

Resilience Workers' Legal Status

April 2, 2020

Today, America is celebrating front-line workers fighting the unprecedented coronavirus pandemic in the United States. Health care workers see “thank you” signs posted outside their hospitals, grocery store workers receive cheers, and farmworkers and warehouse workers are the subject of daily articles about their crucial role in the American supply chain. Immigrants, including undocumented immigrants and those with precarious status like DACA, are significant parts of each of these workforces. They are on the front lines of the battle against coronavirus. In recognition of their role, when this fight is over, they should be granted permanent legal status, and treated like the Americans they are.

Undocumented/Precarious Status Workers and Coronavirus

Undocumented workers make up a significant percentage of key occupations fighting the coronavirus. Among farmworkers, hospital retrofitters, manufacturers of personal protective equipment, hospital cleaners, hospital food service workers, and warehouse workers, 6 to 24% of the workforce is undocumented. Together, there are more than 5.4 million undocumented workers in these occupations.

Undocumented Workers in Coronavirus Resilience Occupations¹

	% of workforce that is undocumented
Farmworkers (food supply chain)	24
Construction (hospital retrofit)	15
Production (manufacturing of ventilators, personal protective equipment, food processing)	8

¹ Jeffrey S. Passel and D'Vera Cohn, [U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade](#), Pew Research Center, November 27, 2018.

Service (janitors, sanitizers, food preparation, delivery)	8
Transportation and material moving (warehouse workers, supply chain, long haul truck drivers)	6

In most of the states hardest hit by the coronavirus, the percentage of undocumented immigrants is higher than the national average of 5%. This is particularly significant in the coronavirus response. In climate-related disasters, response and reconstruction workers typically come from outside the affected area.² But with travel limited because of the coronavirus, we will be relying on immigrant workers who **already live and work** in our communities.

Undocumented Workers in States Hard Hit by Coronavirus

	% of U.S. coronavirus cases on March 30, 2020³	% of state's labor force that is undocumented	# of undocumented workers in the state⁴
New York	40%	5.4%	550,000
New Jersey	10%	7.6	375,000
California	4%	8.6	1.7 million
Michigan	4%	1.4	70,000
Massachusetts	4%	5.1	190,000
Florida	3%	5.6	550,000

² See, e.g. Miriam Jordan, Hurricane Chasers: An Immigrant Work Force on the Trail of Extreme Weather, New York Times, October 5, 2019. Available at <https://www.nytimes.com/2019/10/05/us/hurricane-undocumented-immigrants-workers.html> (Last accessed April 1, 2020).

³ U.S. Centers for Disease Control and Prevention, Coronavirus Disease 2019 (COVID-19) Cases in the U.S., April 1, 2020. Available at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (Last accessed April 1, 2020).

⁴ Jeffrey S. Passel and D'Vera Cohn, [U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade](#), Pew Research Center, November 27, 2018.

Illinois	3%	4.8	325,000
-----------------	----	-----	---------

In addition, the workforce will be full of immigrants with temporary, limited, or inadequate immigration status. For example, many “DREAMers” have work authorization through the Deferred Action for Childhood Arrivals (DACA) program. DACA provides certain young immigrants with work authorization and protection from deportation. However, its future hangs in balance. The Trump Administration rescinded the program in 2017, and legal challenges have kept it alive, but the Supreme Court may finally end the program with a decision this spring. About 27,000 DACA recipients work in healthcare and medicine, according to the American Association of Medical Colleges, and there are tens of thousands of essential workers among DACA recipients: delivery drivers, food service workers, and hospital and healthcare nonmedical staff.⁵ The clock is ticking, and a portion of the workers we need to help our country recover may soon be locked out.

Solution: Legal Status for Coronavirus Resilience Workers

Undocumented immigrants have been cut out of nearly all the federal economic response to date. Despite efforts by many U.S. Representatives and Senators, undocumented workers are not eligible for stimulus checks or for the Pandemic Unemployment Assistance program. Many undocumented workers who would like to stay home and help flatten the curve are unable to do so without risking financial ruin.

Millions of undocumented workers are already fighting to contain the virus, and will continue to help us respond and recover. Some will work in the private sector, some through volunteerism, and some through the Resilience Corps that we are advocating for.

