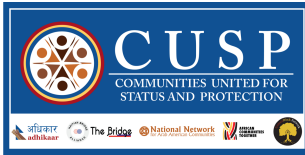




NAKASEC
미주한인봉사교육단체협의회



No Excuses: Vice President Harris and Leader Schumer Have the Full Power to Deliver a Pathway to Citizenship in Build Back Better

Immigrant communities cannot wait any longer. There are more than 11 million undocumented immigrants living in the United States today without a pathway to citizenship. Families and communities have been torn apart and separated, inflicting irreversible psychological trauma between parents and children, brothers and sisters, and spouses and loved ones.

The results of the 2020 elections have generated for the first time in more than 10 years an unprecedentedly auspicious political opportunity. Due in no small part to Black, Brown, Asian, and immigrant organizers in Pennsylvania, Georgia and across the United States, a Democratic trifecta has risen to power in our Congress and the White House, paving the way for a political landscape that makes advocating and legislating for citizenship possible- especially through budget reconciliation, the process governing the \$3.5 trillion Build Back Better package, that only requires a simple majority vote for passage.

The solution that our communities require is an immediate and unconditional pathway to citizenship in the United States, which is a solution that [79% of Americans](#) across the aisle support. Undocumented communities and grassroots organizations have spoken at length about the need for a pathway to citizenship in Build Back Better, and nothing less.¹

Democrats, and specifically Vice President Kamala Harris and Congressional leadership, have the full power to pass a pathway to citizenship this year, by updating the registry date as originally proposed in Build Back Better Rules Committee Print [1717-17](#). Here's how:

First, Vice President Kamala Harris, as Senate Presiding Officer, must first commit to disregarding the Senate Parliamentarian's advisory opinion for registry provisions in Build Back Better. Vice President Kamala Harris, acting as Senate Presiding Officer, has the [full legal and](#)

¹ Collection of letters and op-eds: [Letters + Op-Eds — Disregard The Parliamentarian](#); [Interviews with 61 undocumented community members](#)

[constitutional authority](#) to make the final decision on the point of order, regardless of the Parliamentarian's advisory opinion.

Second, Majority Leader Chuck Schumer must commit to ensuring the inclusion of registry provisions in Build Back Better. Leader Schumer has the power to ensure the inclusion of registry provisions in Build Back Better, *even in the case of its hypothetical elimination during "vote-a-rama,"* via a substitute amendment.

In this memorandum, we will demonstrate that this course of action is supported by statute, viable even with the narrow margins in Congress, and ultimately politically popular.

Testing Leader Schumer's Leadership: The Substitute Amendment Strategy

If Majority Leader Schumer truly believes in delivering a pathway to citizenship for immigrant communities this year, he has the full power to ensure its inclusion and passage through a substitute amendment- even if, for example, registry provisions are eliminated during vote-a-rama.

In other words, even if registry provisions are excluded or dropped at any stage during the 5-step process outlined by NILC, UBN, CHIRLA, and NAKASEC's [memorandum on updating the registry](#) date in Build Back Better, Majority Leader Schumer has the ultimate power, both procedurally and politically, to reinsert and pass registry provisions. The ideal pathway to pass green cards in Build Back Better, as outlined in the memo above, is as follows:

1. Pass Democrats' immigration language in the House bill.
2. Make sure the immigration language is in the final section of the House bill to prevent future issues with amendments, if they are needed.
3. Coordinate Senate Democrats to defeat every anti-immigrant amendment during vote-a-rama.
4. When Republicans (or moderate Democrats) raise a point of order to exclude the immigration language, the Presiding Officer rules that the immigration language is allowed.
5. Sustain the Presiding Officer's ruling with 41 votes in the Senate.

In the case that registry is excluded at any point in this process, we call upon Majority Leader Schumer to enact similar bold leadership that he did in the passage of the Joint Budget Resolution on February 4, 2021- this time, for undocumented communities who have been advocating for relief for well over three decades. **If he stands by [multiple commitments he made in July 2021](#)--to lead the Senate in [providing a pathway to citizenship for hardworking](#)**

For more information, please visit disregardtheparl.org

[immigrants who were on the frontlines of recovery from pandemic](#), agricultural workers, and young undocumented immigrants--then we expect him to exercise his full power to ensure the inclusion of registry in Build Back Better.

