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## THE CITY COUNCIL

# **COMMITTEE REPORT OF THE JUSTICE Division**

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**COMMITTEE ON IMMIGRATION**

*Hon. Carlos Menchaca, Chair*

**February 25, 2021**

**Res. No. 1416-A:** By Council Members Eugene, Kallos, Rosenthal and Ayala

**Title:** Resolution calling on the United States Department of Homeland Security to halt all deportation proceedings for the length of the COVID-19 pandemic, as a means of restricting the global spread of this disease

**Res. No. 1417-A:** By Council Members Eugene, Kallos, Chin, Rosenthal and Ayala

**Title:** Resolution calling on the United States Department of Homeland Security to place a moratorium on all removal proceedings for employment-based status holders that suffered a loss of employment during or due to the COVID-19 pandemic

**Res. No. 1418-A:** By Council Members Eugene, Kallos, Chin, Rosenthal and Ayala

**Title:** Resolution calling on the United States Congress to pass, and the President to sign, legislation that would permit employment-based status holders to retain lawful status, after loss of employment, if such loss was related to the COVID-19 pandemic

**Res. No. 1419-A:** By Council Members Moya, Kallos, Yeger, Chin, Adams, Rosenthal, Ayala and Eugene

**Title:** Resolution calling on the United States Congress to pass, and the President to sign, legislation that would provide immigration relief for family members who derive lawful immigration status from a frontline worker who passed away due to COVID-19

# **Introduction**

 On February 25, 2021, the Committee on Immigration, chaired by Council Member Menchaca, held a second hearing and a vote on the following legislation: Res. No. 1416-A, sponsored by Council Member Eugene, in relation to halting deportations during the coronavirus pandemic; Res. No. 1417-A, sponsored by Council Member Eugene, in relation to a moratorium on removal proceedings for employment-based visa holders; Res. No. 1418-A, sponsored by Council Member Eugene, in relation to relief for employment-based visa holders; and Res. No. 1419-A, sponsored by Council Member Moya, in relation to relief for family members of frontline workers who passed away due to COVID-19. The committee heard prior versions of these resolutions on September 17, 2020. On February 25, 2021, the Committee approved the package of resolutions unanimously.

1. **Legislative Analysis of Res. No. 1416-A**

Res. No. 1416-A (Council Member Eugene) calls on the U.S. Department of Homeland Security (DHS) to halt all deportation proceedings for the length of the COVID-19 pandemic, as a means of restricting the global spread of this disease. The U.S. has continued to lead in the number of COVID-19 cases worldwide, with more than 28 million positive cases and over 502,000 deaths. Many other countries are struggling to contain the ever-evolving COVID-19 pandemic. On March 19, 2020, the U.S. Department of State issued a global “Level 4 – Do Not Travel” warning, recommending that U.S. citizens avoid all international travel due to the virus. While the Department of State lifted this warning in August 2020, the U.S. Center for Disease Control and Prevention (CDC) continues to recommend against all travel to more than 150 destinations due to COVID-19. Meanwhile, DHS continued to conduct thousands of international deportations throughout 2020, and into 2021, against CDC standards, which advises that transfers of detained individuals should be restricted unless necessary. To date, at least 11 countries have reported COVID-19 outbreaks linked to ICE deportations of their expatriates. The former Trump Administration coerced countries to assist in the United States’ immigration policy by accepting deportees at the risk of visa denials and access to critical medical supplies, such as ventilators. While more than 200 detained individuals in New York City-area ICE facilities have been released on a case-by-case basis, ICE continues to deport New Yorkers contravening expert guidance, risking further transmissions internationally. Since the Committee’s first hearing of the resolution, Res. No. 1416-A has been amended to update the statistics and dated references to the now former Trump administration.

1. **Legislative Analysis of Res. No. 1417-A**

Res. No. 1417-A (Council Member Eugene) calls on the U.S. Department of Homeland Security to place a moratorium on all removal proceedings for employment-based status holders that suffered a loss of employment during or due to the COVID-19 pandemic. The Center for New York City Affairs assessed the devastating economic impact of the pandemic, finding that New York City lost 750,000 private sector and independent contractor jobs between February and December 2020, and as of January 2021, more than 1.3 million New Yorkers were receiving unemployment benefits. This economic downturn is in part due to precautionary lockdown measures initiated by Governor Cuomo’s March 22, 2020 “NY on PAUSE” Executive Order. Foreign-born New Yorkers are particularly vulnerable to job loss during the pandemic: while 49 percent of all private sector jobs were held by foreign-born workers, foreign-born workers account for 54 percent of those who lost jobs. Widespread layoffs and staff furloughs could turn from loss of employment-based status to removal proceedings for foreign-born workers. Throughout 2020, the Trump Administration prioritized the deportation of foreign-born nationals in spite of the pandemic, and without a moratorium on removal proceedings, individuals in the U.S. formerly on employment-based visas could be targeted for removal. Proposed Res. No. 1417-A thus calls for the DHS to place a moratorium on all removal proceedings for employment-based status holders that suffered a loss of employment during or due to the COVID-19 pandemic. Since the Committee’s first hearing of the resolution, Res. No. 1417-A has been amended to update the statistics and dated references to the now former Trump administration.

