



# Immigrants Will Not Settle for Anything Less than a Pathway to Citizenship

*Interviews with 61 Undocumented Community Members on Parole in Place*

&

*Why Vice President Harris and Majority Leader Schumer Have the Full Power to Pass a Pathway to Citizenship in Build Back Better*

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## Overview

Make no mistake. Vice President Kamala Harris and Majority Leader Chuck Schumer have the full power to ensure the inclusion and passage of registry provisions in the Build Back Better reconciliation package, as originally proposed in Build Back Better (H.R. 5376) Rules Committee Print [1717-17](#). Here's how.

1. **Vice President Kamala Harris, as Senate Presiding Officer, must commit to disregarding the Senate Parliamentarian's advisory opinion for registry provisions in Build Back Better.**

The Senate Parliamentarian has not issued a formal opinion on the inclusion of the registry proposal in reconciliation.

Once she does, likely after a Senator raises a Byrd Rule point of order on registry, Vice President Kamala Harris, acting as Senate Presiding Officer, has the full legal and constitutional authority to make the final ruling on the point of order regardless of the Parliamentarian's advisory opinion.

See more on Vice President Harris' authority to disregard the Parliamentarian's advisory opinion in *Memorandum: ["How to Win Protections for Immigrants in Reconciliation" \(2021\)](#)* by NILC, UBN, CHIRLA, and NAKASEC

2. **Majority Leader Chuck Schumer must commit to ensuring the inclusion of registry provisions in Build Back Better.**

Majority Leader Chuck Schumer has the full 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. Before examining this process, let's review why we must pass nothing less than green cards and a pathway to citizenship this year, beginning with a side-by-side comparison of parole in place and registry, and interviews with undocumented community members on these proposals.

## Background: Parole in Place

Parole in Place, [as it stands](#), provides the following benefits for anyone who has been in the U.S. since January 1, 2011, an estimated 7-8 million people:

- Temporary status and ability to apply for a work permit for 5 years, renewable one time for another 5 years - to expire in 2031;
- Protection from deportation for that period of time;
- The ability to apply for advance parole to travel abroad; and
- Eligibility for some federal and state public benefits, including the Affordable Care Act.

The proposal would not create any new pathways to citizenship. Parolees would not be able to travel freely outside of the U.S., sponsor family members, or access Supplemental Security Income (SSI). The impact of racist criminal bars is also much greater on parolees.<sup>1</sup>



<sup>1</sup> First, green card applicants have access to waivers for criminal inadmissibility grounds (INA 212(a)(2)). Second, even after parole is granted, it can be revoked if the recipient becomes inadmissible under the criminal grounds. Once an individual has a green card, they are only subject to the criminal grounds of deportability not inadmissibility (with exceptions). Third, there are more due process rights and relief options for green card holders with criminal convictions compared to those with temporary protections such as parole. Fourth, once obtaining citizenship, contact with the criminal legal system can no longer result in negative immigration consequences (unless it reveals past fraud).

PROTECTIONS & RESTRICTIONS		Parole	Registry
<b>TIME</b>		Parole is a 5-year protected status that can be renewed only once and ends in 2031.	 Green cards through registry maintain until you apply to naturalize as a U.S. citizen.
<b>TRAVEL</b>		You cannot travel freely outside of the U.S. Advance Parole has \$575 fee and takes months to be approved.	 You can travel abroad freely.
<b>EMPLOYMENT &amp; SOCIAL SECURITY</b>			
<b>WORK PERMIT</b>		You will have to apply for work permit for 5 years and pay \$410 each time you apply.	 You are authorized to work in the U.S. with green cards.
<b>SSI</b>		No, you will not have access to Supplemental Security Income (SSI) except in certain rare circumstances.	 Yes, if you have credit for 40 quarters of work history in the US and have held lawful status for at least 5 years.
<b>SOCIAL BENEFITS</b>			
<b>REAL ID</b>		Eligibility for REAL ID driver's license varies in each state.	 All states, except Washington state, issue REAL ID licenses to green card holders.
<small>*Starting May 23, 2023, all travelers on domestic flights must carry REAL ID-compliant identification.</small>			
<b>EDUCATION</b>		If access to benefits is kept in the bill, you will have access to federal financial aid. State financial aid will vary.	 You are eligible for both federal and state financial aid.
<b>HEALTH INSURANCE</b>		If access to benefits is kept, you have access to Affordable Care Act and Children's Health Insurance Program.	 You have access to Affordable Care Act and Children's Health Insurance Program.
<b>Social Programs</b>		After a 5-year waiting period, you will have access to SNAP and TANF.	 After a 5-year waiting period, you will have access to SNAP and TANF.

