



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration

REPORT

MARCH 2015

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Executive Amnesty on Trial: Federal Judge Orders a Hold

On February 16, just hours before an expansion of DACA, the Deferred Action for Childhood Arrivals, amnesty was set to begin accepting applications, a federal judge in Brownsville, Texas, issued a temporary injunction blocking both its implementation and an even larger amnesty program, known as Deferred Action for Parents of Americans (DAPA), slated to begin later this spring. Judge Andrew S. Hanen of the District Court for the Southern District of Texas issued the injunction after ruling that the plaintiffs—Texas

and 25 other states—had sufficiently demonstrated that the implementation of the president's memos granting deferred action and parole status to millions of illegal aliens would injure them.

Judge Hanen issued the temporary injunction based on the Obama administration's failure to comply with the Administrative Procedures Act (APA), which requires an opportunity for public review and comment before major policy changes are implemented. However, in his 123-page ruling, Judge Hanen also made it clear that, in his

CONTINUED ON PAGE 2

Amnesty and a Big Fat Check: Illegal Aliens Could Collect Retroactive Tax Rebates Says IRS Commissioner

Under President Obama's executive amnesty programs, millions of illegal aliens would receive protection from removal from the United States and authorization to work in this country. They would also be in line to receive an additional bonus, according

to John Kokinen, Commissioner of the Internal Revenue Service: retroactive Earned Income Tax Credits (EITC) for the past three years. According to Eileen O'Connor, former head of the Department of Justice's tax division, these retroactive EITC payments could result

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AMNESTY INJUNCTION *continued*
 opinion, the amnesty programs President Obama is seeking to implement are unconstitutional and would cause irreparable harm.

“The court finds that the government’s failure to secure the border has exacerbated illegal immigration...this lack of enforcement combined with this country’s high rate of illegal immigration, significantly drains the states’ resources.”

— JUDGE ANDREW S. HANEN
 DISTRICT COURT, SOUTHERN TEXAS

He also took issue with the administration’s claim of discretionary authority to grant deferred action and work authorization to millions of illegal aliens. “DHS was not given any ‘discretion by law’ to give 4.3 million removable aliens what the DHS itself labels as ‘legal presence’...DHS has adopted a new rule that

substantially changes both the status and employability of millions. These changes go beyond mere enforcement or even non-enforcement of this nation’s immigration scheme,” Hanen stated. “The DHS Secretary is not just rewriting the laws; he is creating them from scratch,” the judge continued.

Discussing DAPA, Hanen noted that the policy the president is seeking to implement is substantively different from the “inadequate enforcement” policies of previous administrations. DAPA is “an announced program of non-enforcement...that contradicts Congress’s statutory goals...DAPA does not represent mere inadequacy; it is complete abdication,” he said.

In addition to Judge Hanen’s important legal opinion that the Obama administration had flagrantly overstepped its constitutional authority, he also recognized the standing of the states to challenge the president’s actions. Standing is an important legal hurdle, which requires the plaintiffs to demonstrate that they would suffer injury as a result of the president’s executive amnesty programs; that the president’s actions would be the cause of those injuries; and that those injuries could be redressed through the courts.

The judge also concluded that “the States have clearly proven a likelihood of success on the merit” of their challenge that the administration had failed to comply with the notice and comment requirements of the APA. “The DHS has adopted a rule that substantially changes both the status and employability of millions... Such changes, if legal, at least require compliance with the APA,” wrote Hanen.

Complying with the notice and comments requirements of the APA is

not considered a viable option for the administration. The lengthy procedure could delay implementation until the final months of Obama’s presidency.

In a statement issued by DHS, Secretary Jeh Johnson expressed strong disagreement with Judge Hanen’s ruling, but stated that the department would abide by his decision to temporarily enjoin DAPA and the expansion of DACA. One week after Hanen’s ruling, lawyers for the Department of Justice filed a motion asking him to set aside his injunction and allow the administration to move forward with its amnesty plans. (As of completion of the current edition of the FAIR newsletter, Judge Hanen had not ruled on that motion.)

