



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION



ASIAN AMERICANS
ADVANCING
JUSTICE
AAJC



TO: President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

CC: Secretary of State Antony J. Blinken
US Department of State
2201 C Street, NW
Washington, DC 20520

Secretary of Homeland Security Alejandro Mayorkas
US Department of Homeland Security
245 Murray Lane, SW
Washington, DC 20528

July 21, 2021

Dear President Biden:

The Value Our Families Campaign and the undersigned national, state and local organizations, write to urge you to take administrative action to ensure that all immigrant visas (family-based preference, employment-based and diversity visas) are processed up to the numerical limits this fiscal year. We also urge you to support any Congressional efforts to recapture unused visas or otherwise increase green card numbers. If your administration does not take action by September 30th, 2021, we will lose immigrant visas that are in high demand and add to an already expanding backlog.

We would like to thank you for rescinding some of the harmful immigration policies enacted by the Trump administration and for expanding immigration pathways through the DHS Plan to Restore Trust in Our Legal Immigration System. Our campaign is heartened by the Biden administration's actions to rescind the public charge rule and end the health care proclamation, as well as reported plans to reduce administrative and financial barriers to immigration, expedite the backlog of immigration requests, restore asylum protections, and revamp the U-visa program to better protect undocumented immigrants who are victims of crime.¹ Furthermore, we fully support the administration's plan to expand immigration opportunities for LGBTQIA refugees who face persecution in their home countries.²

¹ Michael D. Shear and Zolan Kanno-Youngs, "Biden Aims to Rebuild and Expand Legal Immigration," *The New York Times*, May 31, 2021, sec. A, <https://www.nytimes.com/2021/05/31/us/politics/biden-immigration.html>.

² Shear and Kanno-Youngs.

But simply rescinding many of the Trump-era policies is not enough. It is also critical that the Biden administration address the visa processing delays resulting from these restrictive Trump-era policies and the COVID-19 pandemic and increase the number of green cards issued annually. President Trump explicitly sought to end family-based immigration,³ capitalizing on the pandemic in April 2020 to block visas to many categories of people who sought to join their relatives in the U.S.⁴ In FY 2020, over 120,000 visas in the family-based preference categories went unused. The Biden administration only lifted the COVID-related immigrant visa ban on February 24, almost halfway through FY 2021. Administration efforts to restore family-based migration and clear backlogged cases have been further hampered by limited staffing and full or partial closures of embassies and consulates abroad.⁵ Given these factors, we are at risk of losing even more immigrant visas in the current fiscal year unless action is taken immediately.

A major priority in restoring our legal immigration system is to ensure that no capped immigrant visas in FY 2022 are lost to bureaucratic delays. However, the administration is likely too far behind in processing to reach the numerical limits this fiscal year. In the first half of FY 2021, the State Department only issued 1,133 family-based visas, around 1% of more than 94,000 family-based visas issued during that same time period in FY 2019.⁶ Meanwhile, over 3.7 million people are waiting in the family-based visa backlogs as of November 2020, a 7.7% increase from the previous fiscal year.⁷ This has exacerbated already decades-long wait times for some, leaving families in limbo as they wait to be reunited.

The State Department is similarly behind in processing diversity-based visas, with 43 visas issued in the first half of FY 2021 as compared to nearly 14,000 visas issued in the first half of FY 2018.⁸ These numbers indicate that the government will not process visas up to the numerical limits this fiscal year. The vast majority of employment-based visas are processed as adjustment of status applications at U.S. Citizenship and Immigration Services. Though FY 2021 adjustment data is not available yet, we understand that USCIS is still backlogged from COVID shut-downs and Trump administration policy changes. Since the 120,000 unused family-based green cards were rolled over to employment-based green cards, USCIS has even more applications to process this fiscal year and as a result of crisis-level processing times, employment-based immigrant visas are likely to go unused if administrative action is not taken. Despite Congress' intent to

³ "It's Time To End Chain Migration," December 15, 2017, <https://trumpwhitehouse.archives.gov/articles/time-end-chain-migration/>.

⁴ Rebecca Beitsch, "Trump Visa Restrictions Live on under COVID-19 Backlog," *The Hill*, May 23, 2021, <https://thehill.com/policy/national-security/554863-trump-visa-restrictions-live-on-under-covid-19-backlog>.

