What happens when good people remain silent?

Colleen Marshall
Manucci Law Group

It seems the silence of good people resulting in bad things? A message of hate and bigotry is being openly and proudly advanced by those who want to use intolerance as the answer to any number of social and economic problems.

In 2016, we lived through a presidential election that targeted immigrants and the Islamic faith. We watched states revive efforts to protect U.S. workers. The new administration vowed to protect U.S. workers. The new administration vowed to protect U.S. workers.

The larger question, though, is how will these renewed racial tensions and the use of hate-speech impact will be substantial and create havoc among longtime undocumented workers who have grown up in the U.S. and joined the workforce.

Withdraw or renegotiate NAFTA. The treaty provides that the president may withdraw by providing a six-month notice to Mexico and Canada. The president-elect has promised to withdraw the U.S. from NAFTA, which not only facilitates free trade with Canada and Mexico but also allows certain professionals who are Canadian or Mexican citizens to obtain TN status for employment in the U.S. Exiting NAFTA would bring an end to TN status for many professionals in the U.S.

Suspend or delay immigration from certain regions. While no longer calling for a ban of all Muslims, Trump continues to call for more screening and “extreme vetting” for all Muslims. It is likely that visa processing may slow, especially for applicants from certain countries. This would likely create delays and make business objectives difficult to achieve.

Suspend or revoke proposed or recently finalized federal regulations. The new administration could instruct departments to cease or suspend all rule-making activity. Therefore, some recently proposed rules could be scrapped. The Trump administration will likely turn to rule-making in its attempts to fulfill its promises to protect U.S. workers.

Increased worksite enforcement. While employers nationwide have experienced less compliance enforcement activity since 2012, one should anticipate increased I-9 audits, inspections and raids, and post-petition approval site-inspections going forward.

Renewed emphasis on the “culture of no” in immigration-related agencies. USCIS rewards denials and states that the agency’s officers and adjudicators will not be disciplined nor will their careers be jeopardized by denying a petition or an application for a benefit. However, a mistaken approval of a benefit for an employer or an employee may land that adjudicator into serious trouble. As such, the agency values denials over approvals. This culture of no has resulted in the ever-increasing issuance by USCIS of unnecessary, costly and over-burdensome requests for additional evidence and notices of intention to deny or to revoke already approved employment-based petitions.

Among other legislative reforms, one should anticipate changes to the H-1B visa program. Some ideas offered include arbitrarily increasing the prevailing wage required to be paid to an H-1B beneficiary and/or requiring the U.S. employer to prove that no U.S. worker is available for the job by testing the labor market. Either one of these changes to the H-1B program will have a profound impact on U.S. employers. One can also anticipate Enhanced E-Verify will be a mandatory program for all employers.

One cannot know for certain what changes a Trump administration brings with it. However, one can be assured that we are likely to see fewer opportunities for increased costs for employers and employees wishing to participate in employment-based immigration.

This article is intended solely to provide broad, general information; not legal advice. Readers should seek advice from a licensed attorney with regard to specific legal issues. Statements or opinions expressed are those of the author and do not necessarily reflect those of the Columbus Bar Association, its officers, board or staff.