



## Freedom to Thrive: Priorities for Congressional and Executive Action on Immigration in 2024

### Restore Access to Protection at the Southern Border & Welcome New Arrivals

President Biden campaigned on reversing the Trump administration's unrelenting attacks on the asylum process and crackdown at the southern border, yet many of those policies remain in place, while some have been expanded. New immigrants, including asylum seekers, refugees, and others, help make the United States strong and vibrant, and may need initial assistance to find jobs, housing and supportive communities to help them integrate and thrive. Cities and states need adequate resources to provide a welcoming environment. The administration and Congress should cooperate to:

- ▶ Oppose any legislative efforts to place new restrictions, caps, or bans on asylum, parole, or any other immigration authority that can provide a lawful status or protection from deportation.
- ▶ Reverse course on introducing a new asylum transit ban that would replicate, in large part, unlawful bans put into place by the Trump administration and is inconsistent with federal law and the international legal obligations of the U.S.
- ▶ Allow all asylum seekers currently subjected to harsh, dangerous conditions in Mexico to enter the U.S. for the duration of their legal proceedings.
- ▶ Refrain from expanding harmful immigration enforcement policies, such as expedited removal and mandatory detention.

- ▶ Refrain from relocating Haitians or any other migrants to the Migrant Operations Center at Guantanamo Bay, Cuba.
- ▶ Propose and secure from Congress additional funding to process asylum claims, reduce U.S. Citizenship and Immigration Services (USCIS) backlogs, and provide life-sustaining goods and services for newly arrived migrants, including by fully funding the Federal Emergency Management Agency's (FEMA's) Shelter and Services Program (SSP).
- ▶ Provide work authorization to asylum seekers as quickly as possible, including by repealing the six-month waiting period and passing the Asylum Seeker Work Authorization Act of 2023.
- ▶ Repeal restrictions on federal public assistance programs for new arrivals of all statuses, including persons seeking asylum or other humanitarian relief.

### Protect Communities and Expand Pathways to Immigration Status

Recipients of Deferred Action for Childhood Arrivals (DACA) have been living in uncertainty for more than a decade and hundreds of thousands of immigrant youth have been locked out of any DACA protections due to court rulings and arbitrary cut-off dates. In addition, many other communities could be protected with a number of well-established administrative actions. NILC recommends:

- ▶ Congress should pass permanent protections with a pathway to citizenship for immigrant youth, including DACA-eligible individuals and

DACA recipients, without anti-immigrant provisions that would harm border and other communities.

- ▶ The Biden administration should take immediate steps to protect undocumented immigrants from deportation and authorize them to live and work in the U.S., including:
  - Use executive authority to create robust policies on Parole—including Parole in Place (PIP)—and deferred action to provide work authorization for specific groups, including essential workers, climate resilience workers, and beneficiaries of family-based petitions currently residing in the U.S.
  - Issue new Temporary Protected Status (TPS) and Deferred Enforced Departure (DED) designations, redesignations, and extensions to protect immigrants from being sent to unsafe countries that experience conflict, natural disasters, or other emergencies. Countries that should be prioritized for protection include Democratic Republic of Congo, Haiti, Mali, Mauritania, Pakistan and The Palestinian Territories.
  - Accompany TPS and DED designations with Special Student Relief for international students.

### **Safeguard Worker Rights and Civil Rights**

On January 13, 2023, the U.S. Department of Homeland Security (DHS) announced new guidance for immigrant workers to apply for deferred action if they are involved in a labor dispute and have a federal, state, or local labor agency's support. Once approved, workers receive two years of protection from deportation that is potentially renewable, along with work authorization. Over the last year, this process has

had a transformative impact on labor enforcement in terms of workers coming forward to participate in labor investigations and enforce their workplace rights, including fair wages, safe working conditions, and organizing. This is an incredible first step. We look forward to continuing to work closely with the administration and partner organizations on implementation of the guidance, including finding ways to scale up legal resources to ensure that workers can meaningfully access these protections.

### **Redress the Harms of the Muslim and African Bans**

Despite the August 1, 2022, federal court [decision](#) in *Pars Equality Center v. Pompeo*, in which NILC was co-counsel, thousands of people denied visas under the prior administration's bans on people from certain majority Muslim and African nations remain separated from their loved ones in the U.S. Pursuant to the decision, the U.S. Department of State:

- ▶ Must establish a reconsideration process for people who were denied visas under the prior bans, at no cost to the applicants, and should immediately notify all affected applicants about the process.
- ▶ Should provide an expedited decision to applicants who seek reconsideration within 60 days of submitting the required information.

