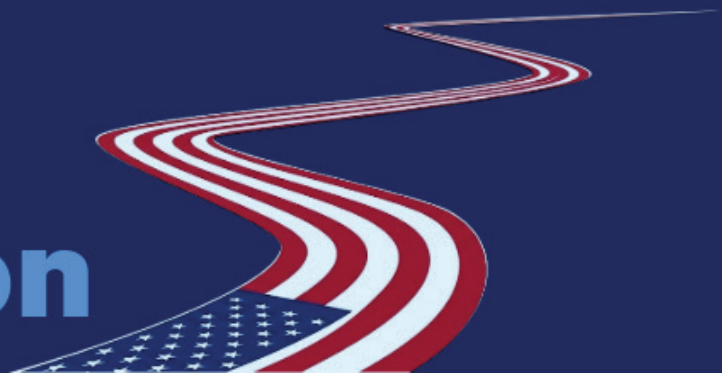
AMERICAN IMMIGRATION LAWYERS ASSOCIATION

AILA

A Better Way on Immigration



Executive Summary

America is at its best when guided by our shared values: fairness, opportunity, the rule of law, and the belief that every person deserves a chance to build a better life. Over the last 250 years, these foundational principles have transformed America into a beacon for generations of immigrants whose work, families, and ambition have helped our nation grow and prosper.

Immigrants power American industries, contribute to Social Security and Medicare for our seniors, found the businesses that employ our neighbors, and serve honorably in every branch of our armed forces. They are a critical part of the American project and have always been essential to its success.

For decades, leaders in both parties have failed to modernize our immigration laws, leaving us with a system increasingly unable to serve the country. Today, the Trump Administration is going significantly further, dismantling core American principles and jeopardizing our great American inheritance. Immigrant families are being ripped apart in courthouses, workplaces, places of worship, and schools. Businesses cannot find and retain the workers they need. And communities across the country are living under a cloud of fear, surveillance, and lawless immigration enforcement. The excesses of the Administration's actions threaten the freedoms, rights, and, tragically, even lives of U.S. citizens and immigrants alike.

As the nation's immigration bar, representing more than 18,000 immigration attorneys, AILA sees these failures firsthand. That perspective has informed a new policy framework, *A Better Way on Immigration: Principles for America's Future*, which offers a practical vision for rebuilding an immigration system that strengthens security, supports economic growth, and restores trust in the rule of law.

Guided by these values, AILA proposes five principles for immigration reform:

- **Restore public trust through independent oversight and meaningful due process guarantees** by rebuilding the constitutional safeguards, judicial independence, and access to counsel that distinguish the American justice system.
- **Restore the rule of law, ensure an orderly border, and foster compliance through proportional enforcement**, matching consequences to conduct as our legal traditions require and targeting resources at genuine threats to public safety.
- **Strengthen American communities with solutions for longtime residents**, creating earned pathways for Dreamers, farm workers, families of U.S. citizens, and others who have already built their lives here.
- **Calibrate the immigration system to the dynamic needs of a modern economy, workforce, and families**, ensuring our laws reflect the country we are today and the prosperity we aim to build.
- **Establish a streamlined, well-resourced asylum system to ensure protection and order at the border**, honoring America's enduring humanitarian commitment while restoring orderly, lawful processes.

Together, these principles offer a way to meet the challenges of this moment without abandoning the beliefs that make us who we are. A system built on these foundations will be faster, fairer, and more secure, and it will once again reflect the country Americans believe in.

Principles for America's Future

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Immigration has long been one of America's greatest strengths—fueling economic growth, strengthening families, and expanding opportunity. Yet a deeply outdated and misaligned system is preventing the United States from realizing these benefits to their fullest.

For decades, leaders in both parties have failed to modernize immigration laws, policies, and institutions. The system has been alternately neglected and overfunded, but rarely reformed. As a result, it falls short of our ideals as both a nation of laws and a nation of immigrants. The consequences are widespread: families face unnecessary separation, businesses struggle to find and retain talent, and communities lose faith in a system that too often appears arbitrary and ineffective. Recent policy choices have compounded these challenges. Despite historic levels of funding for enforcement, the system remains costly, chaotic, and misaligned with the country's economic and humanitarian interests.

The American Immigration Lawyers Association (AILA), representing more than 18,000 immigration attorneys nationwide, proposes five principles to create a more effective path forward. These principles envision an immigration system that is accountable and fair, enforces the law with humanity and consistency, meets the needs of American workers and businesses, creates earned pathways to legal status, restores America's commitment to humanitarian protection, and strengthens national security. They also recognize that durable reform must address not only policy outcomes, but the system's underlying structure—ensuring judicial independence, access to legal representation, and meaningful government accountability.