We recall the bold move Majority Leader Schumer made on February 4, 2021. At 5:30 A.M., in the final hours of the [Joint Budget Resolution](#) vote-a-rama, he led an amendment reversing three harmful amendments that eight moderate Democrats initially supported. One of these three harmful amendments was [Amendment 54](#), which Senator Todd Young (R-IN) introduced to restrict stimulus relief payments to undocumented taxpayers. The cruelty of this amendment was compounded by the fact that undocumented immigrants did not have access to the cash payments in the first place. Instead, the amendment would have barred U.S. citizens married to undocumented immigrants from access to cash relief.

Due to Majority Leader Schumer's leadership, the three harmful amendments, including Young 54, did not make it into the final budget resolution.

Thus, in the case that a Senator introduces a harmful amendment to remove or weaken registry provisions, we call upon Majority Leader Schumer to introduce a substitute amendment to strip out such an amendment. It is [not uncommon](#) for the Majority Leader to file a substitute amendment at the last stages of a bill, capturing any last-minute changes prior to final passage.

The hypothetical reinsertion of registry provisions via a substitute amendment would create the political conditions for final passage.

First, it would provide moderate Democratic Senators with plausible deniability. For instance, a moderate Senator could present the case that they opposed the inclusion of immigration provisions at every available opportunity: for example, 1) they raise a Byrd Rule point of order against the inclusion of registry, 2) they vote to appeal the ruling of the Chair (Vice President Kamala Harris) after the Chair ruled on the Byrd Rule point of order to include registry, and 3) they vote to remove the provision in vote-a-rama and (in this hypothetical situation) won. However, faced with voting for the entire Build Back Better package containing important provisions for their constituents and that the President is asking them to vote for, they could then argue that they had no recourse but to vote for the entire package, including registry provisions.

In fact, if moderate Democrats are willing to tank the rest of the provisions in Build Back Better--if they are willing to tank a \$1.75 trillion relief package containing critical relief measures for Americans, for an issue that comprises such a small fraction (\$100 billion) of that \$1.75 trillion, and moreover a long overdue solution that 79% of Americans support--then that accountability should rest with them.

For it is true, a pathway to citizenship is a solution that [79% of Americans](#) support.

The Political Feasibility and Popularity of Expanding the Pathway to Citizenship

As just stated, an *overwhelming majority* of Americans support providing a pathway to citizenship to undocumented immigrants. In less than a month, nearly [16,000 Americans](#) signed a petition to Vice President Kamala Harris specifically urging her to disregard the Parliamentarian's advisory opinion for a pathway to citizenship.

Very progressive immigration policy is supported by either a majority or a substantial minority of independent and conservative voters. An astounding [70% of independent voters](#) and [51% of Republicans](#) support updating the registry. Meanwhile, the Citizenship for Essential Workers Act is supported by [63% of independents](#) and [44% of all Republicans](#). Granting citizenship to *all 11 million* undocumented immigrants is supported by [44% of all Americans](#).

The popularity of expanding a pathway to citizenship cuts across demographic categories. Almost [75% of Black voters](#) support more progressive immigration policies. Over [65% of white voters](#) support updating the registry. And over [60% of Asian Americans](#) support a pathway to citizenship for undocumented immigrants. A sizable majority of voters across demographic boundaries support immigration policy as or more progressive than the registry update, making the inclusion of the policy in Build Back Better not only an ethical imperative, but a strategic consideration for the Democrats in the run-up to the midterm election.

The data clearly demonstrates that across racial and ideological lines, a significant portion of the country supports a dramatic expansion of the pathway to citizenship. The country has spoken: fixing our broken immigration system is not only the right thing to do, *it is the popular thing to do*, and Congress- including moderate Democrats- would do well to remember this.

Deconstructing the Moderate Deflection

Democrats across the political spectrum likewise demand the inclusion of a pathway to citizenship in Build Back Better.

A number of moderate Democrats signed a letter first in October 2021 urging the Presiding Officer to disregard the Parliamentarian's advisory opinion on the appropriateness of including a pathway to citizenship in Build Back Better, and then in November 2021 asking the U.S. Senate to include registry provisions in Build Back Better. The final letter in November 2021 included 20 members of the New Democrat Caucus, Blue Dog Coalition, and Problem Solvers Caucus in the House of Representatives. Rep. Brad Schneider, member of the Blue Dog coalition, [recently](#)

For more information, please visit disregardtheparl.org

[tweeted](#) about a phone call he made to Speaker Pelosi urging her to include a pathway to citizenship in Build Back Better. Clearly, the inclusion of a pathway to citizenship in Build Back Better is not a fringe issue.