The administration also indicated that it will appeal Judge Hanen’s ruling before the Fifth Circuit Court of Appeals in New Orleans. The timeline for a review by the Fifth Circuit is not clear, but the administration has indicated that it will seek an expedited ruling. Legal experts also predict that regardless of the outcome of the ruling by the Fifth Circuit, the case will ultimately be decided by the United States Supreme Court.

Judge Hanen’s temporary injunction, and his strong legal opinion, represent an important victory for the cause of true immigration reform. The ruling provides FAIR and other immigration reform groups more time to press Congress to defund any executive actions to grant amnesty and work authorization to illegal aliens. Congress must also act to limit the president’s ability to negate immigration laws through what Judge Hanen describes as “complete abdication” of his responsibility to enforce them.

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Victims of Illegal Immigration Tell Their Stories Before a House Panel

In late February, the House Oversight and Government Reform Committee held hearings to listen to some perspectives that have been conspicuously absent from discussions about immigration reform in recent years: those of the American people.

Among those testifying before the committee was Jamiel Shaw Sr., whose son Jamiel Jr. was gunned down in cold blood in front of his Los Angeles home by an illegal alien gang member in 2008. Shaw spoke on behalf of thousands of Americans who have fallen victim to criminal illegal aliens who are often protected from removal by federal and local policies.



Shaw also pointed out that granting amnesty to millions of illegal aliens—legislatively, or by executive action—would endanger even more Americans. Jamiel Jr.’s murderer, an illegal alien from Mexico who had come to this country as a minor, might likely have qualified for amnesty under the DREAM Act, or under President Obama’s DACA amnesty, said his father.

“[T]he duty of the U.S. government is to always put American families first,” Shaw testified. The government failed in that duty and continues to fail in its obligations to the American people, Shaw and the other panelists told the committee.

TAX REBATES TO AMNESTY RECIPIENTS *continued*

in an amnestied illegal alien collecting as much as \$24,000 from the Treasury.

Testifying before the Senate Finance Committee on February 3, Kokinen confirmed that illegal aliens who had filed tax returns using Individual Taxpayer Identification Numbers (ITINs) would be eligible to amend their returns for the previous three years once they receive valid Social Security numbers (SSNs). Under federal statute, ITIN filers cannot claim EITCs. When asked by Sen. Chuck Grassley (R-Iowa) if the IRS had plans to revise its rules to prevent executive amnesty beneficiaries from claiming retroactive EITC payments, Kokinen responded, “At this point, I’m not aware that we’re going to do that...”

Additional hearings on the potential costs of the president’s executive amnesty programs were also held by the Senate Homeland Security and Governmental Affairs Committee in early February. The objective of the hearing, according to Chairman Ron Johnson (R-Wis.), was to ascertain “a more complete understanding of the logistical, financial, and national security implications of [the executive amnesty] policies.”

At the hearing, it became apparent that the long-term costs to American taxpayers that would result from granting amnesty to an estimated 4.7 million illegal aliens received little, if any, consideration as the administration planned its politically-driven changes to immigration policy. “A Social Security number is the key that opens a whole treasure chest of benefits, including significant tax credits,” Johnson noted.

O’Connor, the former director of the Justice Department’s tax division, expressed incredulity at the administration’s lack of attention to the costs of its policies and lack of interest in closing obvious loopholes that could cost taxpayers billions of dollars. “The logic is puzzling: The credit is not available if you don’t have a Social Security number, but you can receive it retroactively for years during which you did not qualify for it because you didn’t have a Social Security number,” she told the committee.