⁵ Sharvari Dalal-Dheini and Paul Stern, "Reopening America - How DOS Can Reduce Delays and Eliminate Backlogs and Inefficiencies to Create a Welcoming America," Policy Brief (American Immigration Lawyers Association, June 29, 2021), <https://www.aila.org/advo-media/aila-policy-briefs/policy-brief-reopening-america>.

⁶ "Monthly Immigrant Visa Issuance Statistics," US Department of State, n.d., <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/immigrant-visa-statistics/monthly-immigrant-visa-issuances.html>.

⁷ "Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2020" (US Department of State, n.d.), https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/WaitingList/WaitingListItem_2020_vF.pdf.

⁸ "Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2020."

preserve unused visas, the statutory calculation will result in unused employment-based immigrant visas being permanently lost.

Fortunately, the Federation of American Scientists has developed a simple administrative solution to ensure that no green cards are lost in FY 2021.⁹ The Departments of Homeland Security and the State Department should change the manner in which they count visas as being issued. The agencies should consider a visa number reserved -- and the visa "issued" for purposes of Section 201 fall across¹⁰ -- when two conditions are satisfied: (1) the non-citizen has provided all required documents; and (2) a visa number is available. This change would align the agency's interpretation of green card visa allocation with H-1B nonimmigrant visa allocation, assigning the visa number at the beginning of the filing process, rather than waiting to allocate a visa at the last administrative step in the process. Both family-based and employment-based applicants will benefit from this change because visa allocations can be preserved in each category regardless of administrative delay.

In addition, there are a number of administrative steps the Department of State can take to alleviate the visa processing burdens on consular officers overseas, as outlined in a recent policy brief by the American Immigration Lawyers Association.¹¹ Importantly, the Administration should use science-based methods of deterring the spread of COVID-19, rather than requiring consular officers to engage in resource intensive national interest exemption determinations under regional travel bans. Moreover, among other administrative recommendations, DOS should further expand the use of interview waivers, prioritize remote processing of cases with low fraud risks, and resume stateside processing of nonimmigrant visa renewals.

A recent opinion piece in the *New York Times*¹² and a similar editorial by the *Washington Post*¹³ called for increased immigration levels in response to new census data indicating a declining U.S. birthrate and aging population. We need more immigrants to continue to have a growing economy and to care for our aging population.

Time is of the essence. Administrative action must be taken before October 1st to avoid this waste. We urge the Biden administration to do everything in its power to process immigrant visas up to the categorical limits on family-based, employment-based, and diversity visas in the months remaining for this fiscal year. This includes both making the above policy change in the

⁹Jeremy L. Neufeld, Lindsay Milliken, and Doug Rand, "Stop the Incinerator: The High Cost of Green Card Slots Going Unused and the Benefits of Recapturing Them," Niskanen Center, June 23, 2021, <https://www.niskanencenter.org/stop-the-incinerator-the-high-cost-of-green-card-slots-going-unused-and-the-benefits-of-recapturing-them/>.

¹⁰ See INA Section 201(c) -(d) (8 USC 1151(c) - (d)).

¹¹ Sharvari Dalal-Dheini and Paul Stern, "Reopening America - How DOS Can Reduce Delays and Eliminate Backlogs and Inefficiencies to Create a Welcoming America," Policy Brief (American Immigration Lawyers Association, June 29, 2021), <https://www.aila.org/advo-media/aila-policy-briefs/policy-brief-reopening-america>.

¹² Farhad Manjoo, "The World Might Be Running Low on Americans," *The New York Times*, May 20, 2021, <https://www.nytimes.com/2021/05/20/opinion/the-world-might-be-running-low-on-americans.html>.

¹³ Washington Post Editorial Board, "U.S. Birthrates Are Plummeting. Increasing Legal Immigration Can Help.," *The Washington Post*, June 25, 2021, sec. The Post's View, https://www.washingtonpost.com/opinions/us-birthrates-are-plummeting-increasing-legal-immigration-can-help/2021/06/25/b3e28236-aded-11eb-b476-c3b287e52a01_story.html.

way the agencies count visas and supporting any Congressional efforts to roll over, recapture or restore visas.

America is a diverse nation whose culture and economy have been shaped by immigration. Family-based, employment-based, and diversity-based immigration has created vibrant, tight-knit communities and economic prosperity that are distinctly American. We respectfully urge you to prioritize immigration backlogs by ensuring the maximum number of visas are issued for FY 2021 and by guaranteeing any unused visas will be rolled over into the next fiscal year. We look forward to working together to reunite families, reimagine the immigration system, and continue America's legacy as a diverse and prosperous nation.