### **Ensure Access to an Education and Equal Opportunities for All**

Approximately [98,000 undocumented students](#) graduate from high schools in the U.S. every year. These students have the same hopes and dreams as their fellow graduates: to pursue a college education, find a job that matches their skills, contribute to their communities, and provide for their families and loved ones. Over forty years ago, in the landmark case *Plyler v. Doe*, the U.S. Supreme Court held that

a state's denial of a free public K-12 education to undocumented students violates the Equal Protection Clause of the U.S. Constitution. Congress and federal agencies should:

- ▶ Ensure that federal, state, and local governments and school districts preserve and protect the rights established under *Plyler*. This includes prohibiting any unnecessary requests for documents, information, or reporting requirements that would have a chilling effect on students' access to K-12 schools.
- ▶ Ensure students and their parents and guardians can participate meaningfully in all school-related activities, regardless of their immigration status or their primary language.
- ▶ Support students in reaching their potential, during and after receiving their K-12 education by ensuring that all students, regardless of immigration status, have access to existing and new programs and opportunities, such as outreach, training, research opportunities, community service, dual enrollment, affordable access to higher education, and any programs that help low-income students complete their education.
- ▶ Ensure that personal information about students, parents and family members is used and disclosed only for the purpose of administering educational or financial aid programs, or otherwise assisting students.

### **Promote Health Equity for Immigrants and Their Loved Ones**

Immigrants face health disparities because of disproportionately high uninsured rates and inequitable access to health care. NILC recommends the following to promote health and wellbeing:

- ▶ U.S. Department of Health & Human Services (HHS) should swiftly finalize its proposed regulation removing the unjustified exclusion of DACA recipients from coverage under the Affordable Care Act (ACA).
- ▶ Congress should allow immigrants to access the public health coverage programs their tax dollars support by passing the LIFT the BAR and HEAL for Immigrant Families Acts.
- ▶ HHS should support state-level efforts to develop innovative policies that address unmet health needs of immigrants, including through approval of Medicaid and ACA waivers.
- ▶ HHS should increase funding opportunities for immigrant-serving community-based organizations that are in the best position to address the unique barriers to health care faced by immigrants and immigrant families.

### **Reduce Language Barriers to Government Services**

Twenty-five million people with limited English proficiency (LEP), speaking over 300 languages, live in the U.S. To protect the right to language assistance, Congress and federal agencies should:

- ▶ Finalize and provide strong implementation of the proposed regulations for Section 1557 of the ACA on nondiscrimination, with an emphasis on providing specificity for when and how language assistance must be provided.
- ▶ Pass and fund the SPEAK Act to improve telehealth for LEP people and the Health CARE Act to develop a symbol to indicate when language services are available in health care contexts.
- ▶ Provide strong implementation for President Biden's executive orders on racial equity by

empowering the newly constituted Federal Language Access Working Group and ensuring all agencies implement updated language access plans. In addition, ensure that all agencies and programs are funded to provide adequate language access.

### **Invest in Immigrant Economic Justice**

Undocumented immigrants pay billions of dollars in federal taxes every year using an Internal Revenue Service- (IRS-) issued Individual Taxpayer Identification Number (ITIN). But many immigrants face major barriers applying for, and delays in receiving, ITINs. Reducing these barriers and delays will improve immigrants' access to economic supports that they and their dependents are entitled to under the law, including the Child Tax Credit (CTC) and policies that alleviated poverty during the COVID-19 pandemic and economic crisis. Given the increased funding for the IRS under the Inflation Reduction Act (IRA), the IRS should use these resources to address barriers for ITIN taxpayers and applicants. Specifically, the U.S. Department of the Treasury should:

- ▶ Allow rolling acceptance and processing of ITINs, improve the clarity of W-7 instructions and required documentation, and allow electronic filing of W-7 applications.
- ▶ Include ITIN filers in the vision for, and rollout of, Direct File and other planned IRS customer service upgrades.
- ▶ Increase the number of Certified Acceptance Agents who help people apply for ITINs.
- ▶ Standardize and publish ITIN application and approval data as well as report on the contributions of ITIN filers.

### **Educate Immigrant Communities About the Final Public Charge Rule**

DHS finalized a public charge rule in 2022, but immigrants and mixed-status families remain fearful of seeking health and basic needs programs for which they or their family members are eligible. To mitigate fear and confusion, federal agencies that administer health and basic needs programs, including HHS, U.S. Department of Agriculture, and U.S. Department of Housing and Urban Development, should:

- ▶ Issue a joint letter with DHS to state and local benefits-administering agencies describing the public charge rule and the importance of encouraging eligible immigrants to use programs that will improve their health and strengthen their families' wellbeing.
- ▶ Issue consumer-facing materials, on agency letterheads, about the public charge implications of participating in specific benefit programs. These materials should present information visually (such as by using infographics), be written at a fourth-grade reading level and be translated into at least 15 languages commonly spoken in the U.S. by people with LEP.
- ▶ Train, or provide resources to train, state benefit-granting agency staff, community health workers, enrollment assisters, immigration attorneys and others who interact with immigrants on issues related to public charge.
- ▶ Fund community-based organizations to work directly with immigrant communities in understanding the public charge rule and addressing related fears.