

November 17, 2020



Transcending BordersSM



GYH Welcomes Khandikile Mvunga Sokoni, *Counsel*

Grossman Young & Hammond is delighted to announce the addition of [Khandikile “Khandi” Mvunga Sokoni](#) as Counsel in the Firm’s business immigration practice.

Khandi focuses her practice on a wide range of business immigration matters for a variety of clients. Prior to joining Grossman Young & Hammond, Khandi was a Partner with the firm True, Walsh & Sokoni, LLP where she focused on both general corporate law and immigration law, finding her true passion at the intersection of both practice areas. In her ten years there, she handled a wide range of immigration matters representing individuals as well as corporate clients including those in the software development, architectural and engineering industries.

After graduating from Cornell Law School, Khandi joined the Ithaca City Attorney’s Office. Khandi spent 13 years as an attorney for the City of Ithaca, including six years as Assistant City Attorney.

In her service to the legal profession Khandi has held several leadership positions including President of the Tompkins County Bar Association (2015-16), President of the

Finger Lakes Women's Bar Association, a chapter of the Women's Bar Association of the State of New York (WBASNY) (2010-11), member of the New York State Bar Association (NYSBA) Committee of Bar Leaders, and commissioner on the Independent Judicial Election Qualification Commission of the State of New York (IJEQC), the body charged with screening and ranking candidates seeking election as judges in New York's Sixth Judicial District.

An immigrant herself, Khandi is a proud Zambian-American. She speaks three African languages: Ngoni, Bemba and Nyanja and has reading/writing proficiency in French.

DACA Restored

Dreamers and immigration advocates are reacting with relief over the decision issued this past Saturday by a federal judge in New York, ruling that the government's suspension of the DACA program was invalid. DACA, or Deferred Action for Childhood Arrivals, provides work authorization and a temporary reprieve from removal to young persons brought to the United States unlawfully through no fault of their own. About 700,000 DACA recipients or "Dreamers" reside in the U.S., hoping to one day qualify for citizenship. In the meantime, the DACA program is the thread keeping them in the United States. Many more young persons were prevented from applying for DACA due to restrictions implemented by the Trump administration.



Over the summer the Acting Secretary for the Department of Homeland Security, Chad Wolf, issued a memorandum that scaled back and significantly limited the DACA program. No new applicants would be allowed and the program recipients would receive a one-year work authorization, instead of the original two year authorization established in 2012 under the Obama administration. On Saturday, a federal judge found that Mr. Wolf did not have the legal authority to restrict the DACA program. Judge Garaufis of the U.S. District Court in Brooklyn NY, noted that Wolf was "not lawfully serving" as acting secretary of DHS when he issued the memo restricting the DACA program. Wolf's appointment was unlawful because it violated the Homeland Security Act of 2002. According to the Washington Post, "Wolf's ascension to acting secretary did not follow established law and was part of several hastily crafted administration moves designed to get people into the top DHS position outside of standard procedures." Wolf issued the new guidelines for the DACA program after the Supreme Court's June 2020 decision blocked the Trump administration from immediately terminating DACA.

Judge Garaufis' decision is not a complete win for Dreamers. He did not explicitly order DHS to accept DACA applications, instead, he directed all parties to advise him of "any forthcoming motions for relief in light of the court's decision." He also asked both parties to the litigation to schedule a conference on the matter. One of the lead attorneys for the DACA plaintiffs, said she and her team would be asking the Judge to explicitly block Wolf's restrictions and allow new applicants to apply for DACA. Numerous law suits about the legality of DACA are pending in different jurisdictions, further complicating the status of the DACA program. President Elect Biden has pledged to support DREAMERS and to press for legislation that would create pathway for citizenship. Either way, this latest

decision is being lauded as another win for Dreamers. GYH wholeheartedly supports the efforts of DREAMERS and looks forward to the day when DACA recipients will obtain a more permanent immigration status in the U.S.



Post-Election Immigration Review

In the aftermath of the U.S. presidential election, many are wondering what the transition to the Biden administration will mean for U.S. immigration policy and the myriad changes enacted during Trump's time in office.