1. **Legislative Analysis of Res. No. 1418-A**

Res. No. 1418-A (Council Member Eugene) calls on the United States to pass, and the President to sign, legislation that would permit employment-based status holders to retain lawful status, after loss of employment, if such loss was related to the COVID-19 pandemic. The Center for New York City Affairs assessed the devastating economic impact of the pandemic, finding that New York City lost 750,000 private sector and independent contractor jobs between February and December 2020, and as of January 2021, more than 1.3 million New Yorkers were receiving unemployment benefits. This economic downturn is in part due to precautionary lockdown measures initiated by Governor Cuomo’s March 22, 2020 “NY on PAUSE” Executive Order. Nationally, a disproportionate share of foreign-born individuals, one-in-five, are employed in industries facing major lay-offs as compared to 17 percent of their U.S.-born counterparts. Foreign-born workers have lower incomes and larger families, on average, than their U.S.-born counterparts working in the same industries, with half the rate of health insurance, and significantly lower median earnings, less than $30,000, as compared to $48,000. Foreign-born individuals experienced a greater increase in unemployment in the first months of the pandemic than U.S.-born workers, with Latinos experiencing the highest rates of unemployment.

In 2019, prior to the pandemic, the U.S. issued 8.7 million non-immigrant visas, which included employment-based visas, largely issued under very specific criteria, requiring recipients to re-apply should employment circumstances change in any way. With widespread layoffs and staff furloughs, hundreds of thousands of foreign-born individuals, formerly active members of the U.S. workforce, could find themselves losing lawful work authorization and resident status. New York City’s recovery will not be possible without full participation of all New Yorkers, including its foreign-born workforce. Thus, Res. No. 1418-A calls on the federal government to create a legislative solution to provide temporary work and residency authorization for foreign-born individuals who have been laid off or furloughed due to the COVID-19 pandemic. Since the Committee’s first hearing of the resolution, Res. No. 1418-A has been amended to update the statistics and dated references to the now former Trump administration.

1. **Legislative Analysis of Res. No. 1419-A**

Res. No. 1419-A (Council Member Moya) calls on the United States Congress to pass, and the President to sign, legislation that would provide immigration relief for family members who derive lawful immigration status from a frontline worker who passed away due to COVID-19. Nationally, foreign-born individuals account for a larger share of essential workers, including 17 percent of the healthcare workforce, while in New York, the foreign-born share of the healthcare workforce is more than twice the national average. In fact, in New York City, 47 percent of hospital medical staff and more than 79 percent of home health aides are foreign-born, across the five boroughs.[[1]](#footnote-1)

A large proportion of foreign-born frontline workers in the healthcare profession are present in the U.S. on nonimmigrant employment-based visas, which are restrictive and require individuals to re-apply should circumstances warrant any changes of employment. Certain nuclear family members may derive visas from a primary nonimmigrant visa-holder, but if this primary visa-holder passes away, then all family members on derived visas must return to their countries of origin. In many cases, families on such visas have established lives in the United States, with employment, schooling, and connections to local communities that make it very difficult to uproot and return to their countries of origin. It is imperative that Congress enact legislation to ensure that families do not lose their lawful status as a result of the fatal contraction of COVID-19 by their frontline working family member. Since the Committee’s first hearing of the resolution, Res. No. 1419-A has been amended to update the statistics and dated references to the now former Trump administration.