Despite a preponderance of evidence that the inclusion of a pathway to citizenship in BBB is feasible, popular, statutorily sound, some who agree with this policy in principle nevertheless fear that Senate Democratic moderates like Sens. Manchin and Sinema may actually tank the whole bill if this strategy is implemented.

In anticipating Senator Manchin's red lines with regards to the upcoming reconciliation package, we must remember (and remind him, if necessary) that among the long list of demands that Senator Manchin listed in July 2021, proposals related to immigration [did not even warrant a mention](#). Much of the document has to do with questions of transfer payments, tax rates, and energy standards. For Manchin, the main problem with Build Back Better as it stands is its [distribution of universal entitlements](#).

Furthermore, the record amply demonstrates that Senator Manchin seems to have no qualms about supporting the inclusion of measures in reconciliation packages that, unlike an expanded pathway to citizenship, blatantly violate the Byrd Rule. In March 2021 negotiations over the American Rescue Plan, [Senator Manchin supported](#) Byrd Rule waivers for pushing through the creation of the Keystone XL pipeline, restricting abortion access, and discriminating against transgender students. To say that these policies flagrantly contradict the Byrd Rule would be a gross understatement. Given that Senator Manchin has no qualms about voting to add these three hyper-partisan policies to spring's reconciliation bill, it would be contradictory and nonsensical for him to take issue with the Chair's [entrenched authority](#) to make the final ruling on a Byrd Rule point of order.

Rather than from any of the immigration provisions, it seems as though Senator Sinema's objection to Build Back Better comes mainly from the [proposed drug pricing reforms](#). Like Senator Manchin, Senator Sinema also expresses anxiety about the size of the spending bill. She has told lobbyists that she is opposed to any [tax hikes on corporations or the wealthy](#). These objections, while distressing from a progressive perspective, have little to do with the immigration proposals in question.

It must be said that Senator Sinema has [gone on record](#) to say that there "is no instance in which I would overrule a parliamentarian's decision." However, the question is not whether Senators Sinema and Manchin would vote to overrule the Presiding Officer's ignoring of the parliamentarian's opinion. Such a question is largely irrelevant because the opposition would need to [muster 60 senate votes](#) (or 10 defections from the Senate Democratic Caucus) to successfully pull off such a maneuver. The question is whether Senator Sinema would go so far

as to vote against the entire Build Back Better package on the basis of Vice President Harris disregarding the parliamentarian's advisory opinion.

Voting against a Build Back Better package, especially one that has been compromised to align with Senator Sinema's priorities, would be devastating for her career and re-election chances. The Arizona state Democratic Party has already [passed a resolution](#) promising to "give Senate Sinema a vote of NO CONFIDENCE" if "she continues to delay, disrupt, or votes to gut the Reconciliation Package of its necessary funding." Seeing as though Senator Sinema has already lost key supporters [at home](#) and [in Washington](#) due to her perceived obstructionism, she would be voting against the reconciliation package at her own peril.

When pondering the options available to grant a major pathway to citizenship this Congress, it is imperative that activists, those in the civil society, and lawmakers ponder the political ramifications of their proposals.

While questions about the impact of the Vice President disregarding of the Parliamentarian on the ultimate success of Build Back Better cannot be answered with 100% certainty (as is the case with all political calculations), the analysis presented here dispels any doubt that there is enough political feasibility for this to be a gamble worth taking- especially for immigrant communities who have been waiting and advocating for decades for this opportunity for relief.

Conclusion: The Time for Bold Action and Fulfilling Promises is Now

Immigrant communities have not received significant relief for 35 years, and the results of the 2020 elections have generated for the first time in more than 10 years an unprecedentedly auspicious political opportunity.

If Vice President Harris and Leader Schumer truly believe in delivering protections for the immigrant community, then the path forward is clear: Vice President Harris must disregard the Parliamentarian's advice for a pathway to citizenship, and Leader Schumer must commit to exercising his power to ensure the inclusion of registry provisions in Build Back Better including if necessary through a substitute amendment prior to final passage.

Immigrants have been waiting and advocating for a pathway to citizenship for well over three decades. The time to act is now.