

IMMIGRATION REPORT



FAIR Sponsors Hold Their Feet to the Fire: Convenes 65 Radio Hosts, Hundreds of Guests, Holding Live “Get Real” Conversations about the Nation’s Immigration Crisis

For the 15th year, FAIR hosted a two-day talk radio event in Washington, D.C., focusing on immigration policy and how we can extricate ourselves from the disastrous policies being carried out by the Biden administration. Hold Their Feet to the Fire (F2F) 2022 featured 66 national and local talk radio hosts blanketing the nation’s radio airwaves from Hawaii to Cape Cod, and Seattle to Miami.

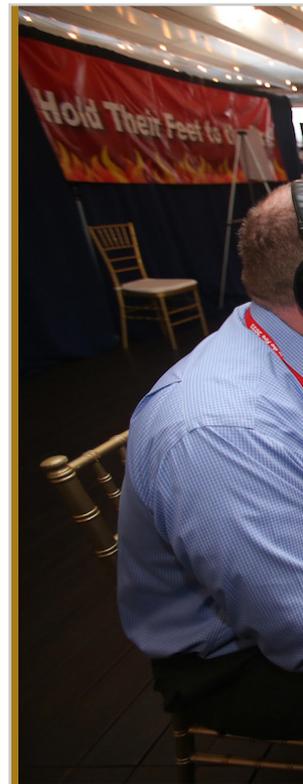
Over the course of two days, Sept. 21 and 22, hundreds of policy experts, sheriffs, active immigration enforcement officers, border residents, crime victims, members of Congress, and former high level government officials gathered at a rooftop radio row on Capitol Hill to discuss every aspect of immigration policy. Fittingly, the event took place atop a building that houses the Washington bureaus of many leading news organizations, most of which refused to report honestly about what is occurring at our borders and

the impact that the Biden Border Crisis is having on people and communities all across the country.

FAIR has been hosting F2F events for 15 years because they have proven enormously successful in educating the American public about immigration policy and influencing the decisions of policymakers. The first F2F event took place in 2007 and was credited as having played a critical role in the defeat of a bipartisan illegal alien amnesty bill before Congress. Given the rogue immigration policies of the Biden administration, the stakes were perhaps even higher this year as Americans were preparing to go to the polls in a crucial midterm election.

Each year, the F2F event is the product of countless hours of work by FAIR staff and a credit to our members and donors who support our efforts and make it possible.

Snapshot of F2F 2022



Immigration REPORT

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FAIR Study: Biden Immigration Policies Imposing Crushing Cost Burdens on American Schools

A report released by FAIR in September finds that one in ten students in our nation's public schools are considered Limited English Proficient (LEP), requiring an annual expenditure of \$78 billion to provide remedial English language instruction. Moreover, the surge of illegal migration instigated by Biden administration policies – including an unprecedented number of unaccompanied alien children (UACs) – is outpacing the nation's education system's ability to hire enough teachers qualified to meet the needs of LEP kids.

Because of an approximately two year delay in releasing official enrollment and detailed cost data in most states and school districts, the figures in the FAIR report are accurate as of the 2020 school year, and do not include education costs incurred by the millions of illegal aliens who have entered the country since President Biden took office. Because of this, the true cost today is almost certainly at least several billion dollars more than the estimates detailed in this report.

The report, *The Elephant in the Classroom: Mass Immigration Imposing Colossal Cost and Challenges on Public Education*, finds that there are currently only 370,000 teachers qualified to deal with the educational needs of LEP

students, and that an additional 76,000 instructors will be needed over the next five years just to keep pace with the consequences of the Biden administration's open border policies. Worse yet – for the children themselves and the future of our nation – only about 4 percent of LEP students are proficient in math by the time they complete 12th grade, and only about 3 percent are English proficient by the time they complete high school.