Res. No. 1416-A

..Title

Resolution calling on the United States Department of Homeland Security to halt all deportation proceedings for the length of the COVID-19 pandemic, as a means of restricting the global spread of this disease

..Body

By Council Members Eugene, Kallos, Rosenthal and Ayala

Whereas, SARS-CoV-2 is the virus responsible for causing the new infectious disease known as COVID-19; and

Whereas, The first cases of humans infected with COVID-19 were identified in December 2019, and by mid-February 2021, there were more than 112 million cases reported across the world, with more than two million deaths linked to the disease; and

Whereas, At the same time, the United States (U.S.) continues to lead in the number of confirmed COVID-19 cases worldwide, with more than 28 million positive cases and 502,000 deaths; and

Whereas, Many countries are struggling to deal with the ever-evolving COVID-19 pandemic, so much so that the United States Department of State (DOS) issued a global “Level 4 – Do Not Travel” warning, as of March 19, 2020, recommending that all U.S. citizens avoid all international travel due to the virus; and

Whereas, While the Department of State lifted this warning in August, 2020, the U.S. Center for Disease Control and Prevention (CDC) continues to recommend against all travel to more than 150 destinations due to COVID-19; and

Whereas, The possibility of disease transmission remains as the United States Department of Homeland Security (DHS) continues to conduct international deportations to many of these locations; and

Whereas, Deportees pose a risk to both the U.S. and the countries receiving them, many of which are ill-equipped to handle large-scale COVID-19 outbreaks; and

Whereas, In the case of detained individuals, United States Immigration and Customs Enforcement (ICE) facilities have been rife with COVID-19 clusters, raising the risk that if detained individuals are deported, they could infect individuals in their countries of origin; and

Whereas, In standards governing detention facilities, the CDC has advised that transfers should be restricted unless absolutely necessary, as transfers of detained individuals risk spreading the virus; and

Whereas, Against CDC standards, DHS has transferred and deported thousands of people in its custody to their countries of origin since the onset of the pandemic; and

Whereas, As part of its removal procedure, ICE conducts a “visual screening consistent with its own guidance,” and checks body temperatures prior to boarding airplanes, which are insufficient protocols for determining if a person is infected with SAR-CoV-2; and

Whereas, International advocates including Amnesty International called on former DHS Acting Secretary Chad Wolf to halt deportations for domestic and international public health; and

Whereas, By the end of April 2020, one in five COVID-19 cases in Guatemala were individuals recently deported from the United States, prompting the Guatemalan government to place a cap on the number of deportees from the U.S. it would accept on a weekly basis; and

Whereas, By July 2020, individuals deported to at least eleven different countries tested positive for COVID-19 following removal proceedings; and

Whereas, The former Trump administration coerced countries to assist in the United States’ immigration policy by accepting deportees at the risk of visa denials and access to critical medical supplies; and

Whereas, As of February 2021, 14,087 individuals were detained in ICE custody nationally, and in the New York City-area, there have been over 7,000 new removal orders filed in immigration courts in fiscal year 2020 alone, with a backlog of immigration court cases well over 108,000; and

Whereas, While more than 200 detained individuals in New York City-area ICE facilities have been released on case-by-case basis, ICE continues to deport individuals contravening expert guidance, putting immigrant New Yorkers at risk of infection, and risking further transmissions internationally; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Department of Homeland Security to halt all deportation proceedings for the length of the COVID-19 pandemic, as a means of restricting the global spread of this disease.

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Res. No. 1417-A

..Title

Resolution calling on the United States Department of Homeland Security to place a moratorium on all removal proceedings for employment-based status holders that suffered a loss of employment during or due to the COVID-19 pandemic

..Body

By Council Members Eugene, Kallos, Chin, Rosenthal and Ayala

Whereas, SARS-CoV-2 is the virus responsible for causing the new infectious disease known as COVID-19; and

Whereas, The first cases of humans infected with COVID-19 were identified in December 2019; by mid-February 2021, there were more than 112 million cases reported across the world and more than two million deaths linked to the disease; and

Whereas, In New York City, there were more than 700,000 confirmed cases of COVID-19 and more than 28,000 confirmed deaths from the disease by February 2021; and

Whereas, In order to help slow the spread of the virus, New York Governor Cuomo signed the New York State on PAUSE executive order that, amongst other things, closed all non-essential businesses effective March 22, 2020; and

Whereas, The Center for New York City Affairs assessed the devastating economic impact of the pandemic, finding that New York City lost 750,000 private sector and independent contractor jobs between February and December 2020, and as of January 2021, more than 1.3 million New Yorkers were receiving unemployment benefits; and

Whereas, Foreign-born New Yorkers are particularly vulnerable to job loss during the pandemic: while 49 percent of all private sector jobs were held by foreign-born workers, foreign-born workers account for 54 percent of those who lost jobs; and

Whereas, In 2019, prior to the pandemic, the U.S. issued 8.7 million non-immigrant visas, which include employment-based visas; and

Whereas, Employment-based visas are issued under specific criteria including listing the employer, and require recipients to re-apply should circumstances warrant any changes of employment; and