Across the Country

• *Arizona* •

After a federal judge ordered Arizona to begin issuing driver's licenses to illegal aliens granted amnesty under President Obama's 2012 Deferred Action for Childhood Arrivals program in December, the Attorney General Mark Brnovich announced in February that the state intends to appeal that ruling. Ironically, opposing Arizona's appeal would put the Obama administration in direct odds with its own arguments as it defends its latest amnesty programs in a suit brought by 26 states. The issuance of driver's licenses to illegal aliens benefiting from an executive amnesty was one of the cost burdens cited by the states. In that case the Obama administration attempted to argue that states would not be compelled to issue licenses, even as they were trying to force states to issue licenses to DACA beneficiaries.

• *New Mexico* •

New Mexico is one of two states that currently issue driver's licenses to illegal aliens that are identical to those issued to legal U.S. residents. (Washington is the other.) In February, the State House of Representatives took the first step to repealing that policy. By a 39-29 vote, the House approved H.B. 32, which would limit the issuance of driver's licenses to citizens and legal residents. Illegal aliens with New Mexico licenses would no longer be permitted to renew them. According to a poll by the *Albuquerque Journal*, **75 percent of New Mexicans support ending licenses for illegal aliens.** Recent investigations have determined that as many as 75 percent of the license applications by foreign nationals were fraudulent. H.B. 32, which has the support of Gov. Susana Martinez, now goes before the State Senate.

• *Texas* •

In 2001, Texas became the first state to grant in-state tuition benefits to illegal aliens. Former Gov. Rick Perry signed legislation that allows students to pay in-state college tuition after graduating from high school if they have lived in Texas for three years and have signed an affidavit promising to seek legal residency. In 2015, Gov. Greg Abbott has gotten behind a bill that would make Texas the first state to repeal this hugely expensive benefit for illegal aliens. House Bill 209, introduced by State Rep. Jonathan Strickland, would end the policy. According to the Texas Higher Education Coordinating Board, more than 20,000 illegal aliens attended public colleges and universities at in-state tuition rates in 2013, up from 733 when the law went into effect in 2002. While HB 209 has the support of the governor and Lt. Gov. Dan Patrick, it is opposed by the Republican Speaker of the House, Joe Straus of San Antonio. In announcing his opposition to repealing in-state tuition benefits to illegal aliens, Speaker Straus stated, "Texas is a place of opportunity and I personally don't want to be a party to anything that sets us back."

House Judiciary Committee Looks at the Core of U.S. Immigration Crisis: Collapse of Enforcement

No discussion of immigration reform in Washington gets very far without some politician boldly declaring, “The first thing we must do is secure the border,” as if that were a novel idea and panacea for illegal immigration. A hearing before the House Judiciary Committee in early February attempted to cut through the usual blather and address the core reasons behind our nation’s immigration crisis: the systematic dismantlement of immigration enforcement over the past six years.

According to witnesses testifying before the committee, virtually no immigration enforcement is being carried out, while the administration is allowing millions of inadmissible aliens to enter and/or remain in the United States—often with authorization to work here. Rather than turning back illegal aliens at

the border, foreign nationals making dubious claims for asylum or for protection under the president’s various administrative amnesty programs, are routinely admitted. Moreover, despite a much hyped focus on deporting criminal aliens, the administration continues to release criminal aliens in large numbers.

Thus, while additional border security is needed, it would have little impact under this administration. For the most part, people do not need to sneak into the country. Instead, all they need to do is show up at the border or an airport where they are processed and then released.

Sheriff Paul Babeu of Pinal County, Arizona, testified that on average some 30 to 50 illegal aliens a day are released into his county by Immigration and Customs Enforcement (ICE). His deputies routinely encounter

CONTINUED ON PAGE 6


New Research from FAIR

Mass Illegal Immigration in the D.C. Area Comes with a \$2.4 Billion Price Tag for Schools

The purpose of U.S. immigration laws is to protect the vital social, economic and security interests of the American people. A new report by FAIR finds that among the many interests that are being sacrificed by mass illegal immigration are those of the nation’s school kids—particularly the most disadvantaged among them.

The report, *Cost in Translation: English Language Education in the Washington, D.C. Metropolitan Area*, provides a microcosm of what’s happening in school systems across the country, as local communities struggle to cope with the burdens of mass illegal immigration.

