

Tech’s Immigration Crisis: How Silicon Valley GCs Can Lead, Educate, and Preserve Hope

Technology, Privacy, and eCommerce



In Silicon Valley, we often acknowledge that we live in a “bubble.” Although everyone’s image of the bubble is different, most people would agree that Silicon Valley is kind of an optimistic technology paradise, with larger than life entrepreneurship, an abundance of capital, infinite opportunities, and a global meritocracy that rewards hard work and perseverance. Silicon Valley isn’t without its flaws, but for the most part, people here are solely judged on their talent, skills, knowledge, and work ethic.

However, the recent executive orders from newly inaugurated US president Donald Trump have sent shock waves through this optimistic bubble. Particularly, the recent executive order on immigration, which created a temporary ban on travel from seven predominantly Muslim countries, has generated anxiety and fear for many people both directly and indirectly affected.

It isn’t surprising that this development has taken its toll on Silicon Valley. After all, Silicon Valley runs on the best talent, and much of that talent comes from overseas. Thirty-seven percent of Silicon Valley's residents are non-citizens who entered the United States to contribute to the tech industry. And, according to the 2016 Silicon Valley Index, about two thirds of Silicon Valley-employed computer and mathematical workers ages 25 to 44 are foreign-born.

In fact, many core Silicon Valley companies — such as Google, Yahoo, and YouTube — were created by immigrants. The late Steve Jobs’ father was an immigrant from Syria, one of the countries affected by the executive order. With much of the United States reeling, Silicon Valley is left thinking: what will come next? What does this mean for any existing and potential immigrant talent? And, how can a general counsel lead and educate their company through this crisis?

Remain calm and manage your emotions

Every crisis is a leadership opportunity for a general counsel and for the members of their office, and this is no exception. Understand that other executives, managers, and employees look to you for guidance and will mirror your reaction. Pay attention to how you feel and how these feelings are manifested in your words and actions. Consciously project a reaction you want to see in others.

While these political changes are shocking, overreacting can distract you and your team from taking necessary action. However, make sure that you take time for yourself, if needed. Self-care and mindfulness can be a vital part of being an effective advocate and leader during stressful times.

Help others to manage their emotions

Communicate to other executives and management that this is merely turbulence, not a crash. Also, help other executives and management to have consistent communication across the company. Resilience is definitely a key characteristic of Silicon Valley success.

Now is the time to reiterate this message across the company. Create a consensus that this is a crisis the company can and will get through, no matter how unlikely it seems. After all, you can drive from San Francisco to San Jose, and still have yet to recite all of the unlikely Silicon Valley successes over the past years.

Educate yourself

Regularly review official government guidance and websites. Having your hand on the political pulse will be vital in the first 100 days of this presidency, if not longer. Take time to carefully consider how these changes impact your company and its business, practices, policies, employees, partners, customers, and other stakeholders. It is a good idea to work with outside counsel to interpret and proactively manage various short-term legal risks, especially those that are employment related.

Understand and inform

We have discovered that very few employees understand what executive orders are, their legal status, and the timeline for them be challenged or codified. It may be a good idea to explain these legal basics across the company.

Another important move is to identify employees who may be directly affected by the changes and help them to address their individual situations. Also consider suspending or minimizing international travel. Instead, rely on calls, video conferences, or webcasts. Be mindful and actively manage your hiring and onboarding processes, especially if they involve information requests that may implicate anti-discrimination laws.

Remember that identifying employees based on their nationality or citizenship must be well managed and done with discretion, even if you do so with intent to help them manage this political climate. Of course, manager trainings and compliant file maintenance practices are a huge part of this risk management.

Proactively manage risks

Finally, now is a good time to proactively manage your long-term risks, should they materialize. If you heavily rely on a global workforce and various immigration procedures for your hiring, consider

focusing on retention of the key employees you already have. Focus on inspiring them to stay and continue making your Silicon Valley business great. Provide resources and support if needed. Consider investing in training and development of junior talent, both within and outside of your company. In the short term, any discipline can look like rocket science, but in the long-term, everything is learnable. Also invest in telecommunication technology, outsourcing options, and your partnerships. Now is the time to set up an infrastructure that will help you manage what may be up to eight years of turbulence.

As Silicon Valley (almost) natives, we trust in our community's entrepreneurial zest, collective values, advanced technologies, and resilient spirit. Crises may be overwhelming, but they need to be addressed — and we are among the best people for the job. We are certain that by managing ourselves, our teams, and our risks, we can get through any turbulence, including the current executive order on immigration.

Update: Nearly 100 Silicon Valley companies have filed an amicus curiae to the federal court, citing that the travel ban would be harmful to US business and violate the US constitution. Such companies include tech titans Google, Apple, and Facebook.

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Olga V. Mack is a fellow at CodeX, The Stanford Center for Legal Informatics, and a Generative AI Editor at law.MIT. Mack shares her views in her columns on ACC Docket, Newsweek, Bloomberg, VentureBeat, Above the Law, and many other publications.

Mack is also an award-winning (such as the prestigious ACC 2018 Top 10 30-Somethings and ABA 2022 Women of Legal Tech) general counsel, operations professional, startup advisor, public speaker, adjunct professor, and entrepreneur. She co-founded SunLaw, an organization dedicated to preparing women in-house attorneys to become general counsels and legal leaders, and WISE to help female law firm partners become rainmakers.

She has authored numerous books, including Get on Board: Earning Your Ticket to a Corporate Board Seat, Fundamentals of Smart Contract Security and Blockchain Value: Transforming Business Models, Society, and Communities. She is working on her next books: Visual IQ for Lawyers (ABA 2024), The Rise of Product Lawyers: An Analytical Framework to Systematically Advise Your Clients Throughout the Product Lifecycle (Globe Law and Business 2024), and Legal Operations in the Age of AI and Data (Globe Law and Business 2024).

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