



## **HNBA 2020 RESOLUTION IN SUPPORT OF IMMIGRATION REFORM**

**WHEREAS**, the Hispanic National Bar Association (“HNBA”) is an association created to represent the interests of Hispanic legal professionals and the Hispanic community, acting as a collective voice for issues of common concern to its members;

**WHEREAS**, the HNBA is the national voice of its legal community and Hispanics in the United States and its territories;

**WHEREAS**, the United States immigration system should uphold our nation’s basic values of family, economic opportunity, and fairness;

**WHEREAS**, families are the source of this nation’s social, cultural, and economic vitality, and a reasonable and workable comprehensive immigration plan must accord with America’s tradition of family reunification;

**WHEREAS**, the United States immigration system, which has torn apart families, created long visa backlogs, and contributed to the production of high numbers of undocumented foreign nationals in the country, is broken and in dire need of comprehensive reform;

**WHEREAS**, the United States needs legislation that provides a pathway to earned citizenship for undocumented immigrants currently residing within our country, who have been educated in the United States, who work hard in the United States, who share values cherished by the United States, and who otherwise pose no threats to the national security of our nation;

**WHEREAS**, family separation can lead to irreparable trauma and emotional distress for children and their parents;

**WHEREAS**, keeping families together and reuniting separated families are core national values that have direct, positive impact on reducing homelessness, crime, mental and physical health issues, and the number of children in state custody, which values must be upheld and advanced in any immigration reform legislation;

**WHEREAS**, according U.S. Customs and Border Protection, in 2018 there were 50,036 unaccompanied minors who entered the United States undocumented;

**WHEREAS**, undocumented and unaccompanied minors should be provided with adequate medical attention and mental health care to address the physical toll and mental trauma an immigration journey can cause on a child;

**WHEREAS**, unaccompanied minors should have the right and proper access to a court-ordered attorney and a timely hearing in court;

**WHEREAS**, the United States must require the highest standards in immigration detention centers to ensure that all detainees are treated with dignity, respect, and care, and that they are not subjected to ridicule, abuse, or other forms of maltreatment;

**WHEREAS**, food and medical attention must be provided for immigrant detainees and not withheld for any reasons, due process must be afforded to immigrant detainees, and judicial discretion must be restored to immigration and asylum hearings;

**WHEREAS**, there are currently more than 300,000 people from ten countries, including El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan and Yemen, receiving protection under the Temporary Protected Status (TPS) program who are not currently able to safely return to their home countries because of natural environmental disasters, violence, ongoing armed conflict and other extraordinary conditions;

**WHEREAS**, TPS holders are an integral part of the United States economy, making and generating valuable economic contributions to their communities and the United States economy;

**WHEREAS**, TPS holders have lived in the United States for an average of 20 years and are employed at high rates, ranging in 2017 from 69.2 to 83.5 percent, which will continue to grow in the future;

**WHEREAS**, current data indicates that TPS holders from El Salvador, Haiti and Honduras contribute a combined 4.5 billion dollars to our nation's gross domestic product;

**WHEREAS**, many recipients cannot return home due to fear of violence or other conditions in their country of origin that could bring them harm;

**WHEREAS**, TPS recipients should receive the support and protection of the United States as long as they qualify for protected status;

**WHEREAS**, the United States needs to simultaneously address the problems of family separation and immigration visa backlogs in both family and employment preference categories by implementing fair and efficient processes for the legal immigration system that do not sacrifice family-based immigration for employment-based immigration, as the two complement one another and must work in tandem;

**WHEREAS**, Deferred Action for Childhood Arrivals ("DACA") recipients, like other individuals with privacy rights, have the right to limit the use of their data for the specific purpose for which they provide the data;

**WHEREAS**, the Privacy Act of 1974, 5 U.S.C.A 552a ("Privacy Act") prohibits the disclosure of a record about an individual from a system of records absent the written consent of the individual unless the disclosure is according to one of twelve statutory exceptions;

**WHEREAS**, DACA recipients were initially informed that information provided to the U.S. Government would be used only to review their DACA application;

**WHEREAS**, Section 14 Executive Order 13768, 82FR 8799 2017 (“Executive Order”) removed Privacy Act protections for data given to the U.S. Government by individuals who are not U.S. citizens or lawful permanent residents;

**WHEREAS**, DACA recipients did not provide free, informed and transparent consent to have their data that was provided for purposes of their DACA application or renewal application removed from the protections under the Privacy Act;

**WHEREAS**, the information provided by DACA recipients should be used for the limited scope of reviewing their DACA applications for qualification under the DACA status program as promised, and should not go beyond this use without freely given, informed and specific consent; notwithstanding anything to the contrary enacted in administrative policies or written in government forms or instructions to those forms pursuant to the terms of the Executive Order, which policies and other related writings and documents to the contrary should be null and void;

**WHEREAS**, the current policies for migrants seeking entry at the southern border including family separation, the Remain in Mexico policy, and family detention both endanger the individuals seeking refuge under international law and may violate due process for those seeking to apply for immigration relief using lawful methods;

