



## Freedom to Thrive: Priorities for Congressional and Executive Action on Immigration in 2023

### Protect Communities and Expand Pathways to Status

Recipients of Deferred Action for Childhood Arrivals (DACA) have been living in uncertainty for 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 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 Mauritania, Mali and Pakistan.
- Accompany TPS and DED designations with Special Student Relief for international students.
- Work with U.S. Citizenship and Immigration Services (USCIS) and Congress to address ongoing immigration benefits processing delays and ensure the agency is properly resourced.

### 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.

### 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 will receive two years of protection from deportation that is potentially renewable, along with work authorization. This protection will allow workers to come forward and participate in labor investigations and enforce their workplace rights, including to fair wages, safe working

conditions, and to unionize. This is an incredible first step. We look forward to working 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.

### **Restore Access to Protection at the Southern Border**

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. The administration should:

- ▶ End Title 42 expulsions and reopen asylum processing at ports of entry.
- ▶ 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.
- ▶ Reopen cases of people already ordered removed under both iterations of Remain in Mexico (RMX) and allow everyone subjected to RMX 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.

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

DHS finalized a new public charge rule, 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 U.S. Department of Health & Human Services (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 new 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, written at a 4th grade reading level and translated into at least 15 languages, including in more visual forms of communication, about the public charge consequences of specific programs.
- ▶ Train or provide resources to train state benefits agencies, enrollment assisters, immigration attorneys, agency field staff and others who interact with immigrants on the new public charge rule.
- ▶ Fund community-based organizations to work directly with immigrant communities in understanding the new rule and addressing related fears.

### **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:

- ▶ 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 remove the unjustified regulatory exclusion of DACA recipients from the Affordable Care Act (ACA) and Medicaid eligibility.
- ▶ 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.

- ▶ 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.

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

25 million people with limited English proficiency (LEP), speaking over 100 languages, live in the U.S. To protect the right to language assistance, Congress and federal agencies should:

- ▶ Increase funding for language access in order to:
  - Invest in improving the quality of oral and written language assistance services.
  - Build the capacity of civil rights offices to enforce requirements to provide language assistance services.
  - Develop resources to help federal agencies and recipients of funding comply with language access requirements.
- ▶ Develop and test methods, such as a universal language access symbol, to better inform patients and community members of the availability of language assistance services to people with LEP.
- ▶ Design federal grant programs so that grantees are required to have a plan for reaching LEP populations in their service area, and prioritizing entities with demonstrated success reaching this population.

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

Undocumented immigrants pay billions of dollars in federal taxes every year using an 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:

- ▶ Establish an “ITIN Taskforce” that includes representatives from organizations that advocate for, and provide services to, low-income immigrant taxpayers
- ▶ Process ITIN applications more quickly
- ▶ Allow for the electronic processing of ITIN applications
- ▶ Increase the number of Certified Acceptance Agents who help people apply for ITINs