

Presidential Proclamation 10014 - Addressing Concerns of the Caltech International Community

Monday, June 29

Questions submitted via Zoom chat

Resources:

- Travel Webpage: <https://international.caltech.edu/travel-new/travel-united-states-2020>
View the details about the recent Presidential Proclamation, as well as current travel restrictions and considerations.

Definitions:

- **“Visa”** is a **travel document**. It is a sticker placed in a foreign passport by a U.S. Consulate. It only facilitates admission in a specific nonimmigrant classification into the United States. It does not define how long someone may stay in the United States. A person who is maintaining their nonimmigrant status can remain in the United States with an expired visa.
- **“Application”** or **“Petition”** are paper based requests submitted to USCIS to **change or extend a nonimmigrant status while inside the United States**. A person does not need a valid visa to submit an application or petition.

Questions about travel, entry into the United States and visas

- Q1 I have approved I-797 but not H1B visa stamp in my passport, since I switched to H1B while in the U.S. and didn't leave the country since. With my approved I-797, will I be issued H1B visa to re-enter if I leave the country (assuming open consulates)?
- A1 Presidential Proclamation 10014 appears not to apply to anyone inside the United States on June 24, 2020. However, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies. www.facebook.com/notes/...
- Q2 Can I go to home country before Dec 31 once the consulates open, to get an H-1B visa stamp? It seems Ilana/April said I can't, but importantly, I was in the US the day the proclamation went into effect (so I thought I would not be affected)
- A2 Presidential Proclamation 10014 appears not to apply to anyone inside the United States on June 24, 2020. However, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies. www.facebook.com/notes/...
- Q3 Can people with approved H1B petition but no issued visa able to exit and re-enter?
- A3 Presidential Proclamation 10014 appears not to apply to anyone inside the United States on June 24, 2020. However, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies. www.facebook.com/notes/...
- Q4 Are H1B visas still process?
- A4 Pursuant to the Presidential Proclamation 10014, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies. www.facebook.com/notes/...
- Q5 Understood that one doesn't need visa to stay in the country if he/she is already here. but if the visa is expiring, and something comes up so that he/she HAS TO go home, would it still be possible for the person to obtain/extend the expired visa and come back?
- A5 Pursuant to the Presidential Proclamation 10014, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies.

- Q6 I have H1B visa. If I have approved I-797, can I still travel to my home country and get a new visa stamp when consulate open?
- A6 Pursuant to the Presidential Proclamation 10014, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies. www.facebook.com/notes/...
- Q7 Are new H1B visas issued? My F1 visa expires on August.
- A7 Pursuant to the Presidential Proclamation 10014, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies. www.facebook.com/notes/...
- Q8 What / if any effect does the proclamation have on spousal visas?
- A8 H-4 dependents are included in Presidential Proclamation 10014. H-4 visas are not being issued until December 31, 2020, unless there is an exemption.
- Q9 Whether J1 research scholar visa can still be applied from home country and re-enter USA with new J1 visa before the proclamation period ends (assuming US embassy office is open and assuming corona situation improves)
- A9 Yes, the Presidential Proclamation 10014 does not apply to J-1 research scholar visa issuance or entry into the United States.
- Q10 I am holding a J1 visa. Am I correct that when the visa stamp is still valid, in situation I need to travel back to my previous domicile for immigration purpose, I can still enter the US border again? Thanks.
- A10 Yes, the Presidential Proclamation 10014 does not apply to J-1 research scholar visa issuance or entry into the United States.
- Q11 My spouse have a j2 valid status and visa, she will be leaving the USA for a week during September and November, would she be able to come back and enter to the USA again?
- A11 Yes, the Presidential Proclamation 10014 does not apply to J-2 international travel and return to the United States with a valid J-2 visa, if the J-1 exchange visitor is in research scholar, professor, short term scholar, or student categories.
- Q12 I have a question regarding the border to Canada, can a German citizen with an ESTA travel to the US (via air) if that person has been in Canada since January?
- A12 Possibly. The U.S.-Canadian border restrictions do not apply to air travel. However, we do not provide advice regarding ESTA admissions.
- Q13 "The Proclamation only applies to: foreign nationals outside the United States without a valid visa on June 24, 2020" what does "on June 24th" mean? That only applies if on that date we were outside the US, or any time after that date? E.g. if I leave the USA with a H1-B before Dec 31, will I be allowed back?
- A13 Yes. The Department of State has communicated that individuals with valid H-1B visas are not subject to the Presidential Proclamation 10014. www.facebook.com/notes/...
- Q14 Can I go to home country to visit before Dec 31 provided travel bans are removed? With a valid H1-B.
- A14 Yes. The Department of State has communicated that individuals with valid H-1B visas are not subject to the Presidential Proclamation 10014.

Q15 Is the J-1 Exchange Visitor Program exempt from the proclamation?

A15 The following J-1 categories are used by Caltech and are not subject to the Presidential Proclamation 10014: professor, research scholar, short term scholar and student categories and their J-2 dependents.

