



# APABAPA

Asian Pacific American Bar Association of Pennsylvania

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## **RESOLUTION REJECTING XENOPHOBIC IMMIGRATION POLICIES**

### **AND ENCOURAGING THE PASSAGE OF COMPREHENSIVE IMMIGRATION REFORM**

**WHEREAS**, the United States of America’s history of white supremacist immigration policies was most openly founded in the enactment of the Naturalization Act of 1790, which directed that only “free white persons” would be eligible to naturalize to U.S. citizenship;

**WHEREAS**, the United States continued to pursue its race-based and country-based immigration policies through the passage of the Chinese Exclusion Act in 1882, the Asiatic Barred Zones of 1917, and the quota system codified by the Immigration Act of 1924, which was used to limit immigration from outside of the Western Hemisphere;

**WHEREAS**, openly white supremacist race-based and country-based immigration laws did not end until 1965, when immigrant visa categories shifted to hemispheric quotas and a system of preferences based on family re-unification and employment relationships;

**WHEREAS**, the backlog in legal immigration cases, without comprehensive reform, creates extraordinary waiting times of up to 24 years for immigrant visas<sup>1</sup> and contributes to maintaining the approximately 12 million undocumented persons living in the United States<sup>2</sup> by preventing the legalization of immigration status of otherwise eligible persons;

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<sup>1</sup> U.S. Department of State Visa Bulletin, August 2020, available online at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2020/visa-bulletin-for-august-2020.html>.

<sup>2</sup> Brookings Institution, “How many undocumented immigrants are in the United States and who are they?” by Elaine Kamarck and Christine Stenglein, published November 12, 2019, available online at: <https://www.brookings.edu/policy2020/votervital/how-many-undocumented-immigrants-are-in-the-united-states-and-who-are-they/>.

**WHEREAS**, the United States continues the civil immigration enforcement and criminal prosecution of individuals entering or reentering the United States of America,<sup>3</sup> regardless of the equities of the persons so prosecuted, or their role in their families and communities;

**WHEREAS**, the current administration has promulgated racist and xenophobic immigration policies, statements, actions, or proposed actions since it came to power in 2017;

**WHEREAS**, the current administration issued an executive order banning the travel of Muslims to the United States of America from seven Muslim-majority countries shortly after President Trump's inauguration in January 2017, an act that preceded a 79% surge in anti-Muslim harassment;<sup>4</sup>

**WHEREAS**, in October 2018 the Department of Homeland Security took action to amend the "public charge" rule, making it more difficult for immigrants using certain public benefits—to which they are legally entitled—to become U.S. permanent residents in the future, creating a chilling effect in the use of these benefits that created unnecessary hardship for families;<sup>5</sup>

**WHEREAS**, although the fate of this public charge rule amendment is still being litigated, approximately 300,000 recently admitted U.S. permanent residents from Asian countries would have been barred from becoming residents due to this new rule;<sup>6</sup>

**WHEREAS**, on September 24, 2020, the House Committee on Oversight and Reform and Subcommittee on Oversight and Reform and Subcommittee on Civil Rights and Civil Liberties released a new staff report<sup>7</sup> that contains findings from investigations conducted in immigration detention centers, and this report confirms that current policies, and these facilities, have failed to provide adequate medical care for detainees, which has resulted in the mistreatment and needless death of detained immigrants;

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<sup>3</sup> National Immigrant Justice Center, *A Legacy of Injustice: the U.S. Criminalization of Migration*, available online via <https://immigrantjustice.org/research-items/report-legacy-injustice-us-criminalization-migration>.

<sup>4</sup> The Progressive, *Trump's Xenophobia will Exacerbate Crisis*, available online at <https://progressive.org/op-eds/trump-xenophobia-exacerbate-crisis-fersan-golden-200417/>.

<sup>5</sup> U.S. Citizenship and Immigration Services, *Public Charge Fact Sheet*, available online at <https://www.uscis.gov/archive/public-charge-fact-sheet#:~:text=DHS%20implemented%20the%20inadmissibility%20on,go%20into%20effect%20on%20Oct.>

<sup>6</sup> NBC News, *Trump's Hard-Line Immigration Rule Could Disproportionately Hurt Asian Immigrants*, available online at <https://www.nbcnews.com/news/asian-america/trump-s-hard-line-immigration-rule-could-disproportionately-hurt-asian-n1068406>.

<sup>7</sup> <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-09-24.%20Staff%20Report%20on%20ICE%20Contractors.pdf>

**WHEREAS**, the current administration has promoted many of its worst racist and xenophobic policies during the unprecedented COVID-19 pandemic, including:

- Halting immigration until the pandemic subsides;<sup>8</sup>
- Denying asylum seekers their legal rights at the U.S.-Mexico border;<sup>9</sup>
- Suspending the refugee program;<sup>10</sup>
- Excluding undocumented immigrants from COVID-19 relief;<sup>11</sup>
- Forcing thousands of immigrants and their legal advocates to attend crowded immigration courtrooms in person and to file in-person motions;<sup>12</sup>
- Continuing deportations without regard to the public health effects of such deportations;<sup>13</sup>
- Failing to provide necessary and vital medical care for people held in immigration detention centers, which has led to multiple deaths in detention, and allowing medical procedures and surgeries without the fully informed consent of immigrant detainees;<sup>14</sup>

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<sup>8</sup> The New York Times, *Trump Administration Moves to Solidify Restrict Immigration Policies*, available online at <https://www.nytimes.com/2020/06/12/us/politics/coronavirus-trump-immigration-policies.html>; see also Al Jazeera, *'Xenophobic Scapegoating': Trump Plan to Ban Immigration Slammed*, available online at <https://www.aljazeera.com/news/2020/04/scapegoating-trump-plan-ban-immigration-slammed-200421165115044.html>.

