into JFK should contact [jfkneedalawyer@gmail.com](mailto:jfkneedalawyer@gmail.com) for more information.

### **Are there exceptions to the most recent Proclamation?**

The September 24 Proclamation provides for a number of categorical and case-by-case exceptions. Section 3(b) states that the “suspension of entry [...] shall not apply to:

- (i) any lawful permanent resident of the United States;
- (ii) any foreign national who is admitted or paroled into the United States on or after the applicable effective date [...];
- (iii) any foreign national who has a document other than a visa—such as a transportation letter, an appropriate boarding foil, or an advance parole document—valid on the applicable effective date [...] or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission;
- (iv) any dual national of a country [...] when the individual is traveling on a passport issued by a non-designated country;
- (v) any foreign national traveling on a diplomatic or diplomatic-type visa; North Atlantic Treaty Organization visa; C-2 visa for travel to the United Nations; or G-1, G-2, G-3, or G-4 visa; or
- (vi) any foreign national who has been granted asylum by the United States; any refugee who has already been admitted to the United States; or any individual who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.”

In addition, persons the United States would otherwise bar from entry per the provisions of the Travel Ban may apply for “case-by-case” waivers (see below).

### **What about people from one of the listed countries that have a bona fide relationship with a person or entity in the United States?**

There is no current exception for individuals from the listed countries with bona fide relationships to individuals in the United States. The only mention of the bona fide relationship exception in the most recent Proclamation pertains to the effective date. The Proclamation extended the effective date for people with a bona fide relationship until October 18, 2017, whereas the effective date generally for the Proclamation was September 24, 2017.

In short, nationals from one of the listed countries, with bona fide relationships to people in the United States, **cannot** currently use that relationship to obtain a visa to enter the United States. Individuals had to have obtained a visa based on their bona fide relationship before October 18, 2017.

### **Is there any way I can gain entry into the United States if I am subject to the Travel Ban?**

Possibly. The Proclamation provides that waivers of its entry restrictions may be granted on a case-by-case basis; however, a [recent report](#) found that only two percent of applications were granted a waiver.

To obtain a waiver, the applicant must demonstrate that:

- 1) Denying entry would cause the foreign national undue hardship;
- 2) Entry would not pose a threat to the national security or public safety of the United States; and

3) Entry would be in the national interest.

For more information about applying for a waiver, please see the American Immigration Lawyers Association guide, available [here](#).

### **What are some examples of situations where waiver may be appropriate?**

[The Proclamation](#) lists some situations in which a waiver may be appropriate, including the following cases:

Case-by-case waivers could be appropriate in circumstances such as the following:

(i) the foreign national has previously been admitted to the United States for a continuous period of work, study, or other long-term activity, is outside the United States on the effective date of this order, seeks to reenter the United States to resume that activity, and the denial of reentry during the suspension period would impair that activity;

(ii) the foreign national has previously established significant contacts with the United States but is outside the United States on the effective date of this order for work, study, or other lawful activity;

(iii) the foreign national seeks to enter the United States for significant business or professional obligations and the denial of entry during the suspension period would impair those obligations;

(iv) the foreign national seeks to enter the United States to visit or reside with a close family member (e.g., a spouse, child, or parent) who is a United States citizen, lawful permanent resident, or alien lawfully admitted on a valid nonimmigrant visa, and the denial of entry during the suspension period would cause undue hardship;

(v) the foreign national is an infant, a young child or adoptee, an individual needing urgent medical care, or someone whose entry is otherwise justified by the special circumstances of the case;

(vi) the foreign national has been employed by, or on behalf of, the United States Government (or is an eligible dependent of such an employee) and the employee can document that he or she has provided faithful and valuable service to the United States Government;

(vii) the foreign national is traveling for purposes related to an international organization designated under the International Organizations Immunities Act

(IOIA), 22 U.S.C. 288 et seq., traveling for purposes of conducting meetings or business with the United States Government, or traveling to conduct business on behalf of an international organization not designated under the IOIA;

(viii) the foreign national is a landed Canadian immigrant who applies for a visa at a location within Canada; or

(ix) the foreign national is traveling as a United States Government-sponsored exchange visitor.

### **How does an applicant for admission from one of the listed countries apply for a waiver?**

The Proclamation is silent on the procedure for applying for waivers and to our knowledge the government has not provided any forms or instructions for applying for waivers.

### **How may a country be removed from the Proclamation's banned list?**

According to Section 4(c) of the Proclamation, "if the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, and the Director of National Intelligence, determines, at any time, that a country meets the standards of the baseline described in section 1(c) of this proclamation, that a country has an adequate plan to provide such information, or that one or more of the restrictions or limitations imposed on the entry of a country's nationals are no longer necessary for the security or welfare of the United States, the Secretary of Homeland Security may recommend to the President the removal or modification of any or all such restrictions and limitations."