The fiscal impact to the D.C. Metro area for providing special English language instruction and other educational and nutrition programs to illegal aliens and their children is \$2.4 billion annually. Of course, the loss in educational opportunities for other students in those schools cannot be measured monetarily. And with more than 55,000 unaccompanied alien children now residing all over the U.S., this same impact is likely being felt by schools nationwide.



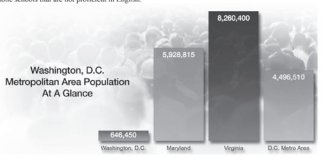
FAIR
ORIGINAL RESEARCH FROM
THE FEDERATION FOR AMERICAN IMMIGRATION REFORM

FACTSHEET

Cost in Translation
English Language Education in the Washington, D.C. Metropolitan Area
By Eric A. Plunk, Director of Research | January 2015

INTRODUCTION
The high cost of educating K-12 public school students who are not proficient in English is well documented. So too, is the fact that most Limited English Proficient (LEP) students are children of illegal alien parents. The recent “surge” of Unaccompanied Alien Children (UAC) and families with young children who poured across our borders in the spring and summer of 2014 exacerbated an already formidable and costly task for public school educators and administrators in many localities across the United States.

According to data from the Department of Health and Human Services, more than 55,000 UACs were released to relatives and other sponsors throughout the United States between October 2013 and September 2014.¹ Over 5,000 UACs were settled in the Washington, D.C. metro area, where there is a sizeable illegal alien population of approximately 438,000 with an additional approximately 100,000 U.S.-born children of illegal aliens. The illegal alien population in the D.C. metro area has grown steadily along with the overall foreign-born population. So, too, has the number of students in area public schools that are not proficient in English.



Washington, D.C.
Metropolitan Area Population
At A Glance

Location	Population
Washington, D.C.	646,450
Maryland	5,801,815
Virginia	6,260,400
D.C. Metro Area	4,496,510

Read the new report
Cost in Translation: English Language Education in the Washington, D.C. Metropolitan Area
at FAIRus.org.

Did you know?

Between 1970 and 2014,
the foreign-born population in Texas
increased by more than

4.2 million

(over 1,300%!) •

SOURCE: U.S. BUREAU OF THE CENSUS

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**EARTH DAY
TEXAS 2015**

Earth Day Texas is an annual, outdoor festival seeking to elevate environmental awareness and influence the way Texans think, live and work.

Join us April 24 – 26 as we celebrate Earth Day in Dallas, Texas. Visit FAIR's booth and find out why immigration matters to Texas and the environment.

For event information, visit EarthDayTx.org.

COLLAPSE OF ENFORCEMENT *continued*

criminal aliens who have been deported multiple times, but have no trouble returning to the U.S. and endangering local residents. He also charged that while the Obama administration is justifying its latest amnesty programs, in part, on a lack of detention beds, some 10,000 beds go unfilled each day.

Jessica Vaughn of the Center for Immigration Studies and Temple University Law Professor Jan Ting both testified that the administration is granting work authorization, en masse, to illegal aliens it allows to remain in the U.S. rather than deport. According to Vaughn, since 2009, some 3 million Employment

Authorization Documents have been issued to illegal aliens, or aliens admitted on visas that explicitly prohibit them from employment.

The testimony provided before the Judiciary Committee further demonstrates why another amnesty in exchange for enforcement promises would be doomed to failure. Aside from amnesty being unjustified in principle, there is little reason to believe that stronger enforcement language would have any effect so long as this and potentially future administrations flagrantly circumvent the law.

Administration Plans to Allow Illegal Aliens to Bring Relatives to the U.S.

On February 9, the Obama administration announced that it plans to use its own unlawful amnesty programs and the self-induced border crisis of last summer to open the door to still more Central American migrants, who otherwise have no valid claim for admission to the United States.

