

An aerial photograph showing the U.S./Mexico border. A multi-lane highway runs parallel to a large, light-colored concrete wall that stretches across the landscape. To the left of the wall is a green field with some buildings. To the right is a densely populated urban area with many houses and commercial buildings. A large billboard for 'Genaro' is visible on the right side of the highway. The foreground shows a dirt embankment.

FAQ: On the Partial U.S./Mexico Border Closing Due to COVID-19

What Is Happening to Migrants at the U.S./Mexico Border in Relation to COVID-19?

On March 20, 2020, several days after the World Health Organization declared COVID-19 a global pandemic, the U.S. government, in a joint statement with the government of Mexico, announced its plans to partially seal off the U.S./Mexico border in an effort intended to prevent the spread of COVID-19.¹ In the announcement, U.S. and Mexico restricted travel of people across the border to only essential travel—services requiring food, fuel, and healthcare. The Administration issued an order suspending the processing of certain persons including asylum seekers and unaccompanied children.² The partial closure went into effect on March 21 and will continue until May 20, 2020 and is subject to review.³

How Long Is the Partial Border Closure in Effect?

The partial border closure is to last until May 20, 2020 and then be subject to ongoing review and extension.

What Does this Mean for Individuals and Families Seeking Asylum?

According to the order released on March 20, all people who arrive at ports of entry will be returned to their country of origin or the country from which they entered the United States as quickly as possible.⁴ The order cites this as a measure to keep any migrants potentially carrying the COVID-19 virus from entering the United States and being processed by Customs and Border Protection (CBP), whose facilities are ill-equipped to house, treat, or contain a potential outbreak of COVID-19.

Is the Administration's Partial Border Closure Legal?

In the order calling for the partial border closure, the Administration cites Title 42 of the United States Code, Sections 265 and 268, which authorize the suspension of entries and imports from designated places to prevent the spread of communicable disease and details the quarantine duties of consular and other officers. However, immigration advocates [argue](#) that the authority given under 42 USC 265 and 268 do not supersede the U.S. government's responsibilities and is in direct violation of the obligations that the U.S. has under domestic refugee law and international treaties to welcome those fleeing persecution in their home countries.⁵

Will Unaccompanied Children Be Affected by the Partial Border Closure Order?

Yes. While unaccompanied children were originally excluded from the order, unaccompanied minors are [reportedly](#) being turned back or expelled from the U.S.⁶ This action is in direct violation of the Trafficking Victims Protection Reauthorization Act (TVPRA), which requires that unaccompanied children from non-contiguous countries be placed in the custody of the Department of Health and Human Services/Office of Refugee Resettlement (HHS/ORR). Read more about the protections for unaccompanied children under the TVPRA [here](#).⁷

What Will Happen to Immigration Hearings for Asylum Seekers Who Arrived at the U.S./Mexico Border Before the Partial Border Closure?

The Executive Office of Immigration Review (EOIR) has announced varying instructions and schedules for immigration hearings in response to COVID 19. All hearings for asylum-seekers placed into the Migrant Protection Protocols (MPP) who were scheduled through June 1, 2020 will be rescheduled. (Learn about MPP [here](#)).⁸ All hearings for non-detained asylum-seekers scheduled through May 1, 2020 have been indefinitely postponed. Some immigration courts around the country remain open, while other remain open for only for filings and detained hearings. A full listing of immigration court openings is available [here](#).⁹

Endnotes



1 The United States Department of Homeland Security, *Joint Statement on US-Mexico Joint Initiative to Combat the COVID-19 Pandemic* (Mar. 20, 2020), [https://www.dhs.gov/news/2020/03/20/joint-statement-us-mexico-joint-initiative-combat-covid-19-pandemic?utm_source=\(direct\)&utm_medium=\(none\)&utm_term=undefined&utm_content=undefined&utm_campaign=\(not%20set\)&gclid=undefined&dclid=undefined&GAID=1271797852.1585498797](https://www.dhs.gov/news/2020/03/20/joint-statement-us-mexico-joint-initiative-combat-covid-19-pandemic?utm_source=(direct)&utm_medium=(none)&utm_term=undefined&utm_content=undefined&utm_campaign=(not%20set)&gclid=undefined&dclid=undefined&GAID=1271797852.1585498797)

2 Order Under Sections 362 & 365 of the Public Health Service Act (42 U.S.C. §§ 265, 268): Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists, https://www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf

3 *Extension of Order Under Sections 362 and 365 of the Public Health Service Act; Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists*, <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-08605.pdf>.

4. *Id*

5 Amnesty International, et al., *Responding to the COVID-19 Crisis While Protecting Asylum Seekers* (Mar. 25, 2020), available at <https://justiceforimmigrants.org/wp-content/uploads/2020/03/COVID-19-and-the-Border-UPDATED.pdf>.

6 Rafael Bernal, *Democratic Lawmakers Demand Government Stop Deporting Unaccompanied Children*, THE HILL (Mar. 30, 2020), <https://thehill.com/homenews/news/490204-democratic-lawmakers-demand-government-stop-deporting-unaccompanied-children>.

7 U.S. Conference of Catholic Bishops/Migration and Refugee Services, *Existing Protections for Unaccompanied Children*, JUSTICE FOR IMMIGRANTS (Feb. 2019), available at <https://justiceforimmigrants.org/wp-content/uploads/2019/02/protections-for-UAC.pdf>.

8 U.S. Conference of Catholic Bishops/Migration and Refugee Services, *FAQ: Remain in Mexico Policy*, JUSTICE FOR IMMIGRANTS (last updated Oct. 7, 2019), https://justiceforimmigrants.org/wp-content/uploads/2019/10/remain-in-mexico_en-9-24.pdf.

9 Executive Office of Immigration Review, The United States Department of Justice, *EOIR Operational Status During Coronavirus Pandemic* (updated Apr. 14, 2020), <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic>.