

How Will the 2024 U.S. Election Impact Visa Policies?



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This blog was published as a two-part series.

Part One

It's hard to turn on the news without hearing about the upcoming U.S. presidential election and the potential issues and concerns driving votes come November. Arguably top amongst those issues is immigration — which has been a sore spot for U.S. government policymakers for decades but never more so than over the past two electoral cycles.

With millions of immigrants — both documented and undocumented — entering the country each year, it's important for both immigrants and residents of the United States to grasp and understand the immigration related policy ramifications associated with the respective candidates vying for executive office in the 2024 electoral cycle.

Republicans and Democrats typically have vastly differing party views on immigration. Immigration has been a major campaign issue over the last several presidential election cycles and is likely to remain so moving forward. Which party retains or takes power in the Executive Branch will have much to do with whether the U.S. policy toward immigration shifts to prioritizing allowing more immigrants in and legalizing those there without authorization currently or keeping immigrants out of the United States and enforcing the law against those who are currently

there illegally. With millions of undocumented intending immigrants crossing U.S. borders without authorization over the past several years, the fate of these intending immigrants — whether they are permitted to stay and given a path to citizenship or deported to their home countries and required to go through a legal process to enter and stay in the United States — also may lie with the incoming president.

Who makes immigration law?

The U.S. Congress, made up of the House of Representatives and the Senate, is the law-making body of the U.S. federal government. Congress drafts bills and votes to pass all immigration-related proposals and changes into law. Once approved by both houses of Congress, the bill goes to the president to ratify (approve) or veto (reject). If the president ratifies the bill, it becomes law.

This seems pretty straightforward, so where's the issue?

The U.S. Congress has not been able to agree on comprehensive immigration reform measures to fix what are seen as major issues in the existing immigration system for decades. As a result, very few laws have been passed directly changing major components of our immigration system in the recent— or even somewhat distant — past. However, “We, the People” continue to have quite strong opinions about who should be permitted into the United States, permitted to stay and permitted to obtain citizenship.

On the Democratic party side, proponents tend to focus on humanitarian admissions and aid, regardless of historical priorities like skills, education and close family relationships with U.S. citizens. Some Republicans argue that this does not account for the need for immigrants to have jobs to support themselves and their families and that an influx of lower-skilled labor could impact the availability of jobs to U.S. workers and their families. On the other hand, Republicans historically have sought to protect U.S. jobs and create a sustainable system to vet immigrant candidates, which seeks a balance between job creation strategies, family reunification priorities and humanitarian needs. Some Democrats argue that this leaves desperate people with no way to escape terrible life circumstances and situations and that more cultural diversity — regardless of skills or the ability to support oneself — only strengthens U.S. society. After all, the United States is, at its core, a nation of immigrants.

While the ineffectiveness of Congress to achieve comprehensive and effective immigration reform is not likely to be impacted by the presidential election cycle because immigration remains such a huge issue to the public, whichever president is elected will likely seek to put executive actions in place to effect temporary immigration change. “Executive actions” include any action taken by the president or federal agencies to interpret, implement and enforce agency authority granted by existing laws. One type of executive action is a Presidential Executive Order (EO), which is a specific directive issued by the president to federal agencies, department heads or federal employees. These orders —although not voted on by the houses of Congress directly representing the people of the 50 United States — are legally binding. In this way, a president has the authority to supersede or “workaround” historical interpretations of immigration laws by “interpreting” laws differently, although their executive orders or actions can be revoked by the incoming president following the next presidential election cycle four years later (and often are).

Part Two

As we discussed in the first article in this series, immigration seems to be on everyone's minds, as candidates

campaign for U.S. votes in the November 2024 election. The person who is elected as the next president of the United States can easily impact immigration and effectuate temporary change based on their priorities.

In the current administration under President Joe Biden, we have seen sweeping immigration reforms implemented by executive action. In his first three years alone, President Biden took 535 immigration-related executive actions. These have included actions that have been welcoming to intending immigrants — such as the border policies we have seen over the past four years — and more recently, more restrictive in nature, such as the June 2024 executive order that created a rule that can temporarily turn away migrants seeking asylum after there have been seven consecutive days of over 2,500 encounters (until there have been two straight weeks of less than 1,500 border encounters). The latest news reports are speculating that the Biden administration is currently considering a proposal to protect undocumented spouses of U.S. citizens from deportation and allow them to work in the country legally.