The Central American Minors (CAM) Refugee/Parole Program is intended to grant refugee or parole status to children and adults from Guatemala, Honduras, or El Salvador when a “qualifying parent” who is “lawfully present” in the U.S. files an application on behalf of their child currently living in one of those countries. Of the six categories of “lawfully present” qualifying parents, four are made up of illegal aliens whom the Obama administration has granted some form of administrative amnesty, while a fifth are people who are here under Temporary Protected Status.

According to the U.S. Citizenship and Immigration Services agency, the program is intended as a response to last year’s flood of Central American illegal aliens streaming across our southern border—a crisis that was created, in large mea-

“The president’s answer to the ongoing run on the border is to order government officials to transport many of those same individuals from Central America into the U.S. with lawful paperwork and guaranteed access to federal benefits.”

—SEN. JEFF SESSIONS (R.-ALA.)

sure, by the administration’s DACA amnesty and the wholesale release of illegal aliens into the United States. The objective of this program is to provide “a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States.” In other words, according to Sen. Jeff Sessions (R-Ala.), “the President’s answer to the ongoing run on the border is to order government officials to transport many of those same individuals from Central America into the U.S. with lawful paperwork and guaranteed access to federal benefits.”

Nearly all of the beneficiaries are economic migrants who do not meet the statutory criteria for refugee status. Nor is there any basis in law for the large-scale admission of migrants under the guise of “humanitarian parole,” which was established to allow the entry of an

alien on a temporary, case-by-case basis, and “for urgent humanitarian reasons or significant public benefit.” The admission of large numbers of Central Americans would be neither temporary, nor would it serve any urgent humanitarian concerns or provide any significant public benefit. Moreover, it is likely that the administration will seek to expand the program to include nationals of other countries over the next two years.

The program also provides greater urgency for Congress to cut off funding for the new Obama amnesty programs (temporarily enjoined by a federal court judge). The more people to whom the administration can grant “legal presence,” means the more “qualifying parents” there will be to petition for admission of relatives living outside the U.S.

■

TIMELY TAX TIP

If you are at least 70-1/2 years of age and have an Individual Retirement Account (IRA), you can take advantage of the Pension Protection Act to reduce your federal income tax AND help achieve sound immigration policies for America. Tell your IRA administrator you wish to donate directly to FAIR any portion (not exceeding \$100,000) of your mandatory 2015 IRA distribution. You’ll help achieve your philanthropic goals and you will NOT have to pay federal income tax on the amount of the mandatory distribution donated to FAIR.

☐ \$1,000 ☐ \$500 ☐ \$250 ☐ \$100 ☐ \$50
☐ \$25 ☐ Other \$ _____

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FAIR is recognized by the Better Business Bureau's Wise Giving Alliance and is one of a select few non profit organizations that meet their high standards of operation, spending, truthfulness, and disclosure in fundraising.



Charity Navigator has awarded FAIR four out of a possible four stars. In earning Charity Navigator's highest rating, FAIR has demonstrated exceptional financial health, outperforming most of our peers in our efforts to manage and grow our finances in the most fiscally responsible way possible.

The Legacy You Leave

One of the simplest but most effective ways to support a charitable organization is through planned giving. This new year, why not create a legacy through a gift of a bequest to FAIR.

A charitable bequest, a gift made through your will or living trust, can benefit both you and the causes most important to you. Your bequest not only supports our efforts to achieve true immigration reform, but also leaves a legacy for your children and grandchildren.

It typically costs you nothing to add a charitable bequest to your will, and you have the flexibility of modifying the provisions at any time if your circumstances change.

Additionally, if you have a taxable estate, you may benefit from estate tax savings. This means that you can preserve and give more of your estate to your family.

Begin your legacy today through bequest giving. And if you have already included us in your plans, please let us know so that we may recognize and thank you.



There are many ways you can support our mission that have little or no impact on your lifestyle. Ask us about creating a plan that leaves a legacy for the future by calling (202) 328-7004 or visiting us on the web at donation.fairus.org/plannedgiving.