



IMMIGRATION

UNDER THE NEW

ADMINISTRATION

WHAT TO EXPECT AND HOW TO

PREPARE

COMPARISON OF THE OBAMA & TRUMP ADMINISTRATION

OBAMA

- ▶ Priority system of deportation- focus on high priority cases such as 1) arriving aliens, 2) persons with serious criminal charge, 3) persons with orders of deportation
- ▶ Immigration officers/ICE/Office of the Chief Counsel- given broad discretion
- ▶ Low priority cases were administratively closed

TRUMP

- ▶ Executive action focuses deportation on *all* undocumented immigrants
- ▶ No priority system
- ▶ No discretion being exercised by ICE/Office of the Chief Counsel/Immigration Officers
- ▶ Cases are no longer being administratively closed

HIGHER ENFORCEMENT AND PROSECUTION FOR IMMIGRATION LAW VIOLATORS

- ▶ Attorney General Sessions has instructed federal prosecutors to start prosecuting the following crimes:
 - ▶ Transportation or harboring of aliens;
 - ▶ Document Fraud (ex. False or fake documents for SSN);
 - ▶ Illegal entry and illegal re-entry;
 - ▶ Entering fraudulent marriage for the purpose of securing citizenship.

INCREASE BUDGET SPENDING ON ENFORCEMENT AND REMOVAL

- More Immigration Judges are being appointed
- Increase spending on border/wall security
- Hiring of 10,000 more ICE agents
- Expansion of 287(g) program: this is a program that delegates federal law enforcement functions to law enforcement agencies who wish to participate- Collier County currently participates
- Withholding of federal funding to "Sanctuary Cities"
 - Miami Dade county has already stated that they will not honor the 48-hour rule for detaining immigrants in response to threat on sanctuary cities
 - Texas has passed a controversial bill called "sanctuary city ban" immigration status.

HOW IS THIS EFFECTING FAMILIES AND SW FLORIDA?

- ▶ Higher family separation- longer periods in detention center because of back log
- ▶ Increase fear in immigrant community
- ▶ Loss of primary breadwinner in the family
- ▶ Economic strain on SW FL

Programs in Jeopardy of Being Discontinued

▶ **Temporary Protective Status for Haitian Immigrants:**

- ▶ 60,000 Haitian immigrants in jeopardy of losing Temporary Protective Status (TPS)
- ▶ The program was announced after the earthquake in Haiti in 2010
- ▶ It allows Haitian immigrants, who meet very strict criteria, to remain in the United States with work authorization.
- ▶ The program is set to expire on July 22, 2017 and was not recommended to be reinstated

▶ **Deferred Action for Childhood Arrivals (DACA)**

- ▶ Allows immigrants, who entered the U.S. as children under the age of 16, and continuously present in the U.S. since June 15, 2007, to apply for work authorization
- ▶ President Trump has stated that he will not discontinue the program. However, under his administration, a DACA recipient, with no criminal history, was deported.

COMMON MISCONCEPTIONS ABOUT IMMIGRATION LAW IN THE UNITED STATES

- ▶ Immigrants are using fake socials to pay taxes: Immigrants are allowed to have individual tax ID's. With this document, they are allowed to file taxes and pay into social security
- ▶ Immigrants are benefitting from the welfare system: Immigrants do not qualify for any welfare program. Nor do they qualify for financial aid for school. While their children may qualify, this is because they are United States citizens.
- ▶ Immigrants are stealing jobs: Immigrants in SW FL make up the migrant farming community. They work long hours, unaware of "over time" and earn minimum wage. The jobs that are "stolen" by immigrants are the least desirable jobs and they are often under paid and over worked.

Current Forms of Relief:

▶ **U-Visa**

- ▶ Victim of a qualifying crime
- ▶ Participated and cooperated in the investigation
- ▶ Suffered physical and/or mental harm

▶ **T-Visa**

- ▶ Victim of human trafficking
- ▶ Been physically present in the US or US territory as a result of trafficking
- ▶ Assist with law enforcement in the investigation or prosecution of human trafficking
- ▶ Demonstrate that you would suffer an extreme hardship involving severe or unusual if you were removed from the United States

Cancellation of Deportation:

Application is made during the course of a hearing before an immigration judge.