Sincerely,

National Organizations

African American Ministers In Action

African Communities Together

Alianza Nacional de Campesinas

American Federation of Teachers

American Immigration Council

American Immigration Lawyers Association

American-Arab Anti-Discrimination Committee (ADC)

Asian & Pacific Islander American Health Forum (APIAHF)

Asian Americans Advancing Justice | AAJC

Asian Pacific American Labor Alliance, AFL-CIO

Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL)

Church World Service

Council on American-Islamic Relations (CAIR)

Disciples Immigration Legal Counsel

Disciples Refugee & Immigration Ministries

Empowering Pacific Islander Communities (EPIC)

Faith in Public Life

Faiths for Safe Water

Franciscan Action Network

Freedom Network USA

Haitian Bridge Alliance

Harvard Immigration and Refugee Clinical Program

Hispanic Federation

ICNA Council for Social Justice

Immigrant Legal Resource Center (ILRC)

International Refugee Assistance Project (IRAP)

Japanese American Citizens League

Justice Action Center

League of United Latin American Citizens (LULAC)
National Asian Pacific American Women's Forum (NAPAWF)
National Council of Asian Pacific Americans
National Immigrant Justice Center
National Immigration Law Center
National Iranian American Council
National Korean American Service & Education Consortium (NAKASEC)
National Network for Immigrant & Refugee Rights
NETWORK Lobby for Catholic Social Justice
No Muslim Ban Ever Campaign
NPNA
OCA - Asian Pacific American Advocates
Service Employees International Union (SEIU)
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
The Value Our Families Campaign
U.S. Palestinian Community Network (USPCN)
UndocuBlack Network
UnidosUS
Unitarian Universalists for Social Justice
United Stateless
Woodhull Freedom Foundation

California

Ahri Center
APALA-Sacramento
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice - Los Angeles
Asian Law Alliance
Asian Resources, Inc
Coalition for Humane Immigrant Rights (CHIRLA)
Community Action Board of Santa Cruz County, Inc. (CAB)
Equality California
OCA - Sacramento - Asian Pacific American Advocates
Progressive Asian Network for Action
Social Eco Education (SEE-LA)
TODEC Legal Center

Colorado

Colorado Immigrant Rights Coalition

Connecticut

Connecticut Shoreline Indivisible
IRIS - Integrated Refugee and Immigrant Services

District of Columbia

Central American Resource Center

Florida

Farmworker Association of Florida
OCA South Florida Chapter

Georgia

Asian Americans Advancing Justice - Atlanta

Illinois

Arab American Action Network (AAAN)
Asian Americans Advancing Justice | Chicago
HANA Center
Illinois Coalition for Immigrant and Refugee Rights
OCA Greater Chicago
Refugee Action Network
RefugeeOne

Louisiana

Louisiana Advocates for Immigrants in Detention (MI & LA)

Maine

Immigrant Legal Advocacy Project
Maine Business Immigration Coalition
Maine Immigrants' Rights Coalition org

Maryland

CASA de Maryland

Michigan

Michigan Immigrant Rights Center

Minnesota

United Cambodian Association of Minnesota

North Carolina

North Carolina Asian Americans Together

New Mexico

New Mexico Asian Family Center

Nevada

Asian Community Development Council

New York

Adhikaar

Asian American Federation

Majlis Ash-Shura: Islamic Leadership Council of New York

New York Immigration Coalition

OCA Westchester & Hudson Valley

Ohio

Asian Services In Action (ASIA)

Church of Our Saviour/La Iglesia de Nuestro Salvador

CRIS - Community Refugee & Immigration Services

InterReligious Task Force on Central America and Colombia

OCA Greater Cleveland Chapter

Transformations CDC

Pennsylvania

CASA de Pennsylvania

Woori Center

Texas

Human Rights Initiative of North Texas

OCA-Greater Houston

Woori Juntos

Utah

OCA Asian Pacific Islander American Advocates Utah

Virginia

CASA de Virginia

Centreville Immigration Forum

Edu-Futuro
Hamkae Center
LUCHA Ministries, Inc.
LUCHA Ministries, zinc.
Virginia Coalition for Immigrant Rights
Virginia Coalition of Latino Organizations

Washington

Asian Counseling and Referral Service
OCA Asian Pacific Advocates - Greater Seattle
OneAmerica