Whereas, Washington D.C.-based think tank, Niskanen Center, estimated that as many as 250,000 foreign-born workers on temporary visas seeking green cards could have fallen out of lawful status by June 2020; and

Whereas, With widespread layoffs and staff furloughs, hundreds of thousands of foreign-born individuals who were formerly active members of the U.S. workforce, could find themselves losing lawful work authorization and resident status; and

Whereas, The former Trump Administration issued two different actions to limit access to employment-based visas during the pandemic, through Presidential Proclamations on April 22, 2020 and on June 22, 2020; and

Whereas, These actions have been met by harsh criticism from multiple sectors, including the technological industry, and have already led to the separation of families, including at least 1,000 Indian nonimmigrant work-related based visas; and

Whereas, The foreign-born workforce is critical to the economic recovery in the U.S. broadly, but especially in the New York City, where 65.5 percent of the City’s foreign-born residents participate in the labor force; and

Whereas, It is imperative that a moratorium on removal proceedings be put into effect for individuals who retained lawful status tied to their employer up until the start of COVID-19 pandemic; now, therefore, be it

Resolved, That the Council of the City of New York calls on United States Department of Homeland Security to place a moratorium on all removal proceedings for employment-based status holders that suffered a loss of employment during or due to the COVID-19 pandemic.

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Res. No. 1418-A

..Title

Resolution calling on the United States Congress to pass, and the President to sign, legislation that would permit employment-based status holders to retain lawful status, after loss of employment, if such loss was related to the COVID-19 pandemic

..Body

By Council Members Eugene, Kallos, Chin, Rosenthal and Ayala

Whereas, SARS-CoV-2 is the virus responsible for causing the new infectious disease known as COVID-19; and

Whereas, The first cases of humans infected with COVID-19 were identified in December 2019, by mid-February 2021, there were more than 112 million cases reported across the world and more than two million deaths linked to the disease; and

Whereas, In New York City, there were more than 700,000 confirmed cases of COVID-19 and more than 28,000 confirmed deaths from the disease by February 2021; and

Whereas, In order to help slow the spread of the virus, New York Governor Cuomo signed the New York State on PAUSE executive order that, amongst other things, closed all non-essential businesses effective March 22, 2020; and

Whereas, The Center for New York City Affairs assessed the devastating economic impact of the pandemic, finding that New York City lost 750,000 private sector and independent contractor jobs between February and December 2020, and as of January 2021, more than 1.3 million New Yorkers were receiving unemployment benefits; and

Whereas, Nationally, foreign-born individuals account for 17 percent of the national workforce, but a larger share (19 percent) of the coronavirus-response frontline occupations, or six million individuals across essential industries such as: healthcare (17 percent foreign-born), essential retail and wholesale (18 percent foreign-born), manufacturing (26 percent foreign-born), agriculture, forestry, fishing and hunting (27 percent foreign-born), transportation (34 percent foreign-born), and scientific research and development (22 percent foreign-born); and

Whereas, Nationally, a disproportionate share of foreign-born individuals, one-in-five, are employed in industries facing major lay-offs as compared to 17 percent of their U.S.-born counterparts; and

Whereas, In New York, the foreign-born share of the health care workforce (37 percent) is twice the national average, with high rates of foreign-born registered nurses (29 percent), and the highest share of home health aides (75 percent); and

Whereas, Hardest-hit industries with over-representation of a foreign-born workforce includes accommodations and food services (22 percent foreign-born), personal Services and private households (30 percent foreign-born), and Building Services (38 percent foreign-born), among others; and

Whereas, Foreign-born workers have lower incomes and larger families, on average, than their U.S.-born counterparts working in the same industries, with half the rate of health insurance; and

Whereas, Foreign-born New Yorkers who have not become naturalized citizens have significantly lower median earnings, less than $30,000, as compared to $48,000 for U.S.-born New Yorkers; and

Whereas, Foreign-born individuals experienced greater increased in unemployment in the first months of the pandemic than U.S.-born workers, with Latinos experiencing the highest rates of unemployment; and

Whereas, In 2019, prior to the pandemic, the U.S. issued 8.7 million non-immigrant visas, which include employment-based visas; and

Whereas, Employment-based visas are issued under very specific criteria including listing the employer, and require recipient to re-apply should circumstances warrant any changes of employment; and

Whereas, Washington D.C.-based think tank, Niskanen Center, estimates that as many as 250,000 foreign-born workers on temporary visas seeking green cards could fall out of lawful status by June 2020; and