President-elect Joe Biden has an ambitious plan to reverse many of the over 400 measures taken by the Trump administration to restrict U.S. immigration. Biden has pledged to rescind the travel ban on Muslim countries on his first day in office; to reinstate policies such as DACA and TPS; to end Trump's "Remain in Mexico" policy, construction of the wall at the southern border, and family separations; to restore asylum; and to provide a path toward legal status for the millions of undocumented immigrants in the United States.

A National Foundation for American Policy (NFAP) [analysis](#) found that by 2021 Donald Trump will have [reduced legal immigration](#) by up to 49% since he took office, a reduction that harms refugees, families, employers and the U.S. economy. It is [reasonably possible](#) that Biden will return to the Obama-era policies more friendly to international students, skilled workers and employers.

Deferred Action for Childhood Arrivals (DACA)

DACA, a program created in 2012, provides renewable, two-year work permits and a reprieve from deportation to thousands of immigrants brought into the U.S. as children. As explained above, DACA is currently being litigated in the federal courts. Migration Policy Institute analyst, Sarah Pierce, states that Biden [reinstating DACA](#) to its full force would open the program up to more than 400,000 young foreign nationals who are immediately eligible for DACA benefits but are currently unable to apply.

Temporary Protected Status (TPS)

The Biden administration has also vowed to review every TPS decision made by the Trump administration, and to overturn those that do not appropriately consider the facts on the ground. Biden also plans to [extend TPS](#) to Venezuelans seeking relief from the humanitarian crisis brought on by the Maduro regime. Biden policy documents also state that individuals from other TPS-granted countries, primarily from Central America, who have had their TPS ended, may be included in a possible legislative solution.

Asylum and "Remain in Mexico"

The Biden administration has promised [increase the number of admitted refugees](#) to the U.S. to 125,000. This is a historic high, in stark contrast to the 15,000 refugee limit set by the Trump administration.

Biden also pledged to end Trump's "Migrant Protection Protocols" or [Remain in Mexico policy](#), which requires most asylum seekers to wait in Mexico for their court dates. Since the beginning of the program, over 67,000 asylum seekers have been sent back to Mexico

to await their opportunity to claim asylum before a judge. The incoming administration will be faced with political and logistical difficulties in deciding how to deal with the 25,000 migrants currently waiting in Mexico under the policy. [CBS News reports](#) that Biden also plans to withdraw from the bilateral agreements Trump brokered with Guatemala, El Salvador and Honduras allowing the U.S. to send rejected asylum-seekers to those countries.

Southern Border and The Wall

The president-elect pledges to take away funding toward the continued construction of a wall along the southern U.S. border. Biden mentioned that he will not take down parts of the wall that have already been built, but that he would [cease its construction](#) immediately. Moreover, Biden has plans to pass an [executive order](#) to establish a task force dedicated to reuniting migrant children and parents separated at the border. He has vowed to end the practice of separating immigrant families attempting to enter the U.S. at the southern border.

The Travel Ban on Muslim Countries

Biden has vowed to “[immediately rescind](#)” Trump’s Muslim ban—an executive order that bans travel or immigration from several mostly Muslim countries to the United States. Under the ban, millions of people fleeing violence, hoping to reunite with their families, looking to access medical treatment or to pursue their careers, have been banned from entering the United States.

Comprehensive Immigration Reform

The president-elect has promised to send to the next Congress a bill offering a [path toward legal status](#) for millions of undocumented immigrants in the United States. Additionally, the president-elect plans to reinstate protections for health care and education for those who migrated to the U.S. illegally as children, known as DREAMers.

Employment-Based Immigration

The Trump administration focused ample energy on restricting the H-1B visa program and other employment-based categories. Denial rates for new H-1B petitions for initial employment rose from 6% in FY 2015 to 29% through the second quarter of FY 2020, according to the National Foundation for American Policy. A [June proclamation](#) suspended the entry of foreign nationals on H-1B, L-1 and other temporary visa types, until a judge partially enjoined it in October. Then, in October, the administration issued three new regulations substantially changing and restricting the H-1B program. The DHS and Department of Labor (DOL) regulations increased the wages employers are required to pay foreign workers, tightened the definition of “specialty occupation,” limited permitted worksites for H-1B employees, and eliminated the H-1B lottery in exchange for a [highest-to-lowest salary system](#).