1. **Restore Public Trust Through Independent Oversight and Meaningful Due Process Guarantees.** The American legal system is premised upon the long-standing expectation of fairness, impartiality, and respect for the rule of law. Enforcement agencies must adhere to these principles and execute their mission in a manner consistent with the Constitution and U.S. law. These principles are now under direct attack through aggressive and unlawful immigration enforcement practices, disregard for the law and judicial orders, and the dismantling of congressionally created government institutions. ***Strong accountability measures and independent oversight are essential to preserving the integrity of the entire legal system.***

    - **Establish a robust oversight body to ensure accountability and compliance with the rule of law.** The current Administration has eliminated oversight entities that Congress created to check wrongful enforcement actions, stop abuses in the detention system, and ensure that USCIS lives up to its mission as a benefits adjudication-focused agency.

      With this experience in mind, a new independent oversight body, with authority to enforce compliance with the law, is necessary to hold immigration agencies accountable and prevent political overreach. Congress should administer this oversight body, which must have: the independence and authority to subpoena records and conduct inspections and investigations; mechanisms to provide input on policy to ensure adequate protections of civil rights; auditing

authority over past agency actions; transparency in its operations and public reporting; the power to enforce corrective actions and ensure compliance with its recommendations; and resources for expert staffing and consultants from relevant fields such as civil rights, national security, and law enforcement.

- **Codify humane enforcement standards**. Enforcement resources should be effectively expended by focusing on actual public safety and security threats. At the same time, laws should prohibit immigration enforcement actions at sensitive locations; mandate the appropriate warrants for arrests and entries; codify rigorous and humane detention standards; place strict parameters around the use of force; and require immigration officers and agents to undergo extensive and ongoing law enforcement training, identify themselves in enforcement actions, and use body-worn cameras. Violations of standards should be checked by enforceable consequences similar to those in the criminal justice system, such as exclusion of evidence and dismissal of the case.

- **Establish a new immigration court system, grounded in judicial independence and free from political influence**. Despite the severe consequences that can result from adverse immigration rulings, for decades the immigration courts have operated without the independence exercised by most other American courts. Instead, the immigration courts are controlled by the Attorney General, making them vulnerable to political influence. This structural flaw has undermined the courts' integrity and ability to deliver fair and final decisions. Congress can address this structural flaw by establishing an Article I immigration court system that is well-resourced, independent from the executive branch, and insulated from political influence.

- **Ensure access to counsel in immigration proceedings.** The presence of legal counsel is the single most decisive factor in helping noncitizens navigate the complex immigration system, meet their obligations, and have a fair shot in the process. Yet the federal government does not guarantee access to counsel at every stage of the process or fund counsel for those who are indigent and highly vulnerable. As a result, immigrants often face consular appointments, USCIS interviews, port-of-entry inspections, removal proceedings, and detention without representation, despite the potentially severe consequences, such as deportation or loss of immigration status. Alarmingly, 62 percent of people in removal proceedings are unrepresented. The fairness and efficiency of the system would be vastly improved by congressional authorization and funding for, at a minimum, legal representation for indigent people and vulnerable populations, such as unaccompanied children and people who are mentally incompetent. The presence of counsel also improves efficiency, as attorneys have a duty to ensure that submissions to the court or agency are timely and accurate and to appropriately counsel their clients on their eligibility.

- **Process immigration applications in a manner that is consistent, reliable, and fair.** To improve compliance with the legal process and ensure effective vetting, the system must be efficient, easy to navigate, and reliable. This can be achieved through the implementation of clear application guidelines and procedures that leverage technology responsibly, increase consistency in adjudications, and result in faster issuance of accurate and final decisions.

2. **Restore the Rule of Law, Ensure an Orderly Border, and Foster Compliance Through Proportional Enforcement.** Vital to rebuilding American confidence in the immigration system is ensuring respect for the rule of law by those charged with enforcing it, as well as those who are found to be ineligible to remain. Reforms of immigration law should be anchored in a proportional approach to immigration enforcement that drives toward compliance with the law. Just like the punishment for shoplifting should not be the death penalty, the penalty for minor immigration violations should not be automatic deportation or a permanent bar to returning to the United States. An equitable immigration system should provide a range of options for appropriate relief or enforcement consequences for those who do not qualify for relief and have a final order of removal. ***Properly implemented, a proportional enforcement system could greatly increase compliance with***

immigration laws and establish a far more orderly system not seen in decades.