The prevailing Republican candidate at the moment — former president Donald Trump — on the other hand, took 472 immigration-related executive actions while president, from 2017 to 2020. These included actions to construct a border wall, allocate additional resources to the U.S. Border Patrol and U.S. Immigration and Customs Enforcement, and increase the construction of detention facilities and efforts to detain intending immigrants who had entered illegally or otherwise violated immigration laws. Trump has already indicated on the campaign trail that he intends to deport many of the intending immigrants who have entered the United States illegally under the Biden administration policies and practices if re-elected to the office of president for an additional four-year term.

Why does this matter?

Immigrants impact the U.S. economy and culture in so many ways — both positively and negatively. Immigration laws and policies are meant to result from a balance of equities, weighing public policy and the convenience or hardship to both U.S. persons and intending immigrants to determine the fairness of granting or denying benefits. On the one hand, a massive influx of immigrants could deeply impact things like taxes, homelessness and welfare resources, as many of those who have entered over the past several years are escaping deep poverty or oppressive political systems and may have limited or no existing support system in the United States. The public concern is that there may not be enough jobs to allow these individuals to provide for themselves and/or their families — because U.S. job growth is not growing at a rate equal to the jobs needed by both U.S. persons and this new population of intending immigrants. As a result, U.S. citizens or those with legal status could end up being displaced by workers who are willing to take lower pay and less favorable working conditions in order to have jobs.

One way we might be able to combat this impact would be by increasing the amount of legal immigration permitted. Legal U.S. immigration currently prioritizes education, skills and family reunification to determine who should be permitted to come to the U.S. On the employment side, educated and skilled workers have historically been seen as more likely to contribute in a way that will create jobs and opportunities rather than simply fill a spot at a business. Likewise, immigrants who have an existing support system in place in the United States already are less likely to end up homeless or requesting benefits from the U.S. government — and thereby, the U.S. taxpayer — than those who have no support system in place. By increasing the number of nonimmigrant visas and available green cards to qualifying immigrants with jobs or close family members in the United States or who wish to invest substantial amounts of money in the United States, the country may better position itself to create more jobs and a sustainable environment for asylum seekers and their families.

Will chances of coming to the United States be better in 2025?

There is no guarantee that immigration will be smoother or easier for all in 2025, regardless of who is voted in. Each president and their administration has their unique priorities — and even executive actions can be questioned and end up in court if they are challenged for not supporting existing laws. Comprehensive immigration reform is unlikely to be suggested or passed until (and only if) both houses of Congress are held by a single political party — and even then, it very well could not happen, as we saw when the Democratic party held a majority in both the House of Representatives and the Senate for a time under Barack Obama, and when the Republican party held a majority in both chambers for a time under Trump.

How to maximize chances of obtaining status in the United States, regardless of the election?

There are dozens of legal ways to enter the United States and obtain a status that permits work and provides a potential path to citizenship — both through family members and through work opportunities. All day long, every day, immigration law practitioners such as those at our firm help foreign individuals and families who wish to come to the United States to determine their best path to permanent residence, as well as eventual citizenship if that is their ultimate goal. While immigrating to the United States permanently is not always easy and is rarely quick, there are and have always been policies and rules in place permitting and welcoming immigrants to the United States.

While the jury is still out on whether mass amnesty will be granted to the millions of undocumented migrants who have entered the United States without authorization over the past several years, there are still dozens of ways to come to the United States under the existing rules and regulations. The best way to determine the best and surest options for long-term immigration to the United States is to contact an immigration professional whose entire business depends on successfully communicating options and supporting foreigners moving to the United States. If no option currently exists for you, immigration professionals can often suggest ways to improve your skills or abilities in order to qualify for status sooner rather than later.

Please reach out to [Elizabeth M. Klarin](mailto:eklarin@lippes.com) (eklarin@lippes.com), partner and Lippes Mathias LLP [Immigration Practice Team](#) member, to learn more about how immigration laws and policies may be impacted by the 2024 election.

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