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# Interviews with 61 Undocumented Community Members: Immigrants Will Not Settle for Anything Less than a Pathway to Citizenship

Beginning at the "[CITIZENSHIP4AL7: No Citizenship, No Rest](#)" 24-hour, 7-day vigil at Vice President Kamala Harris' residence in late October 2021, NAKASEC Action Fund conducted 1-1 interviews with 61 impacted community members on-site and virtually to identify their responses to the "parole in place" proposal.

Each statement illuminates only one perspective; it does not represent the experiences of the entire undocumented community which are varied and diverse. Moreover, the significance of any form of protection, however big or small, cannot be understated. This collection sheds light on overarching themes in our direct community's response to the proposal of parole in place- ultimately, to reflect the belief that parole in place is not enough, and we need nothing less than green cards and a pathway to citizenship.

» **If you pass a 10-year parole, it means you want us to self deport in 2031. Undocumented individuals will work in this country, help it recover from the COVID-19 pandemic, and then be eligible for deportation- this is exploitation.**

- "What I mean by that is, they gave us temporary relief (DACA) to protect us while they were supposed to work towards permanent relief. I had DACA for 8 years, and look at what happened: Almost a decade later, nothing has passed Congress. There's no permanent relief because they gave us DACA. So, this nonrenewable parole really means self-deportation. It means they want us to leave in 10 years."
- "Yeah that's b\*\*\*s\*\*\* ... so basically telling us get the f\*\*\* out after 10 years. I am very angry. I've been here since I was 12 years old and I've lived here all my life...been working, paying taxes and they won't give us the chance to be a citizen... It is very frustrating."

» **Parole is more of the same - a temporary status, expensive work permits, and dubious protection from targeting by ICE for deportation. ([UndocuBlack Network](#))**

- "People with DACA also get deported if they forgot to renew, had a misdemeanor, fell out of status, or live at the border. I know a DACA recipient who got deported at a bus station. It's not full protection- not the protection we've been fighting for throughout decades. Maybe it's protection for lighter-skinned people but not for multiply marginalized folks."

- “This proposal even pales in comparison to the proposal Republicans put forward in 2017. At least then, the Republicans’ plan included permanent green cards. It is unacceptable for today’s legislation to fall short of Republicans’ proposal from 2017.”
- “Undocumented people know how to live without papers- we’ve done it for decades. We don’t need ten years; we need a pathway to citizenship.”
- “How much longer am I willing to wait? The older I get and as time goes by, I want to have clear answers in my life for once. My family and I can’t wait anymore.”



**“If the proposals keep going lower and lower and lower, I don’t feel any dignity. When they were working on renewable parole, at least I trusted they were trying to get us something. If it’s nonrenewable, it means they want us to leave.”**

- “If renewable parole or DACA is them giving us crumbs, this is worse than crumbs.”
- “Many people would not want just temporary protection for 5 years. There should be a provision that would allow us to adjust our status, like the 245(i) adjustment from the Clinton administration. I held such high hope when the Biden administration announced immigration reform. Biden’s plan might not be kept as he promised, but there should be a provision through which we can adjust our status... People, we, need hope for the future to live, but temporary status is meaningless as it does not give us such hope.”



**“That’s why we’re doing this- blocking bridges, holding die-ins, staying outside of Vice President Harris’ house 24/7 for days on end- not for nonrenewable parole, not for renewable parole, but for a pathway to citizenship. This is our lives at stake here- a political ‘win’ is not enough.”**

**As UndocuBlack Network states: As it relates to relief for millions, anything less than green cards is a failure on the Democratic leadership.** Congressional action has become all the more urgent given the recent ruling by Judge Hanen in Texas, which made one thing absolutely clear: only a permanent legislative solution passed by Congress will eliminate the fear that DACA recipients, TPS holders, farmworkers and other essential workers have been forced to live with for decades. Democrats can and must ensure that green cards are a part of the budget reconciliation in order to achieve a recovery that is truly equitable and inclusive for all regardless of immigration status.

## Grassroots immigrant organizations and impacted communities agree on the need for a pathway to citizenship in Build Back Better

It is clear what immigrant communities and organizations representing (and held accountable to) impacted memberships want: **nothing less than green cards and a pathway to citizenship.**

On October 5, [60 organizations](#) representing and held accountable to impacted memberships sent a letter to Vice President Harris urging her to disregard the Parliamentarian for a pathway to citizenship. In [FIRM's recent letter](#), 45 grassroots immigrant organizations asked for nothing less than green cards in the House Build Back Better language. Since then, [40+ House Members](#), 250+ state and local elected officials ([Nation-wide](#) | [California](#)), [92 legal scholars](#) and [2400 faith leaders](#) have supported this request of the White House and Congress. These demands leave no room for ambiguity in the urgent needs of impacted communities.



