

Court Order regarding Presidential Proclamation 10052

Last Updated: October 9, 2020

On October 1, 2020, a federal district court in *National Association of Manufacturers v. Department of Homeland Security (NAM)* enjoined the government from enforcing section 2 of Presidential Proclamation (PP) 10052 against named plaintiffs and members of the plaintiff associations. The named plaintiffs include: the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Retail Federation, TechNet, and Intrax, Inc. Therefore, any J-1, H-1B, H-2B, or L-1 applicant who is either sponsored (as an exchange visitor) by, petitioned by, or whose petitioner is a member of, one of the above named organizations is no longer subject to PP 10052's entry restrictions.

Many consular sections at U.S. embassies and consulates around the world are not able to operate at full capacity due to the COVID-19 pandemic and unique in-country conditions. Posts that are not currently able to offer full routine visa services are following the Department's Diplomacy Strong framework, which is designed to safely return our workforce to Department facilities. As post-specific conditions improve, our missions are providing additional services, culminating eventually in a complete resumption of routine visa services.

Posts with reduced services due to local conditions, available resources, and their "phase" within the Diplomacy Strong framework, may not be able to routinely process H, L, or J visa applications. However, at those posts, H, L, and J visa applicants may request emergency appointments following the guidance provided on posts' websites. PP 10052 is not considered as a factor when posts review requests for emergency appointments.

Visa applications are impacted by the order as described. Please consult the relevant U.S. embassy or consulate for further information.

J-1 Applications: Intrax, Inc. is a named plaintiff in *NAM* and is a sponsoring entity for certain J-1 programs.

Therefore, in compliance with the *NAM* court's order, any J-1 program applicant whose sponsor is Intrax, Inc. will not be considered subject to PP 10052's suspension of entry. Applicants should be prepared to demonstrate, at the time of interview, that the J-1 program is sponsored by an entity that is a named plaintiff, or a member of one of the named plaintiff organizations. Additionally, it may be possible that J-1 applicants are employed by other named plaintiffs or members of plaintiff associations, which serve as host organizations. Any J-1 applicants who are sponsored by an entity other than Intrax, Inc., or who claim the host organization employer is a named plaintiff or member of named plaintiffs' association, and who believe they are covered by the *NAM* court's order should raise that with the consular officer at the time of visa interview.

H-1B, H-2B, and L-1 Applications: Applicants must be prepared to demonstrate that a U.S. employer/petitioner is a named plaintiff or member of any of the named plaintiff associations. Applicants may provide evidence directly to the consular officer at the time of visa interview.

Applicants may provide to a consular officer a letter issued by one of the named plaintiffs to the applicant's petitioner attesting that the petitioner is a member in good standing of one of the named plaintiff associations. Consular officers will take steps to independently verify that the petitioner or sponsor is indeed a member of one of the plaintiff associations. Once the consular officers is able to confirm membership, they will be able to process the application to conclusion without regard to PP 10052.

Spouse and Child (derivative applications): The *NAM* court's order also enjoined the government from enforcing section 2 of Presidential Proclamation (PP) 10052. Section 2 of PP 10052 extended entry restrictions to H-4, J-2, and L-2 applicants who would accompany or follow to join the principal H-1B, H-2B, J-1, or L-1 applicants. Accordingly, consular officers will not apply PP 10052 to these derivative applicants if the principal applicant is covered by the *NAM* court's order. The principal applicant is not required to apply with the derivative applicants and may already be admitted into the United States at the time of their application.

NOTE: Other valid Presidential Proclamations (including the

regional [COVID Proclamations](#)) continue to apply.