According to [the Department of Homeland Security's guidance](#): "As noted in the President's proclamation, restrictions should remain in place until such time as the Secretary of Homeland Security is satisfied, after consulting with the Secretary of State and the Attorney General, that the information necessary from that country to ensure the proper vetting and screening of its nationals has been made available and that doing so is in the security and welfare interests of the United States. We intend to work closely with countries to ensure they meet the requirements."

[Chad was removed from the list on April 10, 2018](#). There is a concern that for some listed countries, including [Iran](#) and [Syria](#), this ban may become permanent because these countries [do not have diplomatic relations with the United States](#), making the facilitation of information sharing and cooperation difficult, if not impossible.

### **Could additional countries be added to the banned list?**

Yes. Specifically, section 4(c) of the Proclamation provides that "The Secretary of Homeland Security, the Secretary of State, or the Attorney General may submit to the President the names of additional countries for which any of them recommends any lawful restrictions or limitations deemed necessary for the security or welfare of the United States."

## **How does the September 24 Proclamation affect students from the listed countries with F1, M1, and J1 visas?**

The Proclamation only applies to individuals who:

- (i) were outside the United States on the applicable effective date;
- (ii) did not have a valid visa on the applicable effective date; and
- (iii) did not otherwise qualify for a visa or other valid travel document.

As such, the Travel Ban did not directly affect students with valid visas on the effective date of the Proclamation. The effective date of the Proclamation was September 24, 2017 for foreign nationals who “lack[ed] a credible claim of a bona fide relationship with a person or entity in the United States.” For all others, the effective date was October 18, 2017.

## **Can CBP ask me about my social media presence and my political preferences? What should I do if CBP asks to check my phone or laptop?**

On March 9, 2017, the Electronic Frontier Foundation (EFF) issued a [guide](#) to protecting your digital privacy if you are concerned about Customs and Border Protection searches of personal technology at the border. EFF provides travelers with tips on what to do before getting to the border, upon arrival at the border, and afterward. Furthermore, the guide sets forth the relevant law in this area and provides insight into the technology behind privacy protection. EFF has also created a [pocket guide](#) for concerned travelers to print out and carry as they cross the border.

The ACLU has prepared a “[Know Your Rights](#)” document for travelers, which addresses the question of whether CBP can search electronic devices. The ACLU advises that U.S. citizens may be subjected to delay, questioning, and device seizure for refusal to provide passwords or unlock devices, but they cannot be denied entry to the United States. The same should be true for lawful permanent residents who have maintained their status—green cards cannot be revoked without a hearing before an immigration judge. Nonimmigrants may, however, be denied entry. If your electronic device is searched or seized, write down the officer’s name and ask for a receipt for the property.

In January 2018, CBP issued an updated [directive](#) on Border Searches of Electronic Devices, as well as a related [statement](#) on its search authority. CBP officers’ border search authority is derived from federal statutes and regulations, including 19 C.F.R. § 162.6, which states that, “All persons, baggage and merchandise arriving in the Customs territory of the United States from places outside thereof are liable to inspection by a CBP officer.” Unless exempt by diplomatic status, all persons entering the United States, including U.S. citizens, are subject to examination and search by CBP officers.

## **I believe I am being targeted because I’m Muslim. What rights do I have?**

The ACLU has prepared a “Know Your Rights” document to help navigate this issue, which can be found [here](#).

*Questioning*

Generally, all individuals have the right to be free from discriminatory questioning at the airport or border, as well as a right not to be selected for questioning because of their religion, race, national origin, gender, ethnicity, or political beliefs. Customs and Border Protection, however, can ask about your immigration status when you are entering or leaving the country.

- **If you are a non-citizen**, Customs and Border Protection can determine whether or not you can enter the country. Refusing to answer questions can lead to denial of entry. If you are subjected to intrusive questioning, you can ask to speak with a lawyer, though you do not have a right to consult a lawyer before answering.
- **If you are a lawful permanent resident**, Customs and Border Protection determines whether or not you can be admitted into the United States after travel abroad. If you are subjected to intrusive questioning, your right to speak to a lawyer varies with the circumstances. You may ask for one, but be aware that in some circumstances, officers can deny you access to a lawyer before you answer their questions. As a lawful permanent resident, you have the right to a hearing before an immigration judge regarding your ability to remain in the United States.
- **If you are a U.S. citizen**, you are not required to answer Customs and Border Protection questions, though refusing to answer questions about the nature and purpose of your travel may delay you. If you are subject to intrusive questioning, you have the right to talk to a lawyer before answering, but you may be subject to delays or further inspection for refusal to cooperate.
- If informed that you are under arrest or suspected of having committed a crime, **any individual, U.S. citizen, lawful permanent resident, or non-United States citizen** has the right to speak to an attorney prior to answering any questions.

