

# U.S. Immigration: The Trump Administration's New Normal

## *The Invisible Wall*

Presented by

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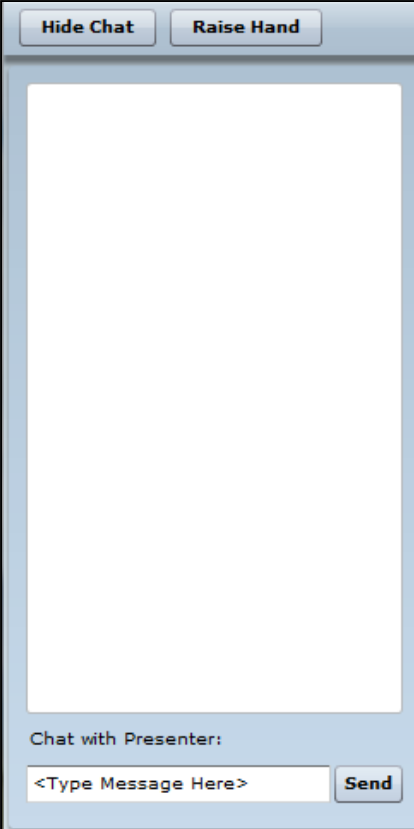
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- Questions may be submitted to the presenter via the chat feature on your computer



The image shows a screenshot of a web-based chat interface. At the top, there are two buttons: "Hide Chat" and "Raise Hand". Below these is a large, empty white rectangular area for the chat messages. At the bottom of the interface, there is a section labeled "Chat with Presenter:". Below this label is a text input field containing the placeholder text "<Type Message Here>" and a "Send" button to its right.

# The Invisible Wall – An Overview

- Non-Immigrants
  - H-1b Program for 2019
  - L-1 Program
  - NAFTA (TN)
- Permanent Residents
  - Interviews/Enhanced Vetting
  - Visa Backlogs
- Public Charge Determinations
- Travel Ban



# Non-Immigrants – H-1b

- Requirements
  - Professional Position
  - Professional Employee
  - Prevailing Wage
- Annual Limit (Cap)
  - 65,000
  - 20,000 Additional for U.S. Master's Graduates



# Non-Immigrants – H-1b

- Department of Labor
  - Level 1 through Level IV
  - USCIS challenges to entry-level professional employment
- Procedure Changes
  - Advance registration and selection
  - USCIS will select 65,000 first, then 20,000 from remaining pool of Master's Graduates



# Non-Immigrants – L-1

- Available to employee of a multinational company who has worked abroad for the U.S. company's parent, branch, subsidiary, or affiliate for at least one year during the three years prior to application.
- Available for executive, managerial, or specialized knowledge employee.



# Non-Immigrants – L-1

- USCIS strictly enforces Policy Memorandum of August 17, 2015 defining Specialized Knowledge as "unique."
  - "Unique" in company or
  - "Unique" in labor market
  - Excludes knowledge that is commonly held, lacks complexity, or can be easily imparted from one person to another.



# Non-Immigrants – L-1

- Petitions Filed with USCIS
  - Exceptions:
    - Companies with Blanket Approval
    - Canadians can apply at Ports of Entry
  - Exceptions apply only when the case is clearly approvable
  - Increase in frequency of rejections at POE and Consulates





# Non-Immigrants – TN

- TN status is available for citizens of Canada or Mexico who are employed in a published list of professional occupations.
- Mexicans must apply at U.S. Consulate for Visa.
- Canadians may apply at Port of Entry or with USCIS.
- Revisions to NAFTA did not affect TN status.



# Permanent Residents – Employment

- Labor Certification Green Card Process
  - Test of labor market to establish that there are no U.S. workers to fill the position
  - Proving that employer and employee are qualified
  - Adjustment of status to Green Card



# Permanent Residents – Employment

- Interviews and Enhanced Vetting
  - Officers probe the bona fides of all three processes
  - Interview process is creating delays and anxiety for family members



# Permanent Residents – Family

- Non-Quota – U.S. Citizens
  - Spouse
  - Children (unmarried, under 21)
  - Parents of Adult USCs
- Quota
  - Unmarried Sons and Daughters of USCs (21 or older)
  - Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents
  - Married Sons and Daughters of USCs
  - Brothers and Sisters of Adult USCs



# Public Charge Proposed Regulations

- Immigration and Consular Officers will make a subjective determination whether the applicant is likely to need government assistance based on several factors:
  - Age
  - Health
  - Family status
  - Assets, resources, and financial status
  - Education and skills



# Public Charge Proposed Regulations

- Affidavit of Support Also Considered
  - Likelihood that sponsor would actually provide support
- Who will this affect?
  - Non-immigrant and permanent residents
  - Non-immigrant extension applications
  - Employment-based immigration
  - Family immigration



# Permanent Residents

- Visa Backlogs for Employment Visas
  - India: 9-10 years
  - China: 3-4 years
  - Philippines: 1-2 years
  - Other countries: Current



# Travel Ban

- Countries Affected
  - Iran
  - Libya
  - North Korea
  - Somalia
  - Syria
  - Venezuela
  - Yemen





# Travel Ban

- Exemptions
  - Dual Nationals
  - U.S. Permanent Residents
  - Diplomats
  - Others who have or had valid documents to enter the U.S. or were present in the U.S. when ban was entered



# Travel Ban

- Waivers
  - Undue hardship
  - National interest
  - Not a threat to national security



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