- **Expand enforcement options beyond deportation and detention.** While deportation is a necessary consequence for some, a less punitive approach may be appropriate for others, such as those with strong community ties and/or a track record of positive contributions to this country. The government should thoroughly evaluate each individual for relief. For example, certain individuals could receive temporary status and work authorization to support themselves while their applications are pending, after clearing background checks and paying fines. When their temporary status expires, some may be required to depart, while others could be eligible for permanent legal status through the available legal pathways or earned compliance with program requirements. Those who are required to depart could receive case supervision, repatriation services, and financial support to ease their transition back to their home country. If detention is considered, it should be justified based on a threat to public safety or flight risk. Alternatives to detention, such as ankle or wrist monitors, remote check-in devices, or enrollment in case supervision programs, are more cost-effective and humane and should be utilized as appropriate.

- **Eliminate punitive bars that impede compliance with the law.** Inflexible, punitive laws, such as the bars to admissibility for prior "unlawful presence," have proven counterproductive; instead of deterring unlawful immigration, they have trapped millions—including an estimated 1.2 million individuals with U.S. citizen spouses—in a cycle of illegality with no path for obtaining legal status. Eliminating rigid laws like the unlawful presence bars would restore fairness to the system and enhance compliance by incentivizing people to depart the U.S. without facing a long-term bar to future return.

- **Ensure border control by using enforcement resources to target cartels, narcotics, and weapons.** Congress should redirect a significant portion of the unprecedented $170 billion appropriated in 2025 for immigration enforcement to focus on identifying and targeting threats to public safety and border security, such as cartels trafficking in narcotics and the cross-border transfer of weapons—crimes that are often incorrectly attributed to migrants. Funding should be allocated to detect and prevent unlawful border crossings; maximize operational efficiencies, safety, and compliance with the law at and between ports of entry by maintaining the appropriate levels of border personnel; and modernize technology and infrastructure to facilitate legitimate trade and travel.

3. **Strengthen American Communities with Common Sense Solutions for Long-Time Residents.** The current Administration has stripped legal immigration status from millions, enlarging the undocumented population. This has forced them to remain in the shadows or risk indefinite separation from their loved ones. People who are undocumented—including millions of Dreamers, farm workers, and those with U.S. citizen spouses and children—have been contributing to this country for decades without any foreseeable relief. ***A pathway to legal status would unlock the full potential of these contributions, strengthen families, deepen community ties, expand the tax base, and allow millions to participate fully and openly in American life.***

   - **Provide an earned pathway to permanent status for long-time contributors and those with close family ties**. Legislation should provide an opportunity for certain people who are undocumented to apply for permanent status and eventually citizenship after clearing rigorous background checks and meeting other eligibility standards, such as paying a fine. The application process for permanent status should be accessible and include Dreamers, farm workers, those who have close U.S. citizen family members, and others who have lived in and contributed to the U.S. for a long time.

   - **Provide temporary status for others with strong interests.** An alternative temporary status with work authorization should be available to certain individuals who are ineligible for the earned pathway to permanent status (i.e., for failure to meet the minimum continuous

residence) who pass a background check and meet other conditions. When their temporary status expires, some may be required to depart (see principle 2, above) while others could be eligible for permanent status through existing pathways or earned compliance with the permanent status requirements.

- **Provide administrative and judicial discretion**. Legislation should provide adjudicators and immigration judges with authority to grant relief to those who may not qualify for a traditional visa pathway or other immigration benefit, but where compelling facts and circumstances demand compassion and a favorable exercise of discretion.

4. **Calibrate the Immigration System to the Dynamic Needs of a Modern Economy, Workforce, and Families.** Immigrants and their children have founded nearly half of all Fortune 500 companies, collectively employing over 15 million Americans, generating $8.6 trillion in revenue, and demonstrating that immigration grows our workforce. Still, our nation could be stronger and more prosperous but for the profoundly outdated and woefully low visa numbers. ***An immigration system that dynamically calibrates to all workforce needs and affords states authority to identify the range of needed workers would drive job creation, strengthen American competitiveness, and ensure that critical industries can meet consumer demand.***

   - **Allocate employment-based visas responsively to market needs.** Immigration policy should be a strategic tool that adapts to economic realities, with visa caps for both permanent and temporary employment-based programs adjusted up or down according to workforce demand. The current fixed cap of 140,000 employment-based green cards per year—and similarly outdated limits on temporary visas—fails to reflect the dynamic nature of our economy. Instead, a responsive system would flexibly allocate visas to priority workers whose skills match market needs, ensuring that foreign labor strengthens American industries when required and scales back when demand subsides. Retaining international students educated in the United States and creating pathways for entrepreneurs are also critical, serving as a robust pipeline for innovation and reinforcing our national security. These reforms should include strong worker and wage protections and expanded investment in education and training for Americans. Additionally, temporary workers should have accessible pathways to permanent residency through employer sponsorship if they choose.