Q16 How likely do you think is it that travel bans will be lifted in the near future?

A16 We have not received any indications of a timeline for lifting the travel bans.

Q17 I'm a German citizen currently in Germany holding a valid J1 visa, but can't currently enter the US due to the COVID19 travel ban. Can I enter the US coming from Mexico if I spend 2 weeks there? What kind of proof is needed to show I have been outside the countries listed under the COVID19 immigration ban?

A17 We are not providing advice regarding travel into the United States through a third country since international travel is unpredictable at the moment.

Q18 Does the COVID immigration ban also apply if one of the listed affected countries is passed on a trip to the US as a few hours stop over between connecting flights (not leaving the airport)?

A18 Yes.

Questions about changes of status inside the United States

Q19 Is a submitted application for (academic) H1B while on an OPT considered as change of status? And is this affected under the proclamation?

A19 A petition to move from OPT to H-1B is considered a change of status. Changes of status are not impacted by the Presidential Proclamation 10014.

Q20 Switching from J1 to H1B is considered change of status and still possible if already in the US, correct?

A20 A petition to move from J-1 to H-1B is considered a change of status. Changes of status are not impacted by the Presidential Proclamation 10014.

Q21 If OPT or STEM OPT is affected can someone on OPT status change to H1B if the person is already in US?

A21 A petition to move from F-1 OPT or STEM OPT to H-1B is considered a change of status. Changes of status are not impacted by the Presidential Proclamation 10014.

Q22 Does the proclamation affect J2's applying for EAD?

A22 The Presidential Proclamation 10014 does not impact J-2 EAD applications.

Q23 How long does a status change usually take?

A23 Every petition or application has a different processing time. You can find information on case processing times here: <https://egov.uscis.gov/processing-times/home>

Q24 I am on a J-1 Research Scholar visa. Is it possible for me to get a job under an H-1B visa without leaving the country to change visas?

A24 Yes, if you are not subject to 212(e) the two year home residence requirement, you can change status inside the United States. You will need to apply for an H-1B visa the next time that you travel overseas but there is no

requirement to travel internationally. Pursuant to the Presidential Proclamation 10014, the Department of State has communicated that they will not be issuing H-1B visas until December 31, 2020, unless an exemption applies. [www.facebook.com/notes/...](http://www.facebook.com/notes/)

Q25 Do already submitted H1B applications prior to this order get affected under this order?

A25 No, they are not. Changes of status and extensions of status are not impacted by the Presidential Proclamation 10014.

Q26 What's the cost of status change from J1 to H1B if done while remaining in the US?

A26 The current H-1B filing fees can be found here: <https://www.uscis.gov/i-129>

Q27 What's the minimum salary requirement for the h1b visa?

A27 The salary thresholds vary by occupational classification, location, and by date.

Q28 What are the requirements for a STEM OPT to apply for a change of status to H1B?

A28: Information about H-1B eligibility can be found on the USCIS website: <https://www.uscis.gov/working-united-states/temporary-workers/h-1b-specialty-occupations-dod-cooperative-research-and-development-project-workers-and-fashion-models>

Questions about related topics

Q29 What is the probability of additional future proclamations shutting down the OPT program?

A29 Within the context of high unemployment in the United States, OPT or STEM OPT may still be the subject of future restriction, possibly via Department of Homeland Security rulemaking, not Presidential Proclamation.

Q30 The entry bans cited the Immigration & Nationality Act (INA) for legal authority, and is a proclamation rather than an executive order. Are there actions that can be taken with respect to the INA on the congress side?

A30 The provisions cited in the Proclamation from the Immigration and Nationality Act are section 212 (f) and 215(a). Section 212(f) provides the President with sweeping power to suspend the entry of or place restrictions on the entry of immigrants and nonimmigrants for whatever period he or she deems necessary, provided that the President determines that such entry would be detrimental to U.S. interests. Section 215(a) states: "Unless otherwise ordered by the President, it shall be unlawful for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe."

As such, this is the administration's interpretation of the law. A challenge to this would require either changes to the INA which are not likely given the political climate in Washington or through the courts. The court avenue has not been taken up because the language in the INA is fairly broad. Thus, it is unlikely the Proclamation could be turned over via this mechanism.

Q31 Could you share the contact details for the firm that Ann Martin mentioned?

A31 We are working on this and hope to share more information shortly.

Q32 Proclamation says to propagate regulatory changes to EB2's and H1B's that are in the country already. What is this about?

A32 We are not certain. It opens the door for additional restrictive policies.

- Q33 Assuming that a proclamation does effect OPT regulations, what way forward would you recommend for someone whose STEM OPT application is currently pending?
- A33 We cannot speculate as to what any possible restrictions would mean for a pending application.
- Q34 It seems like this EO primarily affects new visas and entry into the US. Could a future EO revoke existing work authorizations, including those issued to foreign nationals already in the US?
- Q34 We cannot speculate about future Executive Orders.