## **There is no excuse: Vice President Harris and Leader Schumer have the full power to deliver a pathway to citizenship in Build Back Better.**

Vice President Harris and Majority Leader Schumer have the full power to deliver permanent protections for the immigrant community through updating the registry date.

The ideal pathway to pass green cards in Build Back Better 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.

Source: Memorandum: ["How to Win Protections for Immigrants in Reconciliation" \(2021\)](#) by NILC, UBN, CHIRLA, and NAKASEC

# VICE PRESIDENT CAN EASILY IGNORE THE PARLIAMENTARIAN



## 1. RECONCILIATION BILL COMES TO THE SENATE FLOOR

Democrats include the initial plan to legalize young people, farm workers, essential workers, and TPS holders, or the registry date change in the bill.



## 2. SENATOR INTRODUCES ANTI-IMMIGRANT AMENDMENT

Introducing an amendment is the easiest way that GOP can strip the citizenship language from the bill.



## 3. SENATE VOTES ON AMENDMENT

All 50 Democrats vote the amendment down with the Vice President casting a tie-breaking vote in vote-a-rama.



## 4. POINT OF ORDER GETS RAISED

A GOP Senator calls point of order and argues that a pathway to citizenship cannot be included in the bill because it would violate the Byrd Rule.



## 5. CHAIR ISSUES A RULING

The Presiding Officer (Vice President Harris, if she is present) rules that the citizenship language does NOT violate the Byrd Rule.



## 6. SENATOR APPEALS THE RULING OF THE CHAIR

A Senator appeals the ruling of the Presiding Officer, which requires 60 votes to overturn. The vote fails, and the Presiding Officer's ruling stands.



## 7. SENATE VOTES ON OVERALL RECONCILIATION BILL

All 50 Democrats and the Vice President vote to pass the reconciliation bill. A pathway to citizenship is created for millions.

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There are some who support the expansion of a pathway to citizenship through Build Back Better in principle, but worry that Vice President Harris' invocation of her statutory right to rule counter to the Parliamentarian would alienate moderate Democrats in the House and Senate, and may even lead Senators to eliminate or weaken the immigration proposal during "vote-a-rama." That is to say, they worry that the registry provision would not survive vote-a-rama.

**Our response is clear: If Majority Leader Schumer truly believes in delivering a pathway to citizenship for this year, he has the full power to ensure its inclusion and passage through a substitute amendment- even if registry provisions are not included in the initial language, or if registry provisions are eliminated during vote-a-rama.**

**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. (In reality, undocumented immigrants did not have access to the cash payments in the first place; and 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.

We call upon Majority Leader Schumer to enact similar bold leadership 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 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. 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<sup>2</sup> 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 Senators, such as Sens. Manchin (D-WV) and Sinema (D-AZ), 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

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<sup>2</sup> A complete substitute proposes to strike out all after the enacting (or resolving) clause of the measure and replace it with a completely different text. Individual Senators do not offer such amendments very often, but it is a common practice for Senate committees to report a House or Senate measure with an amendment in the nature of a substitute that preserves the original number of the bill or resolution while proposing to replace its entire text. ([Congressional Research Service](#))

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 containing registry.

**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.**

That is, 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.

## 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 urging Vice President Harris to disregard the Parliamentarian's advisory opinion on the appropriateness of including a pathway to citizenship in BBB. [These moderates include](#) member of the New Democrat Caucus Rep. Steven Horsford, whip of the New Democrat Caucus Rep. Gerry Connolly, and member of the Blue Dog Caucus Rep. Lou Correa.

Rep. Brad Schneider, member of the Blue Dog coalition, [recently 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.

Furthermore, discerning Senator Manchin's red lines with regards to the upcoming reconciliation package is actually quite straightforward thanks to the [leak of an agreement](#) between Leader Charles Schumer and Senator Manchin dated July 28, 2021. **Among the long list of demands that Senator Manchin lists, proposals related to immigration do 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, he should have no issues with a Presiding Officer exercising her statutory power to defend the inclusion of a policy already in the reconciliation bill.

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.

On this question, we must answer in the negative. **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 must be considered, we hope that the analysis presented here dispels any doubt about the political feasibility of the Vice President disregarding the advice of the Parliamentarian and Majority Leader exercising his power in order to ensure the inclusion of a robust pathway to citizenship in the Build Back Better package.

## Conclusion

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. As a consequence of our broken immigration system, more than 3.5 million immigrants have been deported from the United States. 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 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 for All possible.

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. 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](#).

We urge all Democrats in Congress to fight for a pathway to citizenship in Build Back Better- for the House of Representatives to pass Build Back Better with registry provisions, for Congressional champions to withhold their vote if Build Back Better does not include a pathway to citizenship, and for all Democrats to express their strong support for updating the registry date publicly and within Congress. We especially call upon Vice President Harris and Leader Schumer.

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.