   - **Allow states to address targeted labor challenges.** A modern immigration system should provide flexibility to states (plus the District of Columbia and U.S. territories) to sponsor qualified foreign workers based on their own criteria and economic needs. Less-populated states would benefit from having an opportunity to attract needed workers. Nonimmigrants on state-sponsored visas should be provided with the opportunity to transition to unrestricted permanent residence after some period of state-specific service.

   - **Strengthen families to help drive America's economy**. An immigration system that asks workers to fill critical labor shortages while keeping them separated from their families is neither realistic nor sustainable. Strong family ties are the foundation of stable, economically vibrant communities for immigrants and Americans alike. Thus, we must increase the number of family visas that are available each fiscal year, develop new pathways for obtaining visas for family members who may not wish to immigrate to the U.S. permanently, and ensure children do not "age out" of eligibility on their parents' immigration applications when they turn 21.

   - **Eliminate immigrant visa and case backlogs**. Due to pent-up demand, the current immigrant visa system is plagued by backlogs that keep families apart and workers in temporary status for too long. Current visa backlogs should be eliminated by grandfathering those who are in line at the time legal immigration reforms are enacted. The system should be designed to prevent future backlogs, including by exempting certain populations from visa caps, such as spouses and children of lawful permanent residents and employment-based immigrants and certain graduates (i.e., STEM) of U.S. educational institutions. Moreover, immigration agencies

must be held accountable to timely and efficiently process applications, with independent judicial review of discretionary decisions at both USCIS and DOS to ensure consistency and accuracy.

5. **Create a More Streamlined, Well-Resourced Asylum System to Ensure Protection and Order at the Border.** The existing asylum system was never designed to handle the volume of arrivals seen in recent years—a structural failure that the current Administration has used to justify closing the border entirely. This approach is endangering the lives of extremely vulnerable people without improving public safety. ***A properly resourced asylum system can resolve cases faster while providing a fair process, that ensures those who qualify for protection are swiftly approved and integrated into the United States and those who do not toward speedy return. These reforms will incentivize migrants to choose lawful, orderly pathways as a better alternative to unlawful crossing.***

   - **Maintain America's commitment to protect people who are at high risk.** The current full closure of the border to asylum seekers is an unnecessary and unjustifiable departure from America's humanitarian values that is endangering lives without improving public safety. The system should ensure that protection remains available in limited circumstances for individuals arriving at the border who are fleeing persecution, while at the same time incentivizing migrants to utilize lawful pathways and established, accessible channels for seeking protection.

   - **Provide individuals seeking humanitarian protection with safe, orderly processes as an alternative to embarking on dangerous travel to the border.** Controlling the border is a national imperative, but so too is ensuring that those in need of protection are offered safe haven in the United States. A modernized immigration system will ensure that protection remains available for individuals arriving at the border who are eligible under U.S. law, while discouraging unlawful crossings through expanded lawful pathways and by encouraging individuals to seek protection through orderly, established channels in the region and processing at ports of entry. Reforms should include the codification of and robust funding for an expanded refugee admissions program, and the establishment of centers in safe locations in the region that ensure thorough and fair review and processing of those seeking protection in the United States or partner countries.

   - **Expedite and streamline asylum processing without sacrificing fairness or accuracy.** Asylum processing can be made more efficient and fairer by simplifying the process and eliminating obstacles that stack the deck against the applicant.

     - Asylum officers could be authorized to adjudicate all asylum applications in a non-adversarial setting outside the immigration court system.

     - Removing asylum cases that originate at the border from immigration court review will eliminate nearly half of all new filed cases from the court docket.

     - Cases could be triaged into time-bound processing tracks based on complexity, grounded in current conditions and geopolitical factors in countries of origin.

     - Additional steps to streamline processing could include simplifying the asylum application form and codifying clear definitions of complex terms (such as "particular social group").

These pillars of reform proposed by the American Immigration Lawyers Association are intended to create a modernized immigration system that is fast, fair, and secure—with the ultimate goal of building America's prosperity, strengthening its communities, and living up to its promise as a nation of immigrants and a nation of laws.

For more information, see AILA's policy briefs: A Better Way on Immigration.