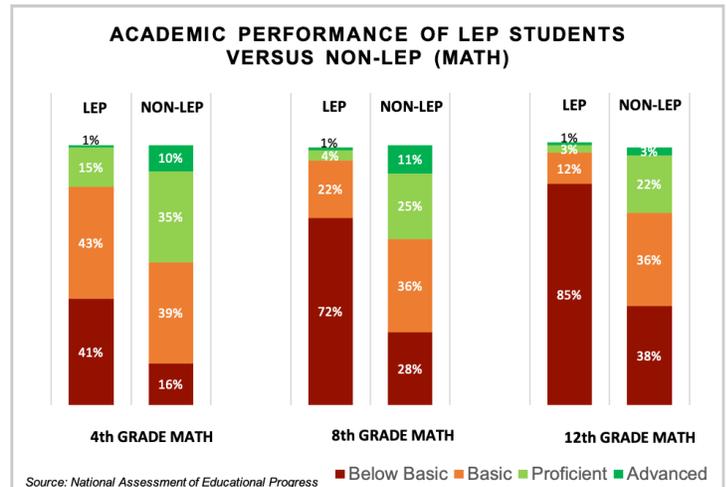
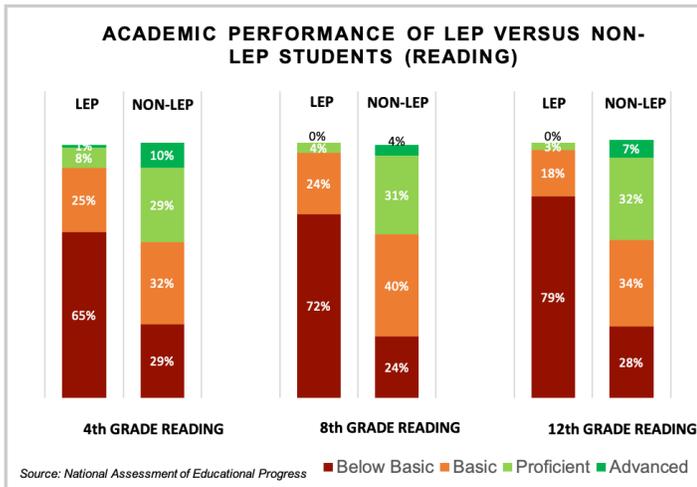
Among the key findings of *The Elephant in the Classroom* report:

- 5.1 million students in American public schools were classified as LEP in 2020. That figure represents about 10 percent of all K-12 enrollment.
- The additional cost to American taxpayers to educate LEP students is \$78 billion a year, an increase of \$18.8 billion just since 2016. This estimate does not include additional costs, like free or subsidized meals that they may qualify for.
- All but 9 states now have more than 10,000 students designated as LEP, and 26 states have more than 50,000 LEP students. California and Texas now exceed 1 million LEP students.
- The large influx of new illegal LEP students under the Biden administration amounts to an unfunded federal

mandate on state and local governments. As a result of a narrow 1982 Supreme Court decision, all K-12 students must be provided a taxpayer-funded public education, regardless of immigration status.

These findings are, or should be, a reminder to policymakers about why our immigration laws were enacted and why they must be enforced. Actions have consequences. And among the important consequences of unregulated immigration are enormous and unsustainable burdens

heaped on the nation’s vital social institutions, like schools. In addition to the financial burdens imposed on taxpayers, it affects the quality of education received by American children and, as the report notes, the non-English proficient students themselves. In the long run, the costs of these failures are incalculable.



Fifth Circuit Court of Appeals Upholds Lower Court Ruling that Obama’s DACA Program is Illegal

In a major victory for those who support the rule of law in immigration policy, the Fifth Circuit Court of Appeals upheld a lower court’s ruling that former President Barack Obama’s Deferred Action for Childhood Arrivals (DACA) program is unlawful. Under DACA, illegal aliens who arrived in the United States as minor, and who were under the age of 31 when the program was established in 2012, would be exempted from removal and would be granted authority to work in the United States. Federal law, however, clearly states that all persons illegally present in the United

States are subject to removal and are prohibited from being employed.

The ruling was issued in response to a lawsuit brought by nine states, led by Texas, challenging the legality of DACA. The other states that were party to the lawsuit are Alabama, Arkansas, Kansas, Louisiana, Mississippi, Nebraska, South Carolina and West Virginia. FAIR and its legal arm, the Immigration Reform Law Institute (IRLI) filed an *amicus* brief in support of the states initiated lawsuit.

DACA Program Illegal

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Federal District Court Judge Andrew Hanen's July 2021 ruling sided with the plaintiffs and found that President Obama did not have legal authority to create DACA and barred the Department of Homeland Security (DHS) from enrolling new applicants. However, his ruling allowed some 600,000 DACA beneficiaries to maintain that status pending further review by the courts.

The three judge panel of the Fifth Circuit – one step below the Supreme Court – agreed that the establishment of DACA was “an unreasonable interpretation of the INA” (Immigration and Nationality Act). The panel rejected DHS's argument that “the DACA memorandum is an inherent exercise in prosecutorial discretion.” The Fifth Circuit agreed with Judge Hanen that, while “prosecutorial discretion is broad, it is not ‘unfettered,’” and that exempting broad classes of illegal aliens from removal was beyond the authority of the president. The judges further noted that Congress has, for the past 22 years, “declined to enact the [DREAM Act], features of which closely resemble DACA.”

