

General Information on Executive Orders

What is an Executive Order?

Executive Orders are directives from the President to federal agencies to exercise the executive power in a particular way. Executive Orders carry the force and effect of law, and federal agencies are required to follow them. Often, Executive Orders require agencies to issue regulations to implement the policy specified in the Order.

How are Executive Orders different than Executive Actions?

An Executive Action is a formal statement of Presidential intent. Executive Actions are not binding as federal law. Through Executive Actions, the President proposes his ideas to pursue particular objectives and instructs federal agencies to carry them out. Congress can make Executive Actions law.

Can Executive Orders be challenged or changed?

In order to be valid, Executive Orders must operate within the bounds of the executive power--that is, they can only exercise powers that are authorized by an Act of Congress or the U.S. Constitution, sometimes explicitly, sometimes implicitly/inherently. The legislative and judicial branches can operate as checks on Executive Orders that exceed the executive power. For example, when a lawsuit is filed to challenge an Executive Order, a federal court may declare the Order invalid and/or block its enforcement (judicial). Similarly, Congress may pass a statute contradicting an Executive Order or cutting appropriations for its implementation (legislative), though these are subject to veto.

What did the Executive Orders from January 25-27th do?

There were three migration-related Executive Orders issued from January 25th - 27th. They addressed (1) border security, (2) internal enforcement and security, and (3) refugee resettlement generally and the admittance of immigrants from certain specific countries.

- The refugee Executive Order, among other things, suspends refugee resettlement for the next 120 days, suspends all refugees from Syria from coming to the United States, decreases the total number of refugees who can come to the United States in 2017 to 50,000 from 110,000, and bans individuals from certain countries, including Iran and Iraq, from entering the United States for 90 days.
- The border security Executive Order, among other things, takes steps to build the wall on the U.S./Mexico border, calls for the mass expansion of immigrant detention facilities and use of immigrant detention, further militarizes the U.S. border by adding 5000 Border Patrol officers, and erodes asylum and due process protections.
- The interior enforcement Executive Order, among other things, deputizes state and local law enforcement to enforce immigration laws, calls for additional 10,000 ICE enforcement officers, withholds funding from sanctuary cities, and largely expands who is a priority for deportation.