⁵ Ephrat Livni, Will the U.S. Supreme Court let Trump deport 27,000 healthcare workers despite coronavirus? Quartz, March 31, 2020. Available at <https://qz.com/1828756/daca-will-scotus-let-trump-deport-27000-healthcare-workers-despite-coronavirus/> (Last accessed April 1, 2020).

We call on Congress to create an immigration solution for the workers who help sustain and rebuild our country during and after the pandemic: the Resilience Worker status. The solution should include immigration status and a path to citizenship for these vital workers, allowing them to more deeply and visibly contribute to our country. It will recognize immigrants' service on the front lines of the coronavirus pandemic, and serve an important practical purpose as well. After the immediate crisis, businesses across the nation will want and need these workers to continue working in resilience industries. Under current law, this would be impossible.

Historic times call for historic solutions. Our proposal builds on examples from the past. America has used the promise of immigration status (or expedited citizenship) to meet past emergencies and to protect vital industries. People who serve in the armed forces are eligible for expedited naturalization following six months of service during periods of hostility (which we have officially been in since September 11, 2001)⁶ or one year of military service in peacetime.⁷ Immigrant members of the military or immigrant veterans need only be in lawful permanent resident (LPR) status for one year before beginning the naturalization process, versus five years for everyone else.⁸ Similarly, when a foreign national serves the United States as an employee of the U.S. government, such as at an embassy, consulate, military base, the Peace Corps, or the U.S. Agency for International Development, they are eligible for lawful permanent resident status after 15 years of service.⁹

The food supply chain and health care sectors are already at significant

⁶ Military One Source, Your Military Service Offers a Faster Track to US Citizenship, March 26, 2020. Available at <https://www.militaryonesource.mil/financial-legal/legal/citizenship-and-immigration/us-citizenship-through-military-service> (Last accessed April 1, 2020); 8 U.S.C. 1440 (2020).

⁷ 8 U.S.C. sec. 1439. See also, U.S. Citizenship and Immigration Service, Naturalization Through Military Service. Available at <https://www.uscis.gov/military/naturalization-through-military-service> (Last accessed April 1, 2020).

⁸ Military One Source, Your Military Service Offers a Faster Track to US Citizenship, March 26, 2020. Available at <https://www.militaryonesource.mil/financial-legal/legal/citizenship-and-immigration/us-citizenship-through-military-service> (Last accessed April 1, 2020).

⁹ Amien Kacou, When Foreign Employees of the U.S. Government Qualify for a U.S. Green Card, Nolo.com. Available at <https://www.nolo.com/legal-encyclopedia/green-cards-employees-the-us-government-abroad.html> (Last accessed April 1, 2020).

risk of worker shortages due to coronavirus infections, as well as work stoppages and strikes¹⁰ over inadequate safety measures. The critical lack of personal protective equipment in the United States will only exacerbate this problem: on April 1, the U.S. Department of Homeland Security reported that the national stockpile of personal protective equipment is almost depleted.¹¹ The pressures on families caused by the closing of schools, day care centers, elder care facilities and other social services will further cause the pandemic response workforce to shrink.

Offering legal status after service to our country during times of crisis, along with strong measures to ensure that employers provide sufficient personal protective equipment and other health and safety measures, will ensure that the supply chain remains unbroken, that health care continues to be provided at the highest level, and that all resilience workers on the frontlines of the pandemic are celebrated and rewarded.

¹⁰ See e.g., Caroline O'Donovan, As More Amazon Employees Contract the Coronavirus, Workers Are Walking off the Job, BuzzFeed News, March 31, 2020. Available at <https://www.buzzfeednews.com/article/carolineodonovan/amazon-employees-coronavirus-walkout> (Last accessed April 1, 2020).

¹¹ Nick Miroff, Protective gear in national stockpile is nearly depleted, DHS officials say, Washington Post, April 1, 2020. Available at https://www.washingtonpost.com/national/coronavirus-protective-gear-stockpile-depleted/2020/04/01/44d6592a-741f-11ea-ae50-7148009252e3_story.html (Last accessed April 1, 2020).