- ▶ Immigrant must demonstrate continuous physical presence for 10 years
- ▶ Must demonstrate good moral character
- ▶ Must have a qualifying relative such as a USC or LPR parent, child or spouse
- ▶ Removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child, who are US citizens or Lawful Permanent Residents.

VAWA: Violence Against Women Act

- Victim of domestic violence
- Have resided with the abusive person
- Are a person of good moral character

Asylum

- Protection for persons in the US because they have suffered persecution
- Based on race, religion, nationality, membership in a particular social group, or political opinion
- Must apply for asylum within 1 year of entering the United States

MAVNI: Military Accessions Vital to National Interest Program:

- Enlistees may apply for naturalization upon completing the process of the U.S. armed forces.
- Applicant must fall into one of the following categories
- Asylee, refugee, TPS, or Nonimmigrant categories E, F, H, I, J, K, L, M, O, P, Q, R, S, T, TC, TD, TN, U, or V
- Applicant must have been in valid status for at least 2 year prior to enlistment date

Parole in Place:

- ▶ allows for a foreign national who came into the United States without authorization to stay for a certain period of time.
- ▶ Granted on a case-by-case basis for urgent humanitarian reasons or significant public benefit.
- ▶ Granted in one year increments to spouses, widow(er), parent, son, or daughters of- active-duty U.S. armed forces or individuals in Selected Reserves, or military veterans.
- ▶ Allows you to apply for a work permit and you do not accrue unlawful presence during the period you are paroled.

Provisional Waivers to Unlawful Presence:

- ▶ Allows aliens to depart the US for consular processing of their immigrant visas in their home country and then return to the US to reunite with their families.
- ▶ Currently if an alien has more than 180 days unlawful presence but less than 1 year they have a 3-year bar to re-entry. If they have than 1 year of unlawful presence they have a 10-year bar to re-entry.
- ▶ Must be a beneficiary of an approved family-petition
- ▶ Demonstrate that his or her USC and LPR parents or spouse will suffer an “extreme hardship” if the waiver is not granted (MUST SHOW SUPPORTING EVIDENCE)
- ▶ Be a person of good moral character

Adjustment of Status:

- ▶ Procedure that allows eligible applicants to become permanent residents of the U.S. without having to go abroad and apply for an immigrant visa or through Consular Processing. Adjustment of Status is for applying in the United States.
- ▶ Approved Family Based Immigrant Visa Petition
- ▶ Approved Employment Based Immigrant Visa Petition
- ▶ Admitted to US as K-1 Fiancé and married US citizen within 90 days of entry.
- ▶ Have been in the US for 1 year after having been Granted Asylum/Refugee status (including spouse and children)

Scenarios:

- ▶ **Scenario 1:** SC is a child who entered the United States by himself when he was 14 years old from Honduras. He came to the United States for a better life.
 - ▶ SC may qualify for Special Immigrant Juvenile Petition
- ▶ **Scenario 2:** MH has lived in the United States since 1994. His only criminal history is Driving without a license. He has 4 USC children and has filed taxes every year.
 - ▶ MH is eligible to file Cancellation of Removal because 1) he has lived in the U.S. for over 10 years, 2) he has USC children, 3) he has maintained good moral character and 4) he will have to prove that his children will suffer extreme hardship if he is deported
- ▶ **Scenario 3:** LH came to the United States in 2002 with her parents and over-stayed her visitor's visa. She was just 10 years old and completed high school in the U.S. LH does not have any criminal history.
 - ▶ LH may be eligible to file for deferred action for childhood arrivals.

So Why are Immigrant Coming to the US Without Status?

- ▶ Let's say you are a middle class small business owner from Mexico. You have no criminal history and 3 minor children. You want to give them a better life by bringing them to the United States. You are ambitious and hardworking but do not have any family in the U.S. that can petition for you nor do you have any special skills where an employer can petition for you. You also do not have the funds to apply for an investment visa.
 - ▶ There is no legal way for you to enter the United States!
- ▶ You have been living in the United States for 9 years. No criminal history. Paid taxes and have 5 USC children. You do not have any other family in the U.S. You have never been a victim of a crime and you own a small business.
 - ▶ There is no pathway to a green card or U.S. citizenship