**WHEREAS**, applicants saw a 46 percent increase in USCIS processing times in FY 2017 and 2018 which have caused harm for families seeking to reunite using lawful processes and US businesses who are seeking to employ crucial talent due to a lack of qualified employees in the US (*see attached* American Immigration Lawyers Association’s (AILA) Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration Report dated January 30, 2019);

**WHEREAS**, USCIS’s refusal to provide deference to prior employment-based visa renewals has led to arbitrary case denials, in some instances causing US businesses to lose millions of dollars to grow the US economy (*see attached* Business Roundtable August 22, 2019 Letter to Hon. Kirstjen M. Nielsen Secretary, Department of Homeland Security);

**WHEREAS**, HNBA recognizes an alarming number of instances where overturning of immigration judge decisions and implementation of case completion quotas for judges has led to arguably overreaching decisions and a growing case backlog approaching 900,000 cases which has delayed due process for some of those in removal proceedings;

**WHEREAS**, since the HNBA first began to advocate on immigration reform and recognized immigration reform as an important priority, Congress has not passed significant legislation, and further inaction will only continue to deteriorate the already dire condition of the immigration system;

**WHEREAS**, the HNBA incorporates by reference the HNBA’s 2018 Resolution in Support of Legislation to Protect the Status of, and Create a Path to Citizenship for DACA Recipients and the HNBA’s 2018 Resolution in Support of Funding to Provide Minor Children Asylum Seekers With Access to Legal Representation to Protect Their Rights.

**NOW THEREFORE BE IT RESOLVED**, that the HNBA calls for full support of the creation of fair and just immigration reform legislation by the Congress consistent with the recitals and provisions contained in this resolution;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA supports legislation ending case completion quotas that are hindering EOIR's ability to thoroughly and fairly adjudicate cases and thus ensuring an independent Article I immigration court;

**NOW THEREFORE BE IT RESOLVED**, the HNBA supports heightened Congressional oversight of DHS's policies for managing migration flows that ensure due process for all asylum seekers and other migrants arriving at the southern border in accordance with long standing international law;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA opposes immigration reform legislation that does not include an earned path to citizenship;

**NOW THEREFORE BE IT RESOLVED** that the HNBA supports administrative relief that will address the harms caused by our broken immigration system, in the face of lack of action by Congress and consistent with the policy provisions reflected in the recitals herein;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA requests that proper medical and mental health attention be provided to children and families separated at the border;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA supports access to timely legal representation and a hearing in court for unaccompanied minors entering the U.S.;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA demands that detention facilities are equipped to provide for the well-being of all undocumented immigrants in their best interests consistent with the policy provisions reflected in the recitals herein;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA urges Congress to pass permanent legislation that provides legal status for DREAMERS and TPS recipients;

**NOW THEREFORE BE IT RESOLVED**, that HNBA urges USCIS to rescind policies that have significantly increased employment- and family-based visa backlogs including memos requiring duplicative review of petitions for visa extensions, in-person interviews for employment-based visa applicants, and denials of immigrant visas for multi-national executives/managers who hold ownership interests in their companies;

**NOW THEREFORE BE IT RESOLVED**, the HNBA supports increased congressional oversight of ICE and CBP personnel and operations to ensure practices conform with our country's long standing notions of humane treatment and due process;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA calls for any personal data provided by DACA recipients under any application for DACA status or application for continued DACA status be used only for determining DACA status or continued status, regardless of any consent on any such form or any information to the contrary in any form, instructions, or other information associated with the DACA application and renewal process that may allow other uses of such data;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA supports that all policies enacted under Section 14 of the Executive Order by administrative agencies of the U.S. Government and related information and forms

be redacted or modified such that any data provided by DACA recipients and held by, or accessible to, the U.S. Government or such Agencies shall be under the protection of the Privacy Act;

**NOW THEREFORE BE IT RESOLVED**, that the HNBA seeks implementation of the requests made in the HNBA's 2018 Resolution in Support of Legislation to Protect the Status of, and Create a Path to Citizenship for DACA Recipients and the HNBA's 2018 Resolution in Support of Funding to Provide Minor Children Asylum Seekers With Access to Legal Representation to Protect Their Rights; and


**NOW THEREFORE BE IT RESOLVED**, that the HNBA also supports other efforts and laws that are consistent with this resolution.

**BE IT FURTHER RESOLVED** that the HNBA authorizes its officers and staff to communicate this resolution's content to other bar associations, members of the U.S. Congress, the press, and to whomever else is suited to receive the information in order to effect this resolution.

**BE IT FINALLY RESOLVED** that this resolution shall be the policy of the HNBA until it is withdrawn or modified by subsequent resolution.

#### **CERTIFICATION**

I, Irene Oria, National President of the Hispanic National Bar Association, hereby certify that the foregoing resolution was duly enacted by the Executive Committee pursuant to the authority delegated to it by a duly-noticed meeting of the Board of Governors.



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Irene Oria  
HNBA National President