### *Searches*

Though you have the right not to be selected for a personal search or secondary inspection based on your religion, race, national origin, gender, ethnicity, or political beliefs, Customs and Border Protection can otherwise stop, detain, and search any person or item at the border, including laptops or cellphones, even if there is nothing suspicious about the person or item.

The question of whether or not you have the right to refuse a request to provide your laptop password or unlock your mobile phone continues to be a contested legal issue. U.S. citizens, however, cannot be denied entry for refusing to provide passwords or unlock devices, though refusal to do so may lead to delay, further questions, and/or officers seizing the device for further inspection. The same should be true for lawful permanent residents who have maintained status—green cards cannot be revoked without a hearing before an immigration judge. Nonimmigrants may, however, be denied entry. If your device is searched or seized, write down the name of the officer and get a receipt for your device.

### *Discriminatory Questioning or Removal by Airline Employees*

A pilot can refuse to fly a passenger if he or she reasonably believes and observes that the passenger is a threat to the safety of the flight. A pilot may not, however, question you or refuse to allow you to board a flight because of your religion, race, national origin, gender, ethnicity, or political beliefs.

## **I am overseas and the airline won't let me board the plane to enter the United States. What can I do?**

If you do not have a valid visa to enter the United States, airlines will generally not allow you to come to the United States. If you are a Harvard student, scholar or employee and you believe that you have a valid visa to enter the United States and airlines are stopping you from traveling, you should contact [HIO](#) and [HRI](#), as well as a local immigration attorney to help you. Mass Legal Help also [recommends](#) that if you are a national of one of the listed countries flying into Logan Airport, you should call 617-903-8943 or email [executiveorder@fragomen.com](mailto:executiveorder@fragomen.com) to speak with a lawyer.

There is an app to connect individuals with lawyers in certain airports, including Logan, through [AirportLawyer.org](http://AirportLawyer.org).

Please notify the Harvard International Office, if you are a Harvard student or scholar traveling outside the United States and unable to re-enter or enter the United States. HIO maintains a [24-7 travel assistance hotline](#) for Harvard-affiliated persons who encounter difficulties reentering the country. We advise you to add the HIO number, (857) 302-3772, into your phone contacts.

In addition, it is important that all Harvard students, faculty, and staff register their travel with the Harvard Travel Registry, available through [Global Support Services](#).

## **I am a Harvard student traveling. What should I know?**

Your travel plans depend on your immigration status and your destination. If you are a United States citizen you will be able to leave and return to the country. If you are a green card holder from one of the eight listed countries, according to DHS, the White House, and CBP, you are exempt from the travel ban. It is still wise to contact an immigration attorney prior to leaving the country. If you are a visa holder from one of the eight listed countries or Iraq, it is highly recommended you either do not leave the country or, if you do, you contact an immigration attorney prior to leaving.

If you are traveling to any of the eight listed countries or Iraq, we urge cautious appraisal of any retaliatory policies they may have been implemented, and that you seek the advice of an immigration attorney.

HIO maintains a [24-7 travel assistance hotline](#) for Harvard-affiliated persons who encounter difficulties reentering the country. We advise you to add the HIO number, (857)302-3772, into your phone contacts.

Finally, please alert Harvard of your travel plans by registering your travel with the International Travel Registry: <https://www.globalsupport.harvard.edu/travel-tools/harvard-travel-registry>.

## **Domestic Travel: What documents should I be traveling with?**

Though citizens of the eight countries listed in the Proclamation who are already in the United States on visas or with green cards should be able to travel freely within the United States, it is possible that you could face additional scrutiny from law enforcement offices, particularly in airports. The ACLU has published several “Know Your Rights” documents that may be useful in planning how to navigate encounters with law enforcement. Those documents can be found [here](#) and [here](#). Please also consider traveling with your visa and passport whenever possible.

### **How can I be an ally?**

Offer to volunteer as an interpreter or at a community organization that supports immigrants. Attorneys have asked for Arabic and Farsi interpreters at airports, and legal service organizations can benefit from the interpretation of other languages as well, especially Spanish. For those who can interpret, immigrant and refugee support organizations may have opportunities. Some agencies in the Boston area include [Jewish Vocational Services](#) and the [Massachusetts Immigrant and Refugee Advocacy Coalition](#). On the Harvard Campus there may be volunteer opportunities at the [Bridge Program](#) assisting with their citizenship program or ESOL classes. For more opportunities, look [here](#). (Note that students and scholars on visas should first check with the HIO before accepting any paid positions or opportunities off campus.)

### Learn about and support resources in your community

Support and connect with local organizations to find the issues that are affecting the community around you. There are many local organizations that are helping immigrants. Some local organizations include the [Chelsea Collaborative](#), the [Somerville Welcome Project](#) and the [City of Boston Immigrant Advancement Program](#). You can find a list of additional organizations [here](#).

### Adopt a policy maker and speak up

Policy makers may move on issues as a result of pressure from constituents. Consider picking one or a few elected officials and making time for a weekly call to them.