Additionally, the Fifth Circuit agreed with the lower court that the Obama administration did not follow proper administrative procedures in establishing DACA. Before the case was decided, the Biden administration issued another rule essentially duplicating DACA, and this time it went through the notice and comment process. Lacking the administrative record for that rule, the court sent the case back down to the district court to determine whether this new, duplicate DACA is also contrary to law.

The case seems destined to wind up before the U.S. Supreme Court, which will likely determine the constitutionality of DACA. A more ideologically divided Supreme Court (in a 4-4 decision after the death of Justice Antonin Scalia in 2016) let stand a lower court ruling blocking subsequent Obama administration efforts to protect entire classes of illegal aliens from taking effect. Given the current make-up of the Court, there is a strong probability that DACA will be struck down in a precedent setting ruling.



News from State and Local Operations

Illinois

If you are an illegal alien with a family of four earning less than \$69,375, Chicago is the place to be. Under a policy adopted by Cook County, residents, regardless of immigration status, will be eligible for \$500 a month in cash assistance for two years under the Promise Guaranteed Income Pilot program. According to the program's website, "This pilot is open to all residents of Cook County, regardless of your immigration status. This means that if you are undocumented, or your household is a mixed-status household, and you meet the eligibility criteria above, you are eligible to participate." Further encouraging illegal aliens to come forward and claim the cash, the county states, "We will not share information on immigration status with Immigration and Customs Enforcement (ICE) or with the United States Citizenship and Immigration Services."

Meanwhile, the City Council Latino Caucus is calling on Chicago Mayor Lori Lightfoot to declare a state of emergency over the migrants being bused to Chicago from Texas. As of mid-October, 2,991 such migrants had arrived in the Windy City. In September, Illinois Gov. JB Pritzker issued his own disaster proclamation and deployed 75 members of the Illinois National Guard to help deal with migrants arriving in Chicago from Texas. How state, county and city officials think rewarding illegal aliens with \$500 a month checks will help alleviate the "emergency" or "disaster" they are dealing with remains a mystery.

New York

When it comes to logical inconsistency and profligate use of public resources, New York City refuses to play second banana to the Second City. Shortly after declaring a "state of emergency" over the influx of migrants (the ones being bused there by Texas Gov. Greg Abbott, not the ones flown there in the dead of night by the Biden administration) that Mayor Eric Adams estimates will cost the city about \$1 billion a year, Hizzoner announced plans to provide migrants with luxury accommodations. Under the mayor's plan, illegal migrants will take up residence in \$400 a night rooms in the NYC Row Hotel in Times Square. The families, of

course, will enroll their kids in the local public school, which is already reeling under the sudden influx of children who speak no English. Mayor Adams also considered leasing a Norwegian Cruise Line ship, docked in Staten Island, to house migrants, but that deal reportedly fell through.

Meanwhile in Albany, state legislators are planning to reintroduce a bill in the upcoming session that would provide illegal aliens with publicly funded legal representation to fight their removal from the United States. Immigration violations are considered civil matters and there is no constitutional guarantee of free legal counsel for those facing deportation. The proposal also comes at a time when the state is facing a projected \$310 budget deficit in FY 2023 that is expected to balloon to \$6.2 billion by FY 2026.

District of Columbia

Like Mayors Lightfoot and Adams, Washington, D.C., Mayor Muriel Bowser is also irked by border state governors who are busing migrants to the nation's capital. Mayor Bowser has gone so far as to demand that the Pentagon deploy National Guard troops to help her beleaguered city cope with what she describes as a migrant crisis. None of that has deterred the D.C. City Council from advancing a bill that would grant foreign nationals, including illegal aliens, the right to vote in local elections. The bill, introduced by Councilmember Brianna Nadeau and cosponsored by six other councilmembers, originally expanded the eligibility to vote only to legal permanent residents ("green card" holders). However, when the bill was voted out of the council's Committee on Judiciary and Public Safety on September 27, it had been amended to allow anyone, regardless of immigration status, to be eligible to vote for D.C. local offices and ballot questions if they're over 18 and have lived in the District for more than 30 days. The mayor has not yet indicated if she would sign the bill that would turn the people she claims her city cannot cope with into voters.

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Charity Navigator has awarded FAIR four out of a possible four stars. In addition, FAIR continues its top-rated status with Charity Watch. 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.



Support FAIR in the 2022 Combined Federal Campaign!

The Combined Federal Campaign (CFC) allows Federal employees from all over the country to easily make a tax-deductible donation by payroll deduction, credit card, check or cash.

The fight against illegal immigration and outof-control immigration policies is a joint effort and one we would not be able to do without your generous support.

The Immigration problems we face in the U.S. have never been bigger. Your contribution to FAIR is needed now more than ever. The CFC is the largest workplace giving campaign in the world and an opportunity for you to join with other likeminded Americans to have a major impact on immigration reform.

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