Whereas, With widespread layoffs and staff furloughs, hundreds of thousands of foreign-born individuals, formerly active members of the U.S. workforce, could find themselves losing lawful work authorization and resident status; and

Whereas, The former Trump Administration issued two different actions to limit access to employment-based visas during the pandemic, through Presidential Proclamations on April 22, 2020 and on June 22, 2020 and

Whereas, These actions have been met by harsh criticism from multiple sectors, including the technological industry, and have already led to the separation of families, including at least 1,000 Indian nonimmigrant work-related based visas; and

Whereas, New York City, once considered the epicenter of the global pandemic, has long championed the rights of its immigrant residents, currently more than 3 million strong; and

Whereas, The City’s economic recovery will not be possible without full participation of all New Yorkers, and most especially its foreign-born workforce; and

Whereas, In order to maintain the strength of the City’s foreign-born workforce, the federal government must create a solution to provide temporary work and residency authorization for foreign-born individuals who have been laid off or furloughed due to the COVID-19 pandemic; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Congress to pass, and the President to sign, legislation that would permit employment-based status holders to retain lawful status, after loss of employment, if such loss was related to the COVID-19 pandemic.

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Res. No. 1419-A

..Title

Resolution calling on the United States Congress to pass, and the President to sign, legislation that would provide immigration relief for family members who derive lawful immigration status from a frontline worker who passed away due to COVID-19

..Body

By Council Members Moya, Kallos, Yeger, Chin, Adams, Rosenthal and Ayala

Whereas, SARS-CoV-2 is the virus responsible for causing the new infectious disease known as COVID-19; and

Whereas, The first cases of humans infected with COVID-19 were identified in December 2019, and by mid-February 2021, there were more than 112 million cases reported across the world and more than two million deaths linked to the disease; and

Whereas, In New York City, there were more than 700,00 confirmed cases of COVID-19 and more than 28,000 confirmed deaths from the disease by February 2021; and

Whereas, Nationally, foreign-born individuals account for a larger share of essential workers, including 17 percent of the healthcare workforce; and

Whereas, In New York, the foreign-born share of the healthcare workforce is more than twice the national average, with high rates of foreign-born registered nurses, and the highest share of home health aides; and

Whereas, New York City’s Mayor’s Office of Immigrant Affairs estimates that more than 47 percent of hospital medical staff and more than 79 percent of home health aides are foreign-born, across the five boroughs; and

Whereas, A large proportion of foreign-born frontline workers in the healthcare profession are present in the United States on nonimmigrant visas; and

Whereas, Employment-based nonimmigrant visas are restrictive and must specify an employer and location of employment, requiring individuals to re-apply should circumstances warrant any changes of employment; and

 Whereas, Certain nuclear family members may derive visas from a primary nonimmigrant visa-holder, but if this primary visa-holder passes away then all family members on derived visas must return to their countries of origin; and

 Whereas, In many cases, families on such visas have established lives in the United States, with employment, schooling, and connections to local communities that make it very difficult to uproot and return to their countries of origin; and

Whereas, This is additionally difficult for children who may no memory of their birthplace or may be U.S.-born citizens themselves; and

Whereas, In May 2020, the United States House of Representatives passed the HEROES Act (H.R. 6800) sponsored by U.S. Representative Nita Lowey (D-NY), which, among other things, provided specific immigration relief to surviving family members of frontline healthcare workers who passed away as a result of contracting COVID-19; and

Whereas, Congressional action on this specific provision is desperately needed as families are already fighting their pending deportations, brought about by fatal SARS-CoV-2 infections; and

Whereas, In August 2020, ProPublica highlighted significant under-reporting of COVID-19 related deaths within the healthcare profession by New York State, the U.S. Center for Disease Control and the U.S. Occupational Safety and Health Administration, among other entities; and

Whereas, As a result, it is difficult to estimate the number of healthcare professionals who have contracted fatal COVID-19 infections, despite higher levels of exposure; and

Whereas, The deaths of visa-sponsoring individuals is likely to put many immigrant New Yorkers at risk of losing their own immigration statuses and subjecting them to removal proceedings solely because their family members sacrificed their lives to help others during an unprecedented global pandemic; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Congress to pass, and the President to sign, legislation that would provide immigration relief for the noncitizen family members who derive lawful status from a frontline worker who passed away due to COVID-19.

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1. Mayor’s Office of Immigrant Affairs, *2019 Annual Report* (March 2020), <https://www1.nyc.gov/site/immigrants/about/annual-report.page>. [↑](#footnote-ref-1)