<sup>9</sup> Al Jazeera, *'Xenophobic Scapegoating': Trump Plan to Ban Immigration Slammed*, available online at <https://www.aljazeera.com/news/2020/04/scapegoating-trump-plan-ban-immigration-slammed-200421165115044.html>.

<sup>10</sup> *Id.*

<sup>11</sup> Oxfam, *5 Ways President Trump's Xenophobic Agenda has Accelerated during the COVID-19 pandemic*, available online at <https://politicsofpoverty.oxfamamerica.org/5-ways-president-trumps-xenophobic-agenda-has-accelerated-during-covid-19-pandemic/>.

<sup>12</sup> The Progressive, *Trump's Xenophobia will Exacerbate Crisis*, available online at <https://progressive.org/op-eds/trump-xenophobia-exacerbate-crisis-fersan-golden-200417/>.

<sup>13</sup> Oxfam, *5 Ways President Trump's Xenophobic Agenda has Accelerated during the COVID-19 pandemic*.

<sup>14</sup> The Washington Post, *Immigrant detainees get poor medical care, face retaliation for speaking out, according to Democrat-led report*, available online at [https://www.washingtonpost.com/immigration/ice-detainees-health-care-report/2020/09/21/270a64f4-fc1e-11ea-830c-a160b331ca62\\_story.html](https://www.washingtonpost.com/immigration/ice-detainees-health-care-report/2020/09/21/270a64f4-fc1e-11ea-830c-a160b331ca62_story.html)

- Raising the standard of proof required for persons hoping to obtain asylum;<sup>15</sup>
- Attempting to alter the Student and Exchange Visitor Program to permit the exclusion and deportation of international students holding F-1 and M-1 visas, which would have disproportionately affected students from Asian countries;<sup>16</sup>
- Suspending the issuance of temporary worker and exchange visitor visas, including H-1B visas for skilled workers,<sup>17</sup> L-1 visas for intracompany transfers of executives and specialized knowledge workers,<sup>18</sup> and J-1 visas for cultural exchange visitors;<sup>19</sup> and
- Excluding undocumented immigrants from being counted in congressional districts in the U.S. Census;<sup>20</sup>

**WHEREAS**, the APABA-PA is dedicated to the promotion of justice, equality, and legal access, especially for the Asian Pacific American communities, which includes undocumented and documented Asian and Pacific Islander residents in the United States;

**WHEREAS**, the current administration's constant attempts to restrict legal immigration and limit the rights of undocumented immigrants infringes on the constitutional rights of Asian immigrants;

**WHEREAS**, the current administration's white supremacist, racist, and xenophobic immigration policies, statements, actions, or proposed actions have incited and normalized discrimination and harassment against the Asian and Pacific Islander community;

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<sup>15</sup> The New York Times, *Trump Administration Moves to Solidify Restrictive Immigration Policies*, available online at <https://www.nytimes.com/2020/06/12/us/politics/coronavirus-trump-immigration-policies.html>

<sup>16</sup> The New York Times, *U.S. Rescinds Plan to Strip Visas from International Students in Online Classes*, available online at <https://www.nytimes.com/2020/07/14/us/coronavirus-international-foreign-student-visas.html>.

<sup>17</sup> *Id.*

<sup>18</sup> The Cato Institute, *The Facts About the L-1 Visa Program*, available online at: <https://www.cato.org/blog/facts-about-l-1-visa-program>.

<sup>19</sup> See Executive Order, "Proclamation Suspending Entry of Aliens Who Present a Risk to the U.S. Labor Market Following the Coronavirus Outbreak", available at <https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-aliens-present-risk-u-s-labor-market-following-coronavirus-outbreak/>

<sup>20</sup> CNN Politics, *Trump Signs Order Targeting Undocumented Immigrants in the US Census*, available online at <https://www.cnn.com/2020/07/21/politics/white-house-census-undocumented-immigrants/index.html>

**WHEREAS**, in 2007, the APABA-PA adopted a resolution supporting Comprehensive Immigration Reform, including a pathway to citizenship for over a million Asian and Pacific Islander undocumented persons;

**THEREFORE, BE IT RESOLVED** that APABA-PA:

1. Opposes all immigration policies, statements, actions, or proposed actions promulgated to reinforce white supremacy, racism, and xenophobia, including, for example, policies similar to those outlined above;
2. Urges all political and civic leaders to speak out against immigration policies rooted in racism and xenophobia;
3. Adopts this position as a policy priority until further directed by resolution;
4. Authorizes its president to communicate the content of this resolution to its members, associate organizations, other bar associations, legislators and leaders in government, the Trump administration and future office holders in the White House, and the press; and
5. In the event that any such policies, statements, actions, or proposed actions require an immediate response that cannot be delayed until the next scheduled meeting of the Board of Directors, APABA-PA empowers its president to take any additional steps necessary, with approval from any two of the following, in order of preference, (a) policy committee chair(s) and (b) officers, to implement this resolution.

Adopted this 14<sup>th</sup> day of October, 2020



Djung Tran, President