Biden’s campaign has promised to “increase the number of visas offered for permanent, work-based immigration” and to eliminate the limit on employment-based visas by country. Biden also proposes to “exempt from any cap recent graduates of PhD programs in STEM fields in the U.S. who are poised to make some of the most important contributions to the world economy.”

What happens before January 21st?

Employers and immigrant communities are relieved by Biden’s promise to roll back Trump’s restrictionist policies but Trump and his aides are still planning to push through as many policy moves as they can in the president’s final 10 weeks. [Politico reports](#) that Trump staffers are seeking to impose additional restrictions for H-1B visas and the

Department of Homeland Security (DHS) is rushing to finish rules in the pipeline. Trump has, however, been known to pass executive orders that are more symbolic than functional, so it is unclear how much the administration will practically accomplish in its remaining days.

Conclusion

Once Biden takes office, his ability to reverse Trump's immigration policies depends on various factors. The President-elect plans to reverse what he can by executive order but rescinding some policies will not be so simple. Policies that went through the regulatory process or that pose logistical challenges may take more time. [Experts state](#) that it also depends whether Congress is willing to take on certain immigration measures amid other priorities like the ongoing COVID-19 pandemic and the country's economic recession.

Timeline: The Public Charge Rule in Recent Years



With the seemingly endless string of immigration policy changes, keeping track of what is going on with the Trump administration's new Public Charge guidance is a challenge.

The below timeline outlines the rulemaking and legislative challenges related to the Public Charge rule. When president-elect Biden takes office, he is expected to overturn Trump's Public Charge rule but, presently, the future of the interim final rule remains unseen.

Since its inception, the future of the Public Charge interim final rule has been on and off:

ON: October 10, 2018: USCIS publishes notice of proposed rulemaking on Public Charge; **August 14, 2019:** DHS publishes the Inadmissibility on Public Charge Grounds rule set to go into effect on October 15th, 2019.

OFF: October 11, 2019: DOS publishes public charge interim final rule in the Federal Register, effective October 15, 2019. Implementation is delayed awaiting finalization of new form DS-5540 Public Charge Questionnaire; **October 11-14, 2019:** Multiple courts enjoin the implementation of the rule.

ON: January 27, 2020: The U.S. Supreme Court allows DHS to implement the rule except in Illinois; **February 21, 2020:** The U.S. Supreme Court lifts the last injunction on the Public Charge rule; **February 24, 2020:** DHS implements the Inadmissibility on Public Charge Grounds final rule.

OFF: July 29, 2020: The U.S. District Court for the Southern District of New York issues two nationwide injunctions due to the COVID-19 pandemic. Judges deemed that the rule impeded efforts to combat the virus.

1. Preliminary injunction and temporary stay of the USCIS Public Charge Rule
2. Preliminary injunction on DOS Public Charge Rule and Public Charge FAM content

ON: August 12, 2020: The U.S. Court of Appeals for the Second Circuit limits the nationwide injunction on DHS' Public Charge Rule to three states: Connecticut, New York, and Vermont; **September 11, 2020:** The Second Circuit Court of Appeals stays a district court's nationwide injunction on the Public Charge Rule, meaning that USCIS can require Form I-944 in all jurisdictions.

OFF: November 2, 2020: The district court in *Cook County, Illinois, et al v. Wolf et al.*, (19-cv-6334) ruled in favor of the plaintiffs who claimed that DHS' Public Charge Rule violates the Administrative Procedure Act. The court set aside the rule nationwide injunction without staying its decision pending appeal.

ON: November 3, 2020: The Seventh Circuit issues an administrative stay of the Illinois decision to vacate the Public Charge Rule, effective immediately. Adjustment of Status applications must be filed with the I-944.



GROSSMAN YOUNG & HAMMOND
TRANSCENDING BORDERSSM

www.grossmanyouth.com | info@grossmanyouth.com | 240-403-0913

Grossman Young & Hammond | 4922 Fairmont Avenue Suite 200, Bethesda, MD 20814

[Unsubscribe {recipient's email}](#)

[Update Profile](#) | [About our service provider](#)

Sent by ckugel@grossmanyouth.